

# CONTRACTOR'S GROSS RECEIPTS TAX CREDIT

## EXPLANATION OF THE CREDIT

The contractor's gross receipts tax credit, provided for in [15-5-207](#), MCA, is a credit that may be taken by a public contractor for license taxes paid. Section [15-50-205](#), MCA, requires a contractor performing a public construction project that costs \$5,000 or more to pay a license fee of 1% of the gross receipts of the project.

The contractor or subcontractor may claim an amount equal to the license fee paid as an individual income tax credit or corporate income tax credit. Unused credit may be carried forward for 5 years.

The contractor's gross receipts credit is an income tax credit for license taxes paid on public contracts.

Alternatively, a contractor or subcontractor may take a credit against the license fee for personal property taxes and the fee in lieu of taxes paid on buses, trucks having a manufacturer's rated capacity of more than 1 ton, or truck tractors, and the registration fee paid on light vehicles. The taxes or fees must be paid in Montana and the vehicles must be used in the contractor's business.

If the contractor or subcontractor takes a credit against the license fee for personal property taxes or registration fees, that credit may not be counted as license fees paid for the purposes of the individual income tax credit or corporate income tax credit.

## PURPOSE & LEGISLATIVE HISTORY

### FEE COLLECTS FROM OUT-OF-STATE CONTRACTORS

The Legislature enacted the 1% license fee on public contracts and the tax credit for the license fee in 1967. The sponsor of the bill, Rep. Gordon Twedt, characterized the bill

as a "revenue measure" estimated to raise about \$2 million. Answers to committee questions revealed an additional purpose: to equalize bidding on public contracts between Montana contractors and out-of-state contractors.<sup>1</sup> This purpose was also discussed in the Senate Taxation Committee hearing.<sup>2</sup>

The new law equalized bidding by levying a 1% license fee on the gross receipts of a public contract. The contractor could claim a credit against the license fee for personal property taxes paid on property used within the state for the contractor's business. This encouraged out-of-state contractors to pay personal property taxes while their equipment was in the state and, if they did not, the state received the license fee.

The contractor could also opt to claim an income tax credit equal to the license fee paid instead of or in addition to claiming a credit against the license fee for personal property taxes paid.<sup>3</sup> An out-of-state contractor may file income taxes in the state to claim the credit for license fees paid.

Based on the limited legislative history available, the purpose of the license fee combined with the credit against it for personal property taxes paid<sup>4</sup> and the income tax credit for license fees paid seems to be to encourage collection from out-of-state contractors on taxes already due to the state.

## CONTRACTOR'S CREDIT UNCHANGED EXCEPT FOR CARRYFORWARD

Since 1967, the Legislature amended the contractor's gross receipts income tax credit once. In 2005, Senate Bill 323 amended [15-50-207](#), MCA, to allow the credit to be carried forward for 5 years. During the bill hearing, Carl Schweitzer of the Montana Subcontractors Association testified that some contractors do not have enough income to claim the full amount of the license fee paid in a single year.<sup>5</sup> The carry forward would allow contractors to carry forward unused credit to get the full value of the credit.

Between 1981 and 1999, the Legislature enacted five bills that revised the vehicle fees that may be credited against the 1% license fee. Those changes are not discussed in detail here because they do not directly affect the income tax credit and because the amendments reflect the change from levying a property tax on vehicles to requiring vehicle registration fees in lieu of taxes.

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<sup>1</sup> Minutes of House Ways and Means Committee, Feb. 5, 1967.

<sup>2</sup> Minutes of Senate Taxation Committee, Feb. 23, 1967.

<sup>3</sup> The total of the credit against the license fee for property taxes paid and the income tax credit claimed could not exceed the total license fee liability.

<sup>4</sup> The license fee credit may also be taken for the fee in lieu of taxes for certain vehicles and the registration fee for light vehicles. These fees replaced property taxes on certain vehicles in the 1990's.

<sup>5</sup> Audio recording of Senate Taxation Committee, Feb. 4, 2005.

## TAXPAYER USE OF CREDIT

Data on claims of the contractor's gross receipts tax credit will be provided in a separate document. The data provided in the Biennial Report overstates the credits claimed because some taxpayers list the credit amount as the total 1% license fee paid even if the taxpayer does not have enough tax liability to claim the full license fee.

The Department of Revenue is working to compile data that reflects the actual contractor's gross receipts credits claimed.

## ADMINISTRATION OF CREDIT

The Department of Revenue did not identify any concerns related to administration of the contractor's gross receipts credit.