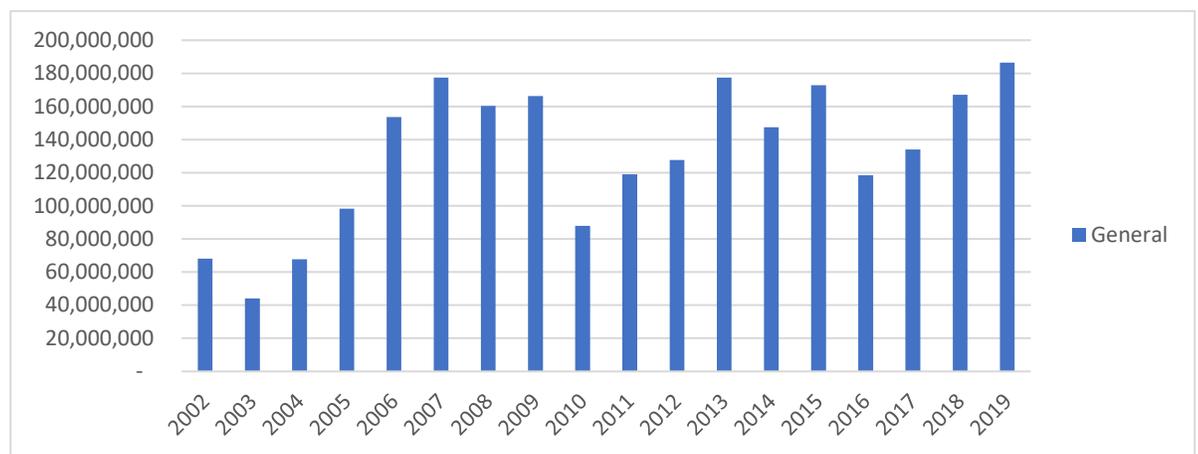


CORPORATE INCOME TAX OVERVIEW

CORPORATE INCOME TAX IS VOLATILE

The corporate income tax is the third-largest source of General Fund revenue. The \$186 million collected in fiscal year 2019 accounted for 7% of General Fund revenue.¹ Corporate income tax collections vary considerably from year to year, making it a difficult revenue source to estimate.



Source: Legislative Fiscal Division

WHO PAYS THE CORPORATE INCOME TAX?

The corporate income tax is levied on corporations engaged in business in Montana for the privilege of carrying on business in the state.

Corporate income tax laws are provided for in [Title 15, chapter 31](#), MCA.

MONTANA REQUIRES COMBINED REPORTING

The first factor in determining corporate income tax liability is to identify which business activity to include in the tax base. Montana is a mandatory combined reporting state. Taxpayers report and pay taxes on the income of all entities in a unitary business, which includes subsidiaries and other related corporations with common ownership.

¹ LFD Revenue Team, "[FY 2020 General Fund Update #3](#)," February 10, 2010, p. 4.

CORPORATE INCOME TAX MOSTLY BASED ON FEDERAL LAW

DETERMINATION OF INCOME

Gross income for Montana corporate income tax purposes is the same as a corporation's income for federal tax purpose with a few exceptions.

Corporations must add to federal gross income interest exempt for federal tax purposes, exempt-interest dividends, and certain gains from liquidation not recognized for federal income tax purposes and not subject to Montana individual or corporate income tax. Corporations subtract from federal gross income certain gains from a liquidating corporation that are recognized for federal income tax purposes.

Corporations subtract deductions allowed from gross income, provided for in [15-31-114](#), MCA, to determine net income. These deductions generally refer to deductions allowed under federal law.

Congress enacted the Tax Cuts and Jobs Act in 2017, which made changes to federal corporate income tax. [An analysis](#) prepared for the 2017-2018 Revenue and Transportation Interim Committee summarizes the federal law changes and whether and how they affect Montana corporate income taxpayers.²

MULTISTATE CORPORATIONS APPORTION INCOME TO MONTANA

Corporations that operate within and outside of Montana apportion their income to avoid double taxation. A multistate corporation reports all income to Montana and apportions it based on property, payroll, and sales in Montana.³ The property, payroll, and sales in Montana are each divided by total property, payroll, and sales. The factors are totaled and divided by 3 to determine an average. The taxpayer then multiplies the resulting factor by total taxable income to determine how much of the income is taxable in Montana.

CORPORATE INCOME TAX RATE IS 6.75%

After apportioning taxable income, a taxpayer applies the tax rate to determine tax liability before tax credits. The corporate income tax rate is 6.75% unless the taxpayer makes a water's-edge election. A water's-edge election allows a corporation to report only its United States' income and its income in certain tax havens identified in [15-31-322](#), MCA. These corporations are subject to a 7% tax rate.

² Megan Moore, "[Tax Cuts and Jobs Act State Impacts: Corporate Income Tax](#)," July 2018.

³ This is known as equally weighted-three factor apportionment. Other states use other methods of apportionment such as double- or triple-weighted sales or only using the sales factor (single-sales factor). For examples of apportionment and other states' apportionment methods, see Megan Moore, "[Corporate Income Tax Apportionment](#)," March 2018.

CORPORATE INCOME TAX CREDITS

A taxpayer can reduce tax liability by claiming one or more of 24 corporate income tax credits. The most recent Department of Revenue (DOR) data shows that \$2.76 million was claimed in credits in tax year 2016. However, DOR only lists the number and dollar amount of credits claimed if at least 10 taxpayers claim the credit. Just three tax credits fell into this category in 2016: the contractor gross receipts credit, the charitable endowment credit, and the college contribution credit. The combined amounts claimed for those credits was \$682,826.⁴

\$50 MINIMUM CORPORATE INCOME TAX

Each corporation subject to the corporate income tax must pay a minimum tax of \$50. For tax year 2016, 65% of taxpayers, or 10,688, paid the minimum tax or less.⁵ A corporation with no property, sales, or payroll in the state is exempt from the minimum tax.

CORPORATE INCOME TAX RATES UNCHANGED SINCE 1971

The following table included in the Department of Revenue Biennial Report shows the history of corporate income tax rates, the minimum tax, and the water's-edge election.⁶

Corporate Income Tax Historic Tax Rates and Minimum Tax			
Year	Tax Rate	Minimum Tax	Water's Edge
1987	6.75%	\$50	7%
1971	6.75%	\$50	-
1969	6.25%	\$50	-
1965	5.25%	\$10	-
1960	4.5%	\$10	-
1957	5%	\$10	-
1937	3%	\$5	-
1933	2%	\$5	-
1917	1%	-	-

⁴ Department of Revenue, "Biennial Report July 1, 2016 - June 30, 2018," p. 92.

⁵ Department of Revenue, "Biennial Report July 1, 2016 - June 30, 2018," p. 90.

⁶ Department of Revenue, "Biennial Report July 1, 2016 - June 30, 2018," p. 95.

PREVIOUSLY DISCUSSED CORPORATE INCOME TAX CHANGES

Discussions among legislators about changes to the corporate income tax generally focus on the following topics.

- **Volatility:** A corporate income tax is volatile because corporate income depends on the economy. The 2017 Legislature attempted to reduce the volatility of the corporate income tax by limiting a net operating loss carryback to \$500,000.
- **Minimum tax:** Some legislators have discussed raising the minimum corporate income tax because the minimum tax has been \$50 for the last 51 years.
- **Apportionment:** Montana is one of 8 states that uses an equally weighted three-factor apportionment formula. Twenty states use a single sales factor and nine states double weight the sales factor. A [2018 analysis](#) by the Legislative Fiscal Division estimates little change to revenue collections from using an apportionment formula that weights sales more heavily.⁷ While the total revenue collected does not change much under the different apportionment formula, there are changes to impacted industries. More revenue collections would come from the retail, transportation, and information sectors, while less revenue would come from the manufacturing and financial sectors.
- **Water's-edge election:** The 1987 Legislature enacted the water's-edge election. The Legislature has considered various bills to revise the water's-edge election, including bills to repeal the water's-edge election and bills to remove or revise the list of tax havens for which income must be included in the corporation's reported income.

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⁷ Sam Schaefer, "[Memo: Implications of Changing Montana's Corporation Apportionment Formula](#)," March 13, 2018.