

Field Audit Guide

Montana Income Tax Returns

What is a field audit?

A field audit is a **detailed** examination of your books and records to determine if the correct amounts were reported on your tax return. This can include, for example, income amounts (reported or not reported), deductions, expenses, or credits reported on your return. A field audit can be in regards to income taxes and/or withholding taxes.

Authorization for the Department of Revenue (Department) to examine returns is provided by 15-30-2605, MCA.

How are returns selected for field audit?

There are various reasons why the Department selects a return for an audit. The most common reasons are random selection through the use of computer queries, the return contains frequent or consistent errors, or there is insufficient information on the return.

Selection for audit is not an accusation of dishonesty. An audit in no way suggests that you are intentionally withholding information or taxes from the Department.

How many years will/can be audited?

A field audit will usually focus on one year, but may be expanded to include any tax returns within the statute of limitations. Typically, the statute of limitations is three years, except for returns filed by individuals and pass-through entities for tax years starting before 01/01/2015, which are regulated by a five years statute. The audit may include additional years because significant variances of line item amounts occur between tax years or carryover amounts are reported.

What should I expect (What will I need)?

A field audit typically begins when you are notified by letter that your tax return has been selected for

examination. If you are a business entity, the department may initially contact you by phone and then follow up with a letter. The letter will tell you the tax year(s) being reviewed and will suggest the information that you should bring to your meeting with the auditor. The letter also informs you of the time and date of your first meeting with the auditor. If possible, the audit will be conducted at the local Department office, your place of business, in your home, or at the office of your accountant, attorney, or other person who may represent you. If you have someone representing you (including your spouse, if applicable), you must provide a Form POA – Power of Attorney. This form is available at revenue.mt.gov. The auditor will try to select the place that is most appropriate under the circumstances and most convenient for you. At this meeting, the auditor will want to discuss the nature of your business or employment, the accounting or record system used, and other related matters. Please note that your records, documents, or receipts are key to proving and verifying the claimed amounts on your return. If you assemble your records in a neat and orderly manner before this meeting, you may be able to resolve unclear items with the least amount of time and effort and may not have to meet again with the auditor.

What happens if I don't respond?

A taxpayer must respond to the Department's request for a field audit or information within 30 days after the date of the request or obtain consent from the Department to provide the information at a later date. If you need more time to assemble the needed information or don't understand the issues under review, you should call or write the auditor. If you do not respond or provide the requested information, the auditor may determine the amount due based on the best information available. In addition, amounts that have not been verified may be disallowed.

Failure to supply the information requested or to file a requested return will result in the assessment of tax, penalty, and interest as provided in 15-1-216, MCA.

What happens if I disagree with the audit report?

If you object to the findings of the audit report and the assessment, refund reduction, or other determination, you may request an informal review by the auditor's supervisor. Your objection must be in writing or on Form APLS101F and filed within 30 days of the date on the notice of the action that you are challenging. If you do not file an objection within 30 days, the Department will consider it your admission that you agree with the adjustment and you will forfeit your appeal rights. More information about the tax appeal process is available at revenue.mt.gov.

Please be aware that interest and penalties will continue to accrue, as applicable, until the total tax due is paid in full, even if you file a written objection or appeal. Consider paying the total amount due, which will stop additional interest and penalties from accruing. **Making a payment will not waive your appeal rights.**

What if I disagree with the decision from the informal review?

If you do not agree with the informal review decision, you can file an appeal with the Department's Office of Dispute Resolution (ODR). An appeal to ODR must be in writing or on Form APLS102F and filed within 30 days of the date on the notice of your informal review determination. If you do not file an objection within 30 days, the Department will consider it to be your admission that you agree with the adjustment and you will forfeit your appeal rights.

If you do not agree with the decision issued by ODR, you may appeal to the Montana Tax Appeal Board. An appeal must be made within 30 days of a final ODR decision. When making an appeal to the Montana Tax Appeal Board include a copy of the informal review decision and a copy of the ODR hearing examiner's finding of fact and conclusions of law, if applicable. The appeal itself can be in the form of a letter containing a brief statement of the issue.

If you or the Department disagree with the Montana Tax Appeal Board's decision, either party can seek judicial review first from the Montana District Court and then from the Montana Supreme Court.

What are my rights?

You have the right to record any interview, meeting, or conference with auditors or any other representatives of the Department.

You may represent yourself. You are not required to, but can at any time, hire an attorney or other tax representative to represent you before the Department. If you appeal beyond the Department, you will have to represent yourself or hire an attorney. Please note that you will need to authorize your representative(s) to represent you and receive and inspect confidential tax information. You can do this by completing and filing Form POA – Power of Attorney, which can be obtained from the auditor or at revenue.mt.gov. To view a complete list of your rights, review the Taxpayer Bill of Rights located in 15-1-222, MCA and at revenue.mt.gov.

What should I do if I owe tax?

If you owe additional tax, you will be sent a Statement of Account (SOA) that will list your total amount due. Please pay the total amount due shown on the SOA within 30 days. **If you do not**

agree with the assessment, note that making a payment will not waive your appeal rights, but paying the tax due in full will stop interest and penalties from accruing.

If you do not dispute the assessment, but do not believe that you have the financial ability to pay the assessment, you can call the Department's call center toll free at (866) 859-2254 and they will direct you to a representative with the Collections Bureau to discuss payment options.

What should I do if I am supposed to receive a refund?

In the case of a refund notice, the refund check will be mailed automatically. Accepting and depositing this check will not prevent you from appealing the notice if you believe you should receive a larger refund.

What is a post audit survey?

The post audit survey is an important part of the Department's review of its audit program. The survey provides valuable feedback in areas such as the professionalism of the Department's auditors, how informative the audit instructions and findings were, and if your appeal rights were fully communicated. The Department uses these results to address specific issues related to an individual auditor or an issue that may have been raised regarding the overall audit program.

This publication does not provide full explanations of Montana tax laws or rules. For more information, contact:

- **Montana Department of Revenue: Toll free (866) 859-2254 (in Helena, 444-6900)**
- **Hearing impaired: TDD (406) 444-2830**
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