Montana Department of REVENUE

MONTANA
WE
Rev. 11-07

Water's Edge Schedule

Part I. Water's Edge Election

1. Enter the tax periods for which a valid water's edge election has been approved._________________

____

Part II. Calculation of Deemed Dividends Received from Corporations Incorporated Outside of the United States

1. Enter the positive income of your 80/20 companies. (See instructions)........................1. ____________
2. Enter your consolidated 1120 positive income. (See instructions) ....2. ____________
3. Divide the amount on line 1 by the amount on line 2. This is the ratio of your 80/20 positive income to your consolidated 1120 positive income. ....3. ____________
4. Enter the tax liability, after credits, that you reported on your consolidated 1120...........4. ____________
5. Multiply line 3 by line 4. This is the federal tax liability associated with your 80/20 companies. ....5. ____________
6. Enter the section 78 gross-up received by your 80/20 companies (attach schedule). ...6. ____________
7. Subtract the total of lines 5 and 6 from line 1 and enter the result. This is the after-tax net income of your 80/20 companies..7. ____________
8. Enter the after-tax net income of all unconsolidated 80/20 companies. ....8. ____________
9. Enter the after-tax net income of your U.S. possession companies...............................9. ____________
10. Add lines 7, 8, and 9 and enter the result. This is your total after-tax net income........10. ____________
11. Multiply line 10 by 20% and enter the result here and on line 2(h) of Form CLT- 4, page 3. This is your 20% deemed dividend...11. ____________

Part III. List your 80/20 Companies. Attach a separate sheet if necessary.

1. Name	2. FEIN	3. Income/Loss	4. Dividends Received

Part IV. List your Controlled Foreign Corporations. Attach a separate sheet if necessary**.**

1. Name	2. Country of Incorporation	3. Income/Loss

Instructions for Water's Edge Schedule

Who needs to fill out Schedule WE?

You need to fill out this schedule if you have a valid water's edge election. A water's edge election allows you to apportion your worldwide income to this state using only certain affiliated corporations. When you file a return using the water's edge method, you include corporations based upon attributes such as the location of the corporation's payroll and property and the percentage of ownership that you have in the corporation. 15-31-322, MCA.

Part I. Water's Edge Election

You can elect to compute your income attributable to Montana sources based on a water's edge combined return.

If you wish to claim a water's edge election, you must file a written election with us within 90 days of the tax year in which this election is to become effective. Each election binds you for a three-year renewable period. You must file a written election for each three-year period. You will need to file for a new election again within the first 90 days of the tax period for which your subsequent election is to become effective. You can revoke the election if we send you our written permission to do so.

On Line 1, enter the tax periods for which a valid water's edge election has been approved by the department.

Part II. How to Calculate the Deemed Dividends Received from Corporations Incorporated Outside of the United States

A corporation that is incorporated in the United States that has more than 80% of the average of its payroll and property assignable to a location outside the United States is commonly referred to as an 80/20 company. An 80/20 company is not eligible to be included in a water's edge filing group.

The water's edge combined return includes only the income and apportionment factors of the members of the unitary group that meet the criteria set forth in §15-31-322 of the Montana Code Annotated and summarized in 1-6 below. If your affiliated entity meets any *one* of these criteria and is unitary, it is included in your combined return. If your affiliated entity does not meet any of these criteria, it is excluded from your combined return.

1. An affiliated entity that:
   - (a) is incorporated in the United States,
   - (b) is in a unitary relationship with you,
   - (c) has less than 80% of its payroll and property assigned to locations outside the United States, and
   - (d) is eligible to be included in a federal consolidated tax return as described in 26 U.S.C. 1501 through 1505, with the exception that the 80% ownership requirement described in 26 U.S.C. 1504 is reduced to ownership of over 50% of the voting stock directly or indirectly owned or controlled by a member of the water's edge group.
2. Domestic international sales corporations, as described in 26 U.S.C. 991 through 994, and foreign sales corporations, as described in 26 U.S.C. 921 through 927.
3. Export trade corporations, as described in 26 U.S.C. 970 and 971.
4. Foreign corporations deriving gain or loss from disposition of a United States real property interest to the extent recognized under 26 U.S.C. 897.
5. A corporation incorporated outside the United States, if over 50% of its voting stock is owned directly or indirectly by the taxpayer and if less than 80% of the average of its payroll and property is assignable to a location outside the United States.
6. An affiliated entity that is in a unitary relationship with you and that is incorporated in a tax haven country. Please refer to Part IV below for additional details.

A portion of the after-tax net income of United States corporations that are excluded as 80/20 companies and the United States possession corporations described in sections 931 through 934 and 936 of the Internal Revenue Code are considered dividends received from corporations that are incorporated outside of the United States. These deemed dividends are included in the apportionable income and are to be calculated in Part II.

Line 1 – Positive taxable income of 80/20 companies

Using a by-company breakdown of your federal consolidated return, enter on line 1 the amount that you reported on line 30 of your federal return for all of your 80/20 companies that had positive income. When you compute 80/20 income for this line, you should report zero income for any 80/20 company that reported a loss on your federal return, line 30.

Line 2 – Consolidated 1120 positive taxable income.

Enter the total of the amounts that you reported on your federal form line 30 for all of your companies that had a positive income. For any company that reported a loss on your federal form line 30, you should report this as zero when you compute that company's income on this line.

Line 3 – Ratio of 80/20 positive income to consolidated 1120 income

Divide the amount on line 1 by the amount on line 2; enter the result on line 3.

Line 4 – Tax liability as reported on consolidated 1120

Enter the federal tax liability that you reported on your federal consolidated Form 1120, net of any federal credits.

Line 5 – Federal tax liability associated with 80/20 companies

Multiply line 3 by line 4; enter the result on line 5.

Line 6 – Section 78 gross-up received by 80/20 companies

Enter the amount that you reported on your federal Schedule C for Section 78 gross-up that your 80/20 companies received during the tax period.

Line 7 – After-tax net income of 80/20 companies

Subtract line 5 and line 6 from line 1; enter the result on line 7.

Line 8 – After-tax net income of unconsolidated 80/20 companies

Calculate the after-tax net income for your U.S. corporations that qualify as an 80/20 company, that are owned greater than 50% and that are not included in your consolidated federal return. After-tax net income is calculated by subtracting the tax liability from the taxable income on the corporation's federal form. Enter this amount on line 8.

Line 9 – After-tax net income of U.S. possession companies

Calculate the after-tax net income for your U.S. possession corporations described in sections 931 through 934 and 936 of the Internal Revenue Code. After-tax net income is calculated by subtracting the tax liability from the taxable income on the corporation's federal Form 1120. Enter this amount on line 9.

Line 10 – Total after-tax net income

Add lines 7, 8 and 9; enter the total on line 10.

Line 11 – 20% deemed dividend from 80/20 companies

Multiply line 10 by 20%; enter the result on line 8, and line 2(h) of Form CLT-4, page 3.

Part III. List of 80/20 Companies

Column 1 – Name

Enter the name of each company qualified as an 80/20 company for the filing period.

Column 2 – FEIN

Enter the federal identification number of each company qualified as an 80/20 company for the filing period.

Column 3 – Income/Loss

Enter the income or loss that you reported on your federal consolidated return, line 30 for each company that qualified as an 80/20 company for this filing period.

Column 4 – Dividends Received

Enter the total dividends that were received by each company that qualified as an 80/20 company for this filing period.

Part IV. List of Controlled Foreign Corporations

Column 1 – Name

Enter the name of each company incorporated outside the United States that is directly or indirectly owned greater than 50% by corporations within the water's edge group.

Column 2 – Country of Incorporation

Enter the country of incorporation for each company listed in column 1.

Column 3 – Income/Loss

Enter the income or loss that you reported on your federal Form 5471 for each company listed.

You must submit a copy of the federal Form 5471 of each company that is incorporated in a tax haven country during this filing period.

For each tax period beginning after December 31, 2003, your water's edge combined return must include the income of each corporation that is in a unitary relationship with you and that is incorporated in a tax haven country . As set forth in §15-31-322 of the Montana Code Annotated, tax haven countries currently include Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Turks and Caicos Islands, Dominica, Gibraltar, Grenada, Guernsey-Sark-Alderney, Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Maldives, Marshall Islands, Monaco, Montserrat, Nauru, Netherlands Antilles, Niue, Panama, Samoa, Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Tonga, U.S. Virgin Islands, and Vanuatu.