

## WHAT'S NEW FOR 2012?

### Form PT-WH Discontinued

The Form PT-WH (Montana Income Tax Withheld for a Nonresident Individual, Foreign C Corporation, or Second Tier Pass-Through Entity) has been discontinued beginning with tax year 2012 to eliminate duplicated reporting of pass-through entity withholding amounts. In prior years, a pass-through entity reported the amount of pass-through withholding attributable to each owner on a Form PT-WH and the owner's Montana Schedule K-1. Now, pass-through entities will only report each owner's distributive amount of pass-through withholding on a Montana Schedule K-1.

### New Filing Requirement for Form PT-AGR

Prior to tax year 2012, the Form PT-AGR (Pass-Through Entity Owner Tax Agreement) was attached to a pass-through entity's tax return. However, beginning with tax year 2012, pass-through entities or their owners are required to file the Form PT-AGR separately with the department. The Form PT-AGR is due on or before the due date of the pass-through entity's return. If the Form PT-AGR is filed correctly and on time, the pass-through entity does not have to pay tax on behalf of its owners who are nonresidents or foreign C corporations. Specific requirements apply.

Beginning with tax year 2012, the Form PT-AGR can be filed electronically on TAP (Taxpayer Access Point)! Filing the form electronically is fast, easy and you receive immediate confirmation from the department. To file the Form PT-AGR electronically, go to [revenue.mt.gov](http://revenue.mt.gov) and click on Taxpayer Access Point. The form can also be filed by mail.

### New Filing Requirements for Form PT-STM

Prior to tax year 2012, the Form PT-STM (Second-Tier Pass-Through Entity Owner Statement and Waiver Request) was attached to a pass-through entity's tax return. However, beginning with tax year 2012, pass-through entities or their owners are required to file the Form PT-AGR separately with the department. The Form PT-STM is a request for a waiver of the requirement of a first-tier pass-through entity to pay tax on behalf of second-tier owners.

The Form PT-STM is due 45 days before the original due date of the first-tier pass-through entity's return. When we receive a Form PT-STM, we will notify the first-tier pass-through entity within 30 days regarding the status of the waiver request. If the first-tier pass-through entity receives a waiver, it does not have to pay tax on behalf of a second-tier pass-through owner with the first-tier pass-through entity's return. Please refer to Form PT-STM for more information.

Beginning with tax year 2012, the Form PT-STM can be filed electronically on TAP (Taxpayer Access Point)! Filing the form electronically is fast, easy and you receive immediate confirmation from the department. To file the Form PT-STM electronically, go to [revenue.mt.gov](http://revenue.mt.gov) and click

on Taxpayer Access Point. The form can also be filed by mail.

### Improved Forms and Schedules

As a result of feedback we have received from taxpayers and tax practitioners, we updated the following forms and schedules for 2012.

- **Form PR-1 – lines 19 through 21**

We revised the calculation of Montana source income on Form PR-1, lines 19 through 21. Partnerships that do not have multistate activity can now include allocated items of Montana source income received from a pass-through entity in the calculation of total Montana source income. Previously, partnerships that did not have multistate activity would not complete lines 19 through 21. Now all partnerships will complete lines 19 through 21.

- **Schedule II – Montana Partnership Tax Credits**

Beginning with tax year 2012, if a partnership made a contribution that meets the requirements for a qualified endowment credit, the partnership will no longer calculate the credit and distribute the credit to its owners. Instead, a partnership will distribute the contribution, and the owners will calculate the qualified endowment credit on their income tax return. Partnerships will report the distributed contribution to an owner on Montana Schedule K-1, Part 5, line 5. We revised this calculation so that owners who have contribution amounts from multiple sources could calculate the qualified endowment credit and use any amount of contribution in excess of the credit limitation as a charitable contribution.

- **Schedule III – Montana Partnership Information**

On Schedule III, column E, we added a checkbox for the composite income tax election. The new checkbox will help us process returns more efficiently. If an owner elects to be included in a composite income tax return, the composite income tax reported on Schedule III, column E, may equal zero and no amount would be entered for that owner in column E. The new checkbox will ensure that we will be able to identify all of the owners that elect to be included in the composite income tax return.

- **Schedule IV – Montana Partnership Composite Income Tax Schedule**

The composite tax ratio calculation on Schedule IV, Part II, was simplified as a result of the changes to Form PR-1, lines 19-21. The amount of Montana source income reported on Form PR-1, line 21, applies to all pass-through entities, not just those entities with multistate activity. Previously, the amount on Form PR-1, line 21, only applied to entities with multistate activity. As a result, the composite tax ratio calculation differed depending on whether the pass-through entity had multistate activity.

- **Montana Schedule K-1 (CLT-4S and PR-1)**

The 2012 Montana Schedule K-1 now reports Montana source income distributed to all owners (including residents) in Part 4. Prior years' Montana Schedule(s) K-1 only required pass-through entities to report amounts distributed to nonresident owners in Part 4. Montana source income for resident owners is all income distributed to the owner from the pass-through entity.

## FORM PR-1 INSTRUCTIONS

### Heading

#### Tax Year

The same tax year used for federal income tax purposes (as indicated on the federal return) must be used for Montana income tax purposes. If the partnership has a fiscal year, enter the beginning and ending dates of the fiscal year. Use the 2011 Form PR-1 if the partnership's fiscal year began in the 2011 calendar year.

#### Name and Address

Enter the partnership's name (as it appears in the partnership agreement or other formation documents) and mailing address in the spaces provided.

#### Federal Employer Identification Number (FEIN)

Enter the FEIN from page 1 of federal Form 1065. Montana uses the FEIN for identification purposes. If the partnership changed its FEIN during the tax year, please include a statement with the tax return that identifies the previous FEIN.

#### Schedule K-1 and Partner Information

The partnership has to include with the Form PR-1 a Montana Schedule K-1 for each partner. Enter the number of included Montana Schedule(s) K-1. Also enter the number of resident, nonresident and other types of partners. An example of an other type of partner is a partner that is a foreign C corporation.

#### Date Registered in Montana

If the partnership registered with the Secretary of State to do business in Montana, enter the registration date.

#### MT Secretary of State ID Number

Enter the partnership's Montana Secretary of State identification number. The identification number begins with a letter. Enter the letter in the first space provided. When the partnership registered to do business in Montana, it was given this number. To find the partnership's identification number, please visit the Secretary of State's website at [sos.mt.gov](http://sos.mt.gov), and search for the partnership's business name under the Business Services section.

#### State Formed In

Enter the state in which the partnership was formed and the date the partnership was formed. If the partnership was formed in a foreign country, enter that country.

#### Federal Business Code/NAICS

Enter the Principal Business Code from page 1, Box C, of federal Form 1065. The Principal Business Activity Code is based on the North American Industry Classification System (NAICS). For further information, please visit [www.naics.com](http://www.naics.com).

### Line Instructions

#### Lines 1 through 11 – Partners' Distributive Share of Income Items

Enter the amounts reported on the federal Form 1065, Schedule K, Partners' Distributive Share Items, lines 1 through 11.

#### Line 6 – Ordinary Dividends

Enter the total amount of ordinary dividends reported on the federal Form 1065, Schedule K, line 6a. Montana taxes dividends as ordinary income and does not apply the federally qualified dividend tax rate.

#### Line 13a-e – Partners' Distributive Share of Deduction Items

Enter the amount of deductions reported on the federal Form 1065, Schedule K, Partners' Distributive Share Items, lines 12 and 13.

#### Line 14 – Total Federal Deductions

Add lines 13a through 13e.

#### Line 15 – Federal Income from All Sources

Subtract line 14 from line 12.

#### Line 16 – Partners' Distributive Share of Montana Additions to Income

To compute Montana income taxable to partners, certain items have to be added to income. A detailed statement is required to be included with the tax return for each item.

#### Line 16a

Enter the interest and mutual fund dividend income that the partnership received from bonds and obligations of another state, territory or political subdivision of another state (county, municipality, district, etc.).

#### Line 16b

State, local and foreign income taxes based on income or profits have to be added back to income.

#### Line 16c

Report all other additions.

Examples are:

- Compensation and expenditures used to compute the film production credit have to be included in the income of the year that the compensation and expenditures were incurred.
- If the partnership received a tax credit from the Insure Montana small business health insurance program, it is not allowed a deduction for the premiums used to calculate the credit. Because the credit cannot exceed 50% of the premiums, multiply the amount of credit claimed by two and enter the result on this line.

### Line 17 – Partners’ Distributive Share of Montana Deductions to Income

To compute Montana income taxable to partners, certain items are deducted from income. A detailed statement is required to be included with the tax return for each item.

#### Line 17a

If the partnership received interest on United States government obligations and mutual fund dividends attributable to that interest, the partnership can subtract these amounts from total federal income as long as they are included on line 12, total federal income. In addition, if the partnership received interest on obligations from U.S. territory or government agency obligations that are specifically exempt by federal law or any mutual fund dividends attributable to this interest, the partnership can subtract these amounts from total federal income as long as they are included on line 12, total federal income.

Interest on obligations that are only guaranteed by the United States government is not tax exempt. If the partnership received interest or mutual fund dividends attributable to Government National Mortgage Association (Ginnie Mae) bonds, Federal National Mortgage Association (Fannie Mae) bonds or Federal Home Loan Mortgage Corporation (FHLMAC) securities, the partnership cannot subtract the interest or mutual fund dividends.

United States obligations that are exempt include:

- Series E, EE, F, G and H savings bonds
- U.S. treasury bills
- U.S. government notes
- U.S. government certificates

Please refer to the partnership’s federal Form(s) 1099-DIV to determine what percentage of the dividends qualify for an exemption from Montana individual income tax.

#### Line 17b

Deduct an additional amount equal to 10% of the expenditures for the purchase of qualified recycled material that was otherwise deductible as business-related expenses in Montana, as computed on Montana Form RCYL, Part IV. Form RCYL has to be included with the tax return if the partnership files a paper return. If the partnership files electronically, the partnership represents that it has a copy in its records.

### Line 17c

Report other deductions on this line, including the following:

- The amount of contributions made by a small business to its independent liability fund.
- A portion of an investment made in a building for the purpose of conserving energy. To qualify, the building has to be used in the entity’s business and the result of the investment has to be a substantial reduction in the amount of energy needed to render the building usable.
- Documented expenses for the donation of mineral exploration information to the Montana Tech Foundation.
- Nonbusiness income that is allocated to a specific state. This income is not included in computing the partnership’s income apportioned to Montana. Income that is allocated to Montana is entered on line 20.
- Distributive items of income (loss) that the partnership received from a pass-through entity.

### Line 18

Add lines 15 and 16, then subtract line 17.

**All partnerships are required to complete lines 19 through 21.**

### Line 19 – Income Apportioned to Montana

*For partnerships without multistate activity*, enter 100% as the apportionment percentage and multiply the amount that is reported on line 18 by 100%. Enter the result on line 19.

*For multistate partnerships*, multiply the amount that is reported on line 18 by the apportionment percentage reported on line 5 of Schedule I, Apportionment Factors for Multistate Partnerships. Enter the result on line 19. See the instructions for Schedule I on page 6.

### Line 20 – Income Allocated to Montana

For both multistate partnerships and partnerships without multistate activity, report Montana source income subject to allocation on this line. See FAQ 18 for “allocation of income” on page 16.

For the amount reported on line 20, the partnership must include the following with Form PR-1:

- a statement showing each item of Montana source income subject to allocation and its related expenses,
- a statement explaining the reason for treating the item of income as Montana source income subject to allocation, and
- if the partnership allocates an item of income to a state other than Montana, a copy of that other state’s income tax or information return must be included. If the partnership is not required to file an income tax or information return with the other state, the partnership must indicate this in a statement.

### Line 21 – Total Montana Source Income

Add the amounts on lines 19 and 20.

**Line 22 – Total Montana Composite Return Tax**

Enter the total amount of composite tax reported on Schedule III, column E. See instructions on page 8.

**Line 23 – Total Partner Withholding**

Enter the total from Schedule III, column F. This is the total amount of tax the partnership paid to Montana on behalf of its partners. The partners will claim this amount as a refundable credit on their own Montana tax returns.

**Line 24 – Partnership Montana Mineral Royalty Tax Withheld**

Royalty payments made to owners of Montana mineral rights are subject to withholding if certain thresholds are met. This withholding should not be confused with the amounts deducted from the partnership's royalty payments for production taxes. For more information, please visit the "Mineral Royalty Withholding" link at [revenue.mt.gov](http://revenue.mt.gov).

**Line 24a – Total Montana mineral royalty tax withheld**

Enter the total amount of mineral royalty tax the partnership paid and/or the total amount of Montana mineral royalty tax withheld on behalf of the partnership by a lower-tier pass-through entity. These amounts will be reported on federal Form(s) 1099 and Montana Schedule(s) K-1.

**Line 24b – Mineral royalty tax withheld attributable to Montana residents**

Enter the total amount withheld that is attributable to Montana resident partners.

**Line 24c – Mineral royalty tax withheld attributable to nonresidents that are not participating in the composite return on Schedule IV**

Enter the total amount withheld that is attributable to nonresident partners who are not participating in the composite return on Schedule IV.

**Line 24d**

Add lines 24b and 24c. This is the total mineral royalty tax withheld that may be claimed as tax paid by the partners on their Montana tax returns.

**Line 24e**

Subtract line 24d from line 24a. This is the mineral royalty tax withheld attributable to nonresident partners that are participating in the composite return on Schedule IV.

**Line 25 – Return Payments****Line 25a – 2011 overpayment applied to 2012**

Enter any overpayments from 2011 that were credited to 2012.

**Line 25b – 2012 estimated tax payments**

Enter the total Montana estimated tax payments that the partnership made for 2012.

**Line 25c – 2012 extension payment**

Enter any extension payment for 2012 made on or before April 15, 2013.

**Line 25d – Montana income tax withheld**

Enter the Montana income tax withheld and reported by the partnership on Montana Schedule(s) K-1.

**Line 25e – For amended tax returns only – payments made with original return**

Enter any payments the partnership made when it filed its original tax return and any subsequent payments that were applied to the partnership's 2012 tax liability.

**Line 25f – For amended tax returns only – previously issued refunds**

Enter the amount of any refund the partnership received when it filed its original tax return or a previously amended tax return.

**Line 25g**

Add lines 25a through 25e and then subtract line 25f. This is the partnership's total return payments.

**Line 26 – Amount Due or (Overpaid)**

Add lines 22 and 23; from this total, subtract the sum of lines 24e and 25g.

**Line 27 – Penalties and Interest****Line 27a – Partnership information tax return late filing penalty**

A partnership is charged a late filing penalty if Form PR-1 is filed after the due date, including the automatic five-month extension. The penalty is \$10 multiplied by the number of partners at the close of the tax year for each month or fraction of a month that the entity does not file the partnership information tax return. This penalty is calculated for up to five months. Please see 15-30-3302, MCA.



A late filing penalty is not imposed on an entity that has ten or fewer partners if the partners have filed the required tax returns or other required reports timely and have paid all taxes when due.

**Line 27b – Interest on underpayment of estimated composite taxes**

The partnership is required to make estimated tax payments throughout the year if it expects to owe a composite income tax liability of at least \$500. If the partnership was required to make estimated composite tax payments and it did not pay the required amounts, it will have to pay interest on any underpayment. To calculate the underpayment interest complete Worksheet I. Please see 15-30-3312, MCA.

## Worksheet I – Calculation of Underpayment Interest

In 2012, the partnership was required to pay through estimated installments the smaller of:

- 90% of the current year's total composite tax liability, or
- an amount equal to 100% of the previous year's total composite tax liability.

If the partnership does not meet one of the two requirements, the composite tax is subject to underpayment interest.

Payments made with extensions are not considered estimated payments.

Worksheet I – Short Method	
1.	Enter the total 2012 composite tax reported on Form PR-1, line 22.
2.	Enter 90% of line 1 above.
3.	Enter the total of lines 24e, 25a and 25d reported on Form PR-1.
4.	Subtract line 3 from line 1. If the result is \$500 or less, the partnership does not need to complete the rest of the form. The partnership does not owe interest on its underpayment.
5.	Enter the 2011 composite tax from the 2011 Form PR-1, line 22.
6.	Enter the smaller of line 2 or line 5.
7.	Enter the amount from line 3 plus any estimated payments made and reported on Form PR-1, line 25b.
8.	Subtract line 7 from line 6. This is the partnership's total underpayment for the year. If zero or less, stop here. The partnership does not owe interest on its underpayment.
9.	Multiply line 8 by 0.05320 and enter the result.
10.	If the amount on line 8 was paid on or after the due date of the Form PR-1, enter zero. If the amount on line 8 was paid before the due date of the Form PR-1, multiply the amount on line 8 times the number of days paid before the due date of the information tax return. Multiply the result by 0.0002192.
11.	Subtract line 10 from line 9. This is the partnership's underpayment interest. Enter the result here and on Form PR-1, line 27b.

## Line 27c – Composite income tax return late filing penalty

If the partnership is late in filing the Form PR-1, a late filing penalty of \$50 or the amount of composite tax owing, whichever is smaller, will be charged. There is no late filing penalty for the composite tax return if there was an overpayment of composite tax and the partnership is receiving a refund.

## Line 27d – Late payment penalty

If the partnership does not pay all of its tax liability (line 26) by the due date of the Form PR-1, it will need to pay a late payment penalty. The late payment penalty is 1.2% per month or part of a month on the unpaid amount from the original due date until it is paid. This penalty cannot exceed 12% of the partnership's tax liability on line 26.



If the partnership files an amended tax return that reflects an increased tax liability, it may have the late payment penalty waived. To receive the waiver, simply mark the "Amended Return" box on the Form PR-1 and pay the tax and applicable interest in full when the partnership files the amended return. By marking this box and paying all tax and interest, the partnership is treated as having requested a waiver of the late payment penalty.

## Line 27e – Interest

Compute interest on any tax liability (line 26) that the partnership has not paid by the due date of the tax return and enter the total on this line.

If 100% of the partnership's tax liability is not paid by April 15, 2013 (for a calendar year filer), interest is due at a rate of 8% per year, computed daily on the unpaid tax balance.

To calculate the interest, multiply line 26 by 0.02192% (0.0002192) times the number of days after April 15, 2013, the partnership's tax is paid.



A valid extension of time to file the partnership's tax return does not extend the due date to pay the partnership's income tax liability after April 15, 2013.

## Line 27f – Total penalties and interest

Add lines 27a through 27e and enter the total.

## Line 28

Add lines 26 and 27f; enter the result.

## Line 29 – Amount You Owe

If the amount on line 28 is greater than zero, enter it on this line. This is the amount due with the partnership's tax return. The partnership can pay the amount it owes by:

- electronic funds withdrawal when e-filing the partnership's joint federal/state tax return,
- e-check or credit/debit card – please visit our website at [revenue.mt.gov](http://revenue.mt.gov) for more information and instructions, or

- money order, personal check or cashier’s check payable to the MONTANA DEPARTMENT OF REVENUE. Remember to use the included voucher, sign the check and write the partnership’s FEIN and “Tax Year 2012” on the memo line.

A partnership can schedule an electronic payment by e-check to be withdrawn at a later date by visiting our website. Interest and penalties will be assessed on any amount not paid when due.

**Line 30 – Overpayment**

If the amount on line 28 is less than zero, enter it on this line. This is the amount the partnership has overpaid.

**Line 31 – 2013 Estimated Tax Payments**

All or part of the refund that the partnership reported on line 30 can be refunded or carried over as a 2013 estimated tax payment. Enter the amount of the refund reported on line 30 that the partnership wants applied to its 2013 estimated tax.

**Line 32 – Refund**

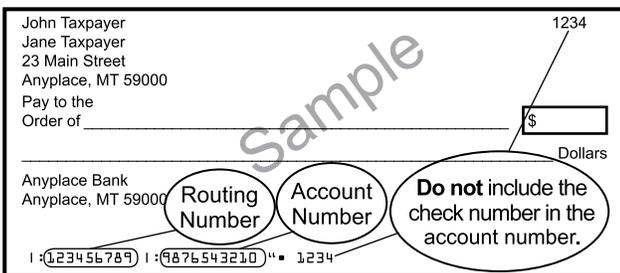
Subtract line 31 from line 30 and enter the result on this line. This is the amount of the refund that will be issued.

If the partnership is requesting a refund, please mark the box located in the top portion of Form PR-1, page 1.

If the partnership would like to use direct deposit, enter the partnership’s financial institution’s routing number (RTN#) and the partnership’s account number (ACCT#) in the spaces provided. The routing number will be nine digits and the account number can be up to 17 characters, including numbers and letters. Mark whether the partnership’s account is a checking or savings account and if the partnership’s refund will go to a bank outside of the United States and its territories (Midway Islands, Puerto Rico, American Samoa, US Virgin Islands, Federated States of Micronesia, and Guam).

If the financial institution does not accept direct deposit, we will mail the partnership a refund check.

A sample of a personal check is provided for convenience.



**Sign the Return**

If the partnership is filing its return on paper, the return is not considered valid unless the general partner or limited liability company member manager signs the return. Unsigned returns cannot be processed and require us to contact the general partner or limited liability company member for a signature.

If the partnership is filing its return electronically, the general partner or limited liability company member manager does not sign the return. The act of filing electronically signifies the partner’s or member’s declaration, under the penalty of false swearing, that:

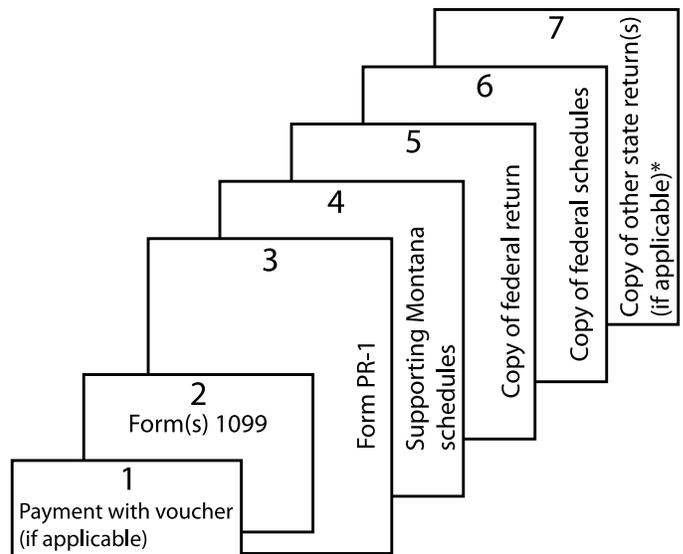
- The partner or member is authorized to file the return.
- The information in the return is true, correct and complete.
- The act of filing electronically is the partner’s or member’s signature.

**Paid Preparer**

Paid preparers are required to sign the return and include his or her address and Preparer Tax Identification Number (PTIN) in the space provided. Preparers should have a PTIN, but the preparer’s social security number (SSN) may be used when the paid preparer does not have a PTIN.

**Assemble the Return**

If the partnership is filing a return on paper, please assemble the return, without using staples, according to the following diagram or list. Include all Form(s) 1099.



Please Do Not Use Staples

\*Include a copy of the return(s) from another state if the partnership is a multistate partnership.

**File the Return**

To learn more about e-filing options available to partnerships, please see FAQ 9 on page 14. If the partnership files its return on paper, mail the return to:



Montana Department of Revenue  
PO Box 8021  
Helena, MT 59604-8021

## **SCHEDULE I – APPORTIONMENT FACTORS FOR MULTISTATE PARTNERSHIPS INSTRUCTIONS**

### **Schedule I applies only to multistate partnerships.**

A multistate partnership with income derived from its business activities must determine whether the income is business or nonbusiness income. After the partnership makes this determination, it will apply the apportionment factor calculated on Schedule I to identify the portion of the business income that is Montana source. The apportionment factor is the standard UDITPA (Uniform Division of Income for Tax Purposes Act) three-factor formula of property, payroll and sales.

When a partnership is engaged in business activities both inside and outside Montana, business income assignable to Montana has to be determined using the apportionment factor. Include only the partnership's own items of property, payroll and sales. Do not add in any property, payroll, or sales of another pass-through entity.

The partnership must ask the department if it can determine the amount of income that it attributes to Montana on some basis other than the apportionment method. If the department allows the partnership to use an alternative method, the partnership will still need to complete and submit Schedule I. Please see Title 15, Ch. 31, part 3, MCA; and Title 15, Ch. 1, part 6, MCA for additional filing information.

To calculate each of the separate factors in the apportionment factor, use the following formula: column B divided by column A, multiplied by 100. Round out to the fourth decimal (example: 25.5555%).

### **Property Factor (Line 1)**

The property factor is a fraction. The numerator is the average value of the partnership's real and tangible personal property owned, leased or rented and used in Montana in the production of business income during the tax period. Enter the numerator values in column B of Schedule I. The denominator is the average value of all of the partnership's real and tangible personal property owned, leased or rented and used in the production of business income during the tax period. Enter the denominator values in column A of Schedule I.

Property owned by the partnership is valued at its original cost. Real and tangible personal property that is used in the business includes land, buildings, machinery, equipment, stocks of goods, inventories and other tangible property actually used in connection with the production of the business income to be apportioned. It does not include money, accounts receivable, other intangible property, real property that is held for investment or nonbusiness purposes or idle property of any nature.

To the extent that it is utilized in Montana, migratory property has to be included in both the numerator and denominator.

Unless we otherwise require it, the average value of owned property is determined by averaging the values at the beginning and ending of the tax period.

All property that the partnership rents has to be valued at eight times the net annual rental rate. Rental expense cannot be averaged. The partnership has to use its rental expense for the current year in the property factor.

If the partnership owns an interest in a pass-through entity, the value of the property owned by the pass-through entity cannot be included in the property factor.

### **Payroll Factor (Line 2)**

The payroll factor is a fraction. The numerator is the total amount that the partnership paid for compensation attributable to the production of business income during the tax period in Montana. Enter the numerator values in column B of Schedule I. The denominator is the total amount that the partnership paid for compensation attributable to the production of business income during the tax period. Enter the denominator values in column A of Schedule I.

Payroll is considered to be paid in Montana if:

- the base of operations is in Montana,
- there is no base of operations and the place from which the service is directed or controlled is in Montana, or
- the base of operations or the place from which the service is directed or controlled is not in a state where some part of the service is performed but the person who provides the service is located in Montana.

If the partnership owns an interest in a pass-through entity, no part of the pass-through entity's payroll is included in the payroll factor.

### **Sales Factor (Line 3)**

Sales mean all gross receipts of the partnership exclusive of nonbusiness income and inter-company transactions. The sales factor is a fraction. The numerator is the partnership's total sales in Montana during the tax period. Enter the numerator values in column B of Schedule I. The denominator is the partnership's total sales everywhere during the tax period. Enter the denominator values in column A of Schedule I.

Sales of tangible personal property are in Montana if:

- the property is delivered or shipped to a purchaser in Montana (other than the United States government), or
- the property is shipped from Montana and the partnership is not taxable in the state of the purchaser.

Sales other than sales of tangible personal property are in the state if:

- the income-producing activity is performed in Montana, or
- the income-producing activity is performed both inside and outside Montana and a greater proportion of the income-producing activity is performed in Montana than in any other state, based on costs of performance.

If the partnership owns an interest in a pass-through entity, no part of the pass-through entity's sales is included in the sales factor.

#### Sum of Factors (Line 4)

Add lines 1, 2 and 3 in column C. Enter the result on line 4 in column C.

#### Apportionment Factor (Line 5)

Divide line 4 by the number of factors present. A factor is present if the partnership has a value in column A for property, payroll or sales. Enter the apportionment factor on line 5 of Schedule I and also insert it on line 19, page 1 of Form PR-1, rounding it out to the fourth decimal (example: 25.5555%).

## SCHEDULE II – MONTANA PARTNERSHIP TAX CREDITS INSTRUCTIONS

A tax credit claimed by a partnership is passed through to its partners. The partnership identifies how much credit is available to each partner on a Montana Schedule K-1. The partnership provides a copy of the Montana Schedule K-1 and a copy of the credit form that was used to calculate the credit to each partner.

Partners determine any necessary limitations when reporting the credit on their tax returns. Unused credits may not be redistributed to other partners. For example, if the ownership of the partnership consists of a resident partner and a nonresident partner, the nonresident partner's share of a credit could not be claimed by the resident partner even though the nonresident partner is not eligible to use it.

The tax credits cannot be taken as a credit against composite tax reported on Form PR-1.

For detailed tax credit instructions and forms, please visit our website at [revenue.mt.gov](http://revenue.mt.gov). If the partnership is eligible for a credit, please include the appropriate form with the tax return. If the partnership files electronically, it represents that it kept a copy in the partnership's records and will provide a copy to the department if requested.

#### Lines 1 through 17

Complete these lines for applicable tax credits:

1. Dependent Care Assistance Credit (Form DCAC).
2. College Contribution Credit (Form CC).
3. Health Insurance for Uninsured Montanans Credit (Form HI).
4. Recycle Credit (Form RCYL).
5. Alternative Energy Production Credit (Form AEPC).
6. Contractor's Gross Receipts Tax Credit.
7. Alternative Fuel Credit (Form AFRCR).
8. Infrastructure User Fee Credit (Form IUFC).
9. Historic Property Preservation Credit (Federal Form 3468).
10. Increase Research and Development Activities Credit (credit expired December 31, 2010).

11. Mineral and Coal Exploration Incentive Credit (Form MINE-CRED).
12. Empowerment Zone Credit.
13. Film Production Credit (Form FPC).
14. Biodiesel Blending and Storage Credit (Form BBSC).
15. Oilseed Crushing and Biodiesel/Biolubricant Production Credit (Form OSC).
16. Insure Montana Small Business Health Insurance Credit.
17. Temporary Emergency Lodging Credit (Form TELC).

### Credit Recapture

#### Lines 18 through 21

Complete these lines if the following occurs:

18. The partnership's historical property preservation credit has to be recaptured.
19. The partnership's film production certification is revoked after it receives the credit.
20. The partnership's biodiesel sales are not at least 2% of all diesel sales by the end of the third year after the credit was initially claimed, or the facility ceases blending biodiesel for sale.
21. The partnership's biodiesel facility ceases operations for a period of 12 consecutive months within five years of claiming the credit.

## SCHEDULE III – MONTANA PARTNERSHIP INFORMATION INSTRUCTIONS

### Montana Partnership Information

Include all partners on this form. If additional space is needed, make copies of Schedule III. We do not accept copies of federal Schedule K-1 in place of a completed Schedule III. If Schedule III is not completed, the processing of the partnership's return will be delayed until we receive this information.

Complete columns A through D for all partners. Complete columns E, F or G if the partner is a nonresident individual, nonresident estate, nonresident trust, foreign C corporation or a second-tier pass-through entity.

#### Column A – Name and Address of Partner

Enter the name and complete mailing address of each partner. Include the street address or post office box, city, state and zip code.

#### Column B – Entity Type and Identification Number

Enter the entity type code for each partner in the space provided. The entity type codes are:

- C** – C corporation (domestic)
- E** – Estate
- F** – Foreign C corporation
- I** – Individual
- P** – Partnership

**S** – S corporation

**T** – Trust

The entity type codes are also located on the bottom of Schedule III. If the partner is a nonprofit 501(c)(3) corporation formed in Montana, use entity type code C. If the partner is a nonprofit 501(c)(3) corporation formed outside of Montana, use entity type code F.

If the partner is an individual or disregarded entity that does not have a federal employer identification number (FEIN), enter the social security number (SSN) as it appears on the federal Schedule K-1 in the appropriate box. If the partner is a C corporation, a partnership, an S corporation, a disregarded entity, a trust or an estate, enter the FEIN as it appears on the federal Schedule K-1 in the appropriate box. If the partner is an individual or a disregarded entity that does not have a FEIN, enter the SSN as it appears on the federal Schedule K-1 in the appropriate box.

### Column C – Residency Code

For each individual, estate or trust partner that is a resident, mark the 'R' box. For each individual, estate or trust partner that is a nonresident, mark the 'N' box.

### Column D – Ownership Percentage

Enter each partner's ownership percentage. This percentage is used to calculate the partner's share of income or (loss).

### Columns E through G

Complete columns E, F or G for each partner that is a nonresident, foreign C corporation or second-tier pass-through entity.

### Column E – Composite Income Tax

If the partner elected to be included in a composite tax return and is an eligible participant, mark the checkbox in this column.

Enter the amount of composite income tax that was calculated for each partner on Schedule IV, column H. Transfer the total of this column to Form PR-1, line 22.

### Column F – Partner Withholding

If the partnership has a partner who is a nonresident individual, nonresident estate, nonresident trust, foreign C corporation or second-tier pass-through entity owner at any time during the year, the partnership has to pay taxes on behalf of the partner if:

- the nonresident individual, nonresident estate, nonresident trust or foreign C corporation:
  - did not provide the partnership with a completed Form PT-AGR and the partnership did not file a Form PT-AGR, and
  - is not participating in the partnership's composite tax return.
- the second-tier pass-through entity owner:
  - did not provide the partnership with a completed Form PT-STM that identified all of its owners and

established that all Montana source income that passes through to the second-tier entity is accounted for on tax returns that are filed with the state of Montana, and

- is not participating in the partnership's composite return.

In addition, the partnership has to pay taxes on behalf of second-tier pass-through entity owners if the partnership did not receive a conditional waiver from the department. The department will issue a conditional waiver if the partnership meets certain requirements. Refer to Form PT-STM for additional information.

Enter the amount of Montana tax the partnership paid on behalf of each partner. For a nonresident individual, nonresident estate, nonresident trust and a second-tier pass-through entity, the amount required to be paid is 6.9% multiplied by the partner's Montana source income. For a foreign C corporation, the amount required to be paid is 6.75% multiplied by the partner's Montana source income. Transfer the total of this column to Form PR-1, line 23.

### Column G – PT-AGR or PT-STM

There are two types of documents provided by partners to the partnership that are reported here, depending on the partner:

1. Form PT-AGR is an agreement that has to be completed by a nonresident individual, nonresident estate, nonresident trust or a foreign C corporation if they do not participate in a composite return and do not want the partnership to pay taxes on their behalf. The partner agrees to timely file a Montana tax return, pay all taxes and be subject to the personal jurisdiction of Montana. The partner completes the agreement and either files it with the department or returns it to the partnership. If the partner files the agreement with the department, the partner must also send the partnership a copy of the agreement. A new Form PT-AGR does not have to be filed each year, but currently effective agreements for each new nonresident individual, nonresident estate, nonresident trust or foreign C corporation partner have to be filed. The Form PT-AGR is due by the due date of the partnership's return.
2. Form PT-STM is completed for a second-tier pass-through entity owner that does not participate in a composite tax return and does not want the first-tier pass-through entity to pay taxes on their behalf. On this form, the second-tier pass-through entity has to identify its owners as well as the owners of third-tiers, fourth-tiers, etc. if they exist.

The second-tier pass-through entity must also establish on the Form PT-STM that its share of Montana source income is accounted for on individual income, corporation license or other income tax returns filed with us. If the second-tier pass-through entity cannot identify all of its partners or determine that all of its share of income is included in a Montana individual income or corporation license tax return, the partnership must pay tax on behalf of the second-

tier pass-through entity unless the second-tier pass-through entity is included in a composite tax return.

In addition, the first-tier pass-through entity has to receive a conditional waiver of the requirement to pay tax on behalf of the second-tier pass-through entity or include the second-tier pass-through entity in a composite tax return from the department. The first-tier pass-through entity or the second-tier owner has to file the Form PT-STM 45 days before the original due date of the first-tier pass-through entity's return.

Enter the year that the agreement, Form PT-AGR, or statement, Form PT-STM was provided to us. If the partnership or owner provides the agreement or statement to us this year, enter "2012."

## **SCHEDULE IV – MONTANA PARTNERSHIP COMPOSITE INCOME TAX SCHEDULE INSTRUCTIONS**

If additional space is needed, the partnership may make copies of Schedule IV.

A partnership can elect to file a composite tax return and pay a composite tax on behalf of an eligible participating partner. Partners who are nonresidents, foreign C corporations or second-tier pass-through entities and who properly elect to participate in the composite tax return, are relieved of the obligation to file a Montana income tax return. However, if the partner has other Montana source income, the partner is not eligible to participate unless that other income is from other pass-through entities that file a composite return on behalf of the partner.

The tax credits from Schedule II cannot be applied to reduce the partnership's composite tax liability. The tax credits may be used only by the partners to offset income or corporation license tax reported on their Montana tax returns.

A partnership can include a partner in filing a composite tax return only if the partner has provided the partnership with a power of attorney that authorizes the partnership to file the composite return and act on their behalf. The partnership does not submit the power of attorney with its tax return; instead the partnership retains the power of attorney as authorization from the partner and for use in subsequent years.

If the partnership files a composite tax return, the partnership is responsible for:

- paying the composite tax liability,
- paying any additional tax, penalty and interest we assess for the composite tax liability,
- representing the participants in any appeals, claims for refunds, hearings or court proceedings, and
- making quarterly estimated payments of the composite tax liability.

### **Part I**

Enter the number of partners participating in the composite income tax return.

### **Part II**

The composite tax ratio is the ratio of the partnership's Montana source income to the partnership's income from all sources for federal income tax purposes.

#### **Column 1**

Enter the amount from Form PR-1, line 15. This is the partnership's federal income from all sources.

#### **Column 2**

Enter the amount from Form PR-1, line 21. This is the partnership's total Montana source income.

#### **Column 4**

Divide column 2 by column 1. The result is the composite tax ratio. Round to 4 decimal places and do not enter more than 1.0000.

### **Part III**

#### **Column A – Name of Eligible Participating Partner**

List the name of the participating partner as it appears on the Form PR-1, Schedule III.

#### **Column B – Social Security Number (SSN) or Federal Employer Identification Number (FEIN)**

Enter the SSN or FEIN of the participating partner as it appears on Form PR-1, Schedule III.

#### **Column C – Partner's Share of Federal Income from Entity**

Enter the participating partner's share of the partnership's total federal income (loss) from all sources. For the purpose of calculating composite income tax, the partner's share of federal income from the entity is the partner's ownership percentage as reported on Form PR-1, Schedule III, column D, multiplied by the federal income from all sources reported on Form PR-1, line 15.

#### **Column D – Standard Deduction**

Each eligible participating partner is allowed one standard deduction equal to 20% of column C, but not less than \$1,860 or more than \$4,200.

#### **Column E – Exemption**

Each participating partner is allowed one exemption of \$2,240.

#### **Column F – Calculate Montana Taxable Income**

Subtract the amounts in column D and column E from column C. Enter the result in this column, but not less than \$0.

**Column G – Tax from Tax Table**

If the result in column F is greater than \$0, use the tax table at the bottom of Schedule IV to calculate the tax on the amount in column F. Enter the result in this column. Enter \$0 if the amount in column F is \$0.

**Column H – Montana Composite Income Tax Liability**

If the amount in column G is greater than \$0, multiply the amount in column G by the composite tax ratio from Part II and enter the result. If the amount in column G is \$0, enter \$0. This is the participant's Montana composite tax liability.

Example: Assume that Partnership ABC's composite tax ratio is 0.2500 (Part II). Also assume that Partner X is a participating partner with a 10% interest in the partnership's income, gain, loss or deduction. The federal income from all sources is \$60,000 and Partner X's share is \$6,000. The participating partner's composite tax liability is:

Partner's share of partnership federal income from all sources (column C)	\$6,000
Standard deduction (column D)	(\$1,860)
Exemption allowance (column E)	(\$2,240)
Result of column C minus columns D and E (column F)	\$1,900
Using the tax rates shown on Schedule IV, the tax (column G) on \$1,900	\$19
The Montana composite income tax (column H) is \$19 x 00.2500	\$4.75

**SCHEDULE VI – REPORTING OF SPECIAL TRANSACTIONS INSTRUCTIONS**

Mark the appropriate boxes indicating which forms were filed with the IRS. If any statements are answered *yes* the partnership will have to include a copy of the applicable form.

For purposes of statement 5, "related party" has the same meaning given the term in Section 267(b) or Section 707(b) of the IRC; 26 USC 267(b) or 26 USC 707(b).

**MONTANA SCHEDULE K-1 INSTRUCTIONS**

The partnership is required to use the Montana Schedule K-1 (Form CLT-4S and PR-1), Partner's/Shareholder's Share of Income (Loss), Deductions, Credits, etc., to provide information that partners will need to complete their Montana income tax return.

A Montana Schedule K-1 has to be completed for each partner who was an owner at any time during the tax year. The partnership is responsible to report all partners' applicable information on the Montana Schedule K-1, including those partners who elect to participate in a composite tax return.

The partnership has to include a copy of each partner's Montana Schedule K-1 with the Form PR-1 filed with the department. A copy is kept as part of the partnership's

records and each partner is given their own separate copy (with a copy of the Partner's/Shareholder's Instructions).

**Part 1 – Pass-Through Entity Information**

Mark the applicable boxes:

- Type of entity – mark the Form PR-1 box.
- Final Schedule K-1 – mark this box if this is the last Montana Schedule K-1 that the partnership will issue to the partner.
- Amended Schedule K-1 – mark this box if the partnership is amending the partner's Montana Schedule K-1.

Fill in the partnership's federal employer identification number (FEIN), name and address.

**Part 2 – Partner/Shareholder Information**

Enter the name and address of the partner at the end of the tax year. Enter the partner's tax identification number (FEIN or SSN) as the partnership reported it for federal income tax purposes.

If the partner is a resident individual, estate or trust, mark the Resident box. If the partner is a nonresident individual, estate or trust, mark the Nonresident box. If residency status is unknown, treat the partner as a nonresident.

**Part 3 – Montana Adjustments**

- Montana Additions to Income. Fill in the partner's distributive share of Montana additions to income from the corresponding lines 16a through 16c on page 1 of Form PR-1. This is not an apportioned amount.
- Montana Deductions to Income. Fill in the partner's distributive share of Montana deductions from the corresponding lines 17a through 17c on page 1 of Form PR-1. This is not an apportioned amount.

**Part 4 – Distributive Share of Montana Source Income (Loss)****Lines 1-13**

Partners will need this information to calculate their Montana tax liability when they file their Montana income tax returns.

On each line, enter the total of the partner's distributable share of income apportioned to Montana.

**Part 5 – Supplemental Information****Line 1**

Enter the amount of Montana composite income tax paid on the partner's behalf. This is the same amount as the amount reported for each partner on Schedule III, column E.

**Line 2**

Enter the amount of Montana income tax paid on behalf of the partner. This is the same amount as the amount reported for each partner on Schedule III, column F.

**Line 3**

If the partnership received a federal Form 1099 because the partnership had Montana mineral royalty tax withheld from its mineral royalty income in Montana, enter the partner's distributive portion of the amount withheld on this line.

**Line 4**

Enter each partner's distributive share of income (loss) allocated to Montana that is reported on Form PR-1, line 20. Include a schedule identifying each item and the amount that each partner receives.

**Line 5**

Enter each partner's distributive share of items other than those listed on lines 1 through 4 that are adjustments to the partner's Montana income tax return. List the type of item on this line. If additional space is needed, include a schedule. Also use this section to specify the Montana additions, subtractions and allocations reported in Part 3. For example, if the partner claims the Insure Montana small business health insurance credit, the partner has to add back the insurance premiums used to calculate the credit. Enter the partner's distributive share of these insurance premiums on this line.

If the partnership made a contribution that meets the requirements for a qualified endowment credit, report the amount of contribution distributed to the owner on this line.

**Part 6 – Montana Tax Credits and Recapture****Line 1**

Enter each partner's distributive share of the Insure Montana small business health insurance credit. If the

**FAQS—FREQUENTLY ASKED QUESTIONS**

Please find the answers to these questions identified by number on pages **13-16**.

**Filing Requirements**

- 1 Who has to file the Montana Partnership Information and Composite Tax Return?
- 2 When is the partnership's information and composite tax return due?
- 3 What forms and schedules have to be included with the information and composite tax return?
- 4 Which tax year and accounting method should the partnership use to file its information and composite tax return?
- 5 Should the partnership file a composite tax return?
- 6 Who has to sign the tax return?
- 7 Can the partnership get an extension of time to file its information and composite tax return?
- 8 What does the box that asks "May the DOR discuss this return with the tax preparer?" mean?

credit passes through a multi-tiered partnership, identify on this line the FEIN of the business that the credit originated from.

**Line 1a**

Enter the partner's distributive share of the insurance premiums used to calculate the credit. This amount will be part of the amount reported above in Part 3, A – MT Additions, line 3 Other additions.

**Line 2**

Enter each partner's distributive share of the contractor's gross receipts (CGR) tax credit. Also enter the CGR Account ID number on this line. The partnership received the CGR Account ID when it registered with the Department of Revenue. If the partnership does not have the CGR Account ID number on record, please contact us. If the partner is receiving credit from more than one CGR account, mark the box indicating multiple accounts and include a schedule detailing how much credit each partner receives from each CGR account.

**Line 3**

Enter each partner's distributive share of the health insurance for uninsured Montanans credit.

**Line 4**

Enter each partner's distributive share of tax credits and tax credit recapture amounts that were not reported on lines 1-3. These tax credits and tax credit recapture amounts are reported on Schedule II. If additional space is needed, include a schedule.

**Filing and Payment Options**

- 9 What options does a partnership have to file its information and composite tax return electronically?
- 10 What options does a partnership have to pay its Montana taxes electronically?
- 11 What is the interest rate on unpaid taxes?
- 12 If the partnership files its information and composite tax return electronically, what information must be sent in and what documents must be retained?
- 13 If the partnership is mailing its information and composite tax return, where does it send the return?

**Amended Returns**

- 14 How does a partnership amend its tax return?
- 15 Can partnerships have net operating losses?

**Multistate partnerships and partnerships with allocable items of Montana source income (loss)**

- 16 How does a multistate partnership apportion its business income?

- 17 How does a partnership determine which income is business income?
- 18 How does a partnership allocate its nonbusiness income and the distributive items it receives from a pass-through entity?
- 19 How does a partnership determine what income is sourced to Montana?

## Tax Records

- 20 How long does a partnership need to maintain tax records after it has filed the Montana information and composite tax return?

### 1 Who has to file the Montana Partnership Information and Composite Tax Return?

A partnership that has Montana source income has to file an annual Montana Partnership Information and Composite Tax Return (Form PR-1).

### 2 When is the partnership's information and composite tax return due?

The partnership's Montana filing period is the same as its federal filing period. Form PR-1 is due following the close of the tax year for:

- calendar year partnership – on or before April 15
- fiscal year partnership – on or before the 15th day of the 4th month

If the due date falls on a weekend or a holiday, the return is due on the next business day.

### 3 What forms and schedules have to be included with the information and composite tax return?

When the partnership files Form PR-1 on paper, it must include a complete copy of the federal Form 1065, U.S. Return of Partnership Income, with all federal Schedule(s) K-1, all statements and all documents.

## Montana Resident Partners

If the ownership of the partnership consists only of Montana resident partners, the partnership is required to complete:

- Form PR-1, pages 1 and 2,
- Schedule II, Montana Partnership Tax Credits, if applicable,
- Schedule III, Montana Partnership Information,
- Schedule VI, Reporting of Special Transactions, if applicable, and
- Montana Schedule K-1, Partner's Share of Income (Loss), Deductions, Credits, etc. for each partner.

We do not accept copies of federal Schedule K-1 in place of a completed Schedule III. If Schedule III is not completed, including the partner's identification number, the processing of the partnership's return will be delayed until we receive this completed schedule. A partnership's return may be subject to a late filing penalty.

## Nonresident Partners

When a partnership has a partner who is a nonresident or a foreign C corporation at any time during the year, it has additional filing and payment requirements:

- **Schedule III** Montana Partnership Information,
- **Form PT-AGR** (Montana Pass-Through Entity Owner Tax Agreement), if applicable, is an agreement that has to be completed by a nonresident individual, nonresident estate, nonresident trust or foreign C corporation that does not participate in a composite return and does not wish the partnership to pay tax on its behalf. By signing the agreement, the partner agrees to timely file a Montana tax return, to pay all taxes and to be subject to the personal jurisdiction of Montana. The partner completes the agreement and either files it with the department or returns it to the partnership. If the partner files the agreement with the department, the partner must also send the partnership a copy of the agreement. A new Form PT-AGR does not have to be filed each year, but currently effective agreements for each new nonresident or foreign C corporation partner have to be filed. The partnership and owner need to retain these agreements as part of their tax records. If a Form PT-AGR is not filed for any partner that is a nonresident or foreign C corporation, and if that partner does not participate in a composite return filed by the partnership, then the partnership is required to pay tax on the partner's behalf. Form PT-AGR is due on or before the due date of the partnership's return, including extensions.
- **Form PT-STM** (Montana Second-Tier Pass-Through Entity Owner Statement), if applicable, has to be completed by a second-tier pass-through entity that does not participate in a composite return and does not wish the partnership to pay tax on its behalf. The partnership has to pay tax on behalf of the second-tier pass-through entity or include it in a composite filing unless Form PT-STM identifies all of the owners of the second-tier pass-through entity, affirms that the second-tier pass-through entity's distributive share of Montana source income is accounted for on individual income, corporation license or other income tax returns, and receives a conditional waiver from the department. If the first-tier pass-through entity does not receive a conditional waiver from the department, then the first-tier pass-through entity must pay tax on behalf of the second-tier pass-through entity or include the second-tier pass-through entity in a composite return. We require the Form PT-STM to be filed each year that the first-tier pass-through entity has a partner that is a second-tier pass-through entity unless the first-tier pass-through entity received a conditional waiver for multiple tax years from the department. The Form PT-STM is due 45 days before the original due date of the partnership's return.
- **Schedule IV** (Montana Partnership Composite Income Tax Schedule), if applicable, is the composite tax return that the partnership completes and files on behalf of

eligible partners who have elected to participate in the composite filing.

- **Montana Schedule K-1**, Partner's Share of Income (Loss), Deductions, Credits, etc. for each partner.

#### 4 Which tax year and accounting method should the partnership use to file its information and composite tax return?

The taxable year and accounting method for Montana have to be the same as the taxable year and accounting method used for federal income tax purposes. If the partnership changes its federal taxable year or accounting method, it is required to change its Montana taxable year and accounting method accordingly. A copy of the approval letter from the Internal Revenue Service (IRS) to change the accounting period or method must accompany the first tax return that reflects the change.

Mark the box "Final Return" on Form PR-1, page 1, if the partnership ceased to exist during the 2012 tax year.

#### 5 Should the partnership file a composite tax return?

A partnership may elect to file a composite tax return on Form PR-1, Schedule IV, on behalf of the eligible participating partners that consent to be included. If a composite return is filed, those partners do not have to prepare or file separate Montana returns. The composite tax rate ranges from 1% to 6.9%.

Partners can be included in a composite return if they meet all of the following criteria:

- they are a nonresident individual, nonresident estate, nonresident trust, foreign C corporation or a pass-through entity,
- they have no other Montana source income (other than Montana source income from another pass-through entity that is also electing to file a composite return on the partner's behalf), and
- they consent to be included in the return by providing the partnership with a written power of attorney, authorizing the partnership to file and act on their behalf.

#### 6 Who has to sign the tax return?

Form PR-1 has to be signed and dated by a general partner or limited liability company member manager. Form PR-1 is not considered to be complete unless it is signed. Unsigned tax forms will delay the processing of the partnership's return. If the partnership has paid someone to prepare the Form PR-1, the paid preparer's PTIN or SSN, name, address and telephone number has to be included on the tax return.

If the Form PR-1 is filed electronically, see FAQ 12 for more information about electronic signatures.

#### 7 Can the partnership get an extension of time to file its information and composite tax return?

Yes. To receive an extension, the partnership has to mark the extension indicator box on Form PR-1, page 2, and include a copy of its federal extension Form 7004 with its completed Montana partnership return. Do not send copies of the federal extension before the partnership files its Montana partnership return.

The automatic extension to file Form PR-1 with its supporting schedules is five months.



An extension of time to file is not an extension to pay. If the partnership does not pay the amount of tax due by the original due date, it will owe interest and penalties on any balance due.

#### 8 What does the box that asks "May the DOR discuss this return with the tax preparer?" mean?

If the partnership marks *yes*, we can discuss any concerns that we might have with the 2012 tax return—a missing schedule, for example—with the partnership's tax preparer. If the partnership does not mark the box, we cannot discuss the return with anyone but the general partner or limited liability company member manager or someone to whom the partnership has given a power of attorney that allows us to discuss the return with them.

If *yes* is marked on a return by the partnership, the partnership is authorizing us to call the tax preparer to answer any questions that arise while we are processing the 2012 tax return.

By marking the box, the partnership is also authorizing us to:

- Request that the tax preparer give us any information that is missing from the return.
- Respond to the tax preparer's call to us for information about the processing of the partnership's return or the status of the partnership's refund or payment(s).
- Discuss certain notices from us about math errors, offsets, and return preparation. Note: The department will only send notices directly to the partnership, not to the tax preparer.

The partnership is not authorizing the tax preparer to receive any refund check, bind the partnership to anything (including any additional tax liability), receive any information about any other tax year or tax matter, or otherwise represent the partnership before the department.

Please be aware that this authorization cannot be revoked. The authorization will, however, automatically end no later than the due date, without regard to extensions, for filing next year's (2013) tax return. This is April 15, 2014, for most partnerships.

If the partnership wants to expand or change the tax preparer's authorization (for example, to verify any estimated payments it will be making in the future), it can use Form POA (Power of Attorney, Authorization

to Disclose Tax Information). Form POA is available at [revenue.mt.gov](http://revenue.mt.gov).

### 9 What options does a partnership have to file its information and composite tax return electronically?

- File the Montana Form PR-1 FREE through our website. For more information, please visit [revenue.mt.gov](http://revenue.mt.gov) and look for the Taxpayer Access Point (TAP) option. Please note that this service only applies to the Montana partnership information and composite tax return.
- File both the Montana and federal tax returns at the same time through a tax professional who is an Authorized IRS E-file Provider.

For more information regarding electronic filing visit [revenue.mt.gov](http://revenue.mt.gov) or [irs.gov](http://irs.gov).

### 10 What options does a partnership have to pay its Montana taxes electronically?

The partnership can pay its Montana taxes electronically by using any of the following methods:

- Electronic funds withdrawal when e-filing the joint federal/state tax return. There is no fee for an electronic funds withdrawal.
- E-checks—there is no fee for an e-check payment.  
An electronic payment by e-check can be scheduled to be withdrawn at a later date by visiting our website. Interest and late payment penalties will be assessed on any amount not paid when due.
- Credit/debit cards—a small fee is applied for a credit card payment.

### 11 What is the interest rate on unpaid taxes?

The current interest rate of 8% for individual income tax and composite income tax will continue to be in effect through December 31, 2013. Under Montana law, the daily accrual interest rate for all unpaid income taxes depends on the rate set by the IRS and may fluctuate each year, but will not be less than 8%.

### 12 If the partnership files its information and composite tax return electronically, what information must be sent in and what documents must be retained?

If the partnership files its return electronically, it does not have to mail in a paper copy of the return, any accompanying federal Form(s) 1099 or any other Montana supplemental forms. When the partnership files its return electronically, it represents that it has kept all the required documents as its tax record and that it will provide copies of these if we ask for them. The general partner or limited liability company member manager also does not have to sign a copy of the return and submit it to us. The act of completing and filing the return electronically is considered an authorized signature.

### 13 If the partnership is mailing its information and composite tax return, where does it send the return?

If the partnership chooses not to file electronically, please mail the return to:



Montana Department of Revenue  
PO Box 8021  
Helena, MT 59604-8021

### 14 How does a partnership amend its tax return?

If the partnership discovers that its return was incorrect, it has five years from the due date of the original tax return to file an amended Montana partnership return.

Use Form PR-1 to amend an original tax return. Mark the box “Amended Return” on the form. Please include the applicable forms and statements that explain in detail all the reason(s) for amending the tax return. Complete the entire Form PR-1 using the corrected amounts.

If the amended tax return results in a change to income or a change in the distribution of any income or other information provided to any partner, the partnership will also need to file any amended Montana Schedule(s) K-1 along with its amended Form PR-1. The partnership has to give a copy of the amended Montana Schedule K-1 to each partner.



If the partnership files an amended tax return that reflects an increased tax liability, it may have the late payment penalty waived. Simply mark the “Amended Return” box on the tax form and pay the tax and applicable interest in full when the partnership files the amended return. By marking this box and paying all tax and interest in full, the partnership is requesting a waiver of the late payment penalty.

If the IRS changes or makes corrections to the partnership’s federal Form 1065 or if the partnership amends its federal tax return, the partnership must file an amended Form PR-1. The amended Form PR-1 needs to be filed within 90 days after receiving the IRS’s notification of the corrections made to its federal Form 1065 or filing its amended federal tax return. Please include a copy of the partnership’s federal corrections or amended Form 1065 with the amended Form PR-1.

### 15 Can partnerships have net operating losses?

No. Partners use their separate shares of the partnership’s business income and business deductions to figure a net operating loss (NOL). Partners who elect to be included in the composite tax return lose their ability to use their share of income and deductions for Montana NOL purposes.

### 16 How does a multistate partnership apportion its business income?

Montana requires multistate partnerships to determine the income reportable to Montana using the Multistate Tax Compact guidelines. “Business income” is apportioned using three, equally weighted factors: the property factor,

the payroll factor and the sales factor. Complete and include Schedule I with the partnership's information and composite tax return. Items of nonbusiness income from a partnership's operations are allocated to a state as provided in the Multistate Tax Compact guidelines.

**17 How does a partnership determine which income is business income?**

Income has to be properly classified as business or nonbusiness income based upon factual evidence. The burden of proof is on the partnership to justify the manner in which the income is claimed on the tax return.

Interest income is business income when the note or obligation with respect to which the interest was received, arose out of, or was created in the regular course of, the taxpayer's trade or business operations.

Dividends are business income if the stock (with respect to which the dividends are received) arose out of or was acquired in the regular course of the taxpayer's trade or business operations. If the partnership engages in the ownership, sale or other disposition of investments regularly and as part of the ordinary course of its business, then the income arising from such transactions is presumptively business income.

Gain or loss from the sale, exchange or other disposition of real, tangible or intangible personal property constitutes business income if the property, while owned by the taxpayer, was used in the taxpayer's trade or business or was included in the apportionment factor.

Rental income from real and tangible property is business income if the property with respect to which the rental income was received, is used in the taxpayer's trade or business, incidental to the trade or business, or includable in the property factor.

If the partnership owns an interest in a pass-through entity, the distributive items that the partnership receives from the pass-through entity are not apportioned. Their status as Montana source income is determined by the pass-through entity that generated the income as part of its own operations and this Montana source income is allocated to Montana.

**18 How does a partnership allocate its nonbusiness income and the distributive items it receives from a pass-through entity?**

A partnership allocates to Montana nonbusiness income from its operations that is sourced to Montana and

distributive items of Montana source income that it receives from a pass-through entity in which it has an ownership interest.

Nonbusiness income means all income other than business income. The partnership can review our apportionment and allocation rules in Title 42, chapters 9 and 26 of the Administrative Rules of Montana. The rules are available on our website at [revenue.mt.gov](http://revenue.mt.gov).

The character of income (loss) as business or nonbusiness income and as Montana source income is determined by the pass-through entity that generated it. The distributive items of Montana source income that the partnership receives from another pass-through entity retain their character as Montana source income and are not included by the partnership in its business income subject to apportionment or otherwise subject to recharacterization by the partnership.

**19 How does the partnership determine what income is sourced to Montana?**

If a partnership is doing business only in Montana, all of its income is Montana source income. Montana source income includes the separately and non-separately stated income, gain, loss, deduction or credit, or items of income, gain, loss, deduction or credit that it derived from a trade, business, occupation or profession carried on in Montana or that was derived from the sale or other transfer, or the rental, lease or other commercial exploitation of property located in Montana.

If a partnership is doing business both inside and outside of Montana, Montana source income is the sum of the multistate business income that is apportioned to Montana, nonbusiness income that is allocated to Montana and all Montana source income of any pass-through entity which has been passed through, directly or indirectly, to the partnership.

If a partnership has an interest in another pass-through entity that has Montana source income, that income retains its character and is also Montana source income.

**20 How long does a partnership need to maintain tax records after it has filed the Montana information and composite tax return?**

The partnership should keep all of its tax records for at least five years from the date that it filed the Montana information and composite tax return. Partnerships should keep their property records and carryover information longer.