
Montana bill proposes mandatory worldwide reporting

February 8, 2013

In brief

Effective upon becoming law, Senate Bill 208 would remove the taxpayer election to report as a water's-edge group and would therefore require worldwide combined reporting for a unitary group of taxpayers. A water's-edge election made prior to the bill's effective date would remain in effect until its three-year term expires. Should it become law, the bill would have a significant impact on those taxpayers currently taking a water's-edge election, taxpayers that expect to enjoy international growth, and international businesses with Montana reporting exposure.

As of February 8, 2013, S.B. 208 is being considered in the Senate's Taxation Committee. [[Montana Senate Bill 208](#) (introduced 1/28/13)]

In detail

Montana's water's-edge election

Current law provides that a taxpayer may make a water's-edge election for a three-year period. An election must be made within the first 90 days of the first tax year of the three-year period. The election may be changed only with the permission of the Montana Department of Revenue.

A return under a water's-edge election includes the income and apportionment factors only of US incorporated corporations in a unitary relationship with

the taxpayer and eligible to be included in a federal consolidated return (with variations to the ownership threshold) that has more than 20% of its property and payroll assignable to locations within the US. Under a water's-edge election, a taxpayer pays a higher rate, 7.0%, as opposed to the regular rate of 6.75% on its Montana taxable income.

Senate Bill 208 proposes removal of the water's-edge election

S.B. 208 would eliminate the water's-edge election for taxpayers effective on the date that the bill becomes law.

Montana will allow the continuation of water's-edge elections for those taxpayers that have made such elections before the effective date of the bill.

The bill's [Fiscal Note](#) provides that, of approximately 16,000 C corporations filing Montana corporate license tax returns, 358 had a valid water's-edge election for tax year 2012. The Department estimates an annual net revenue increase of \$8 million by eliminating the water's-edge election.

The takeaway

If enacted, Montana would be the only state mandating worldwide combined reporting for all unitary taxpayers. Taxpayers currently electing water's-edge combined reporting, or those

considering an election due to projected increased international revenue, should consider the increased Montana tax liability and reporting obligations that may result from the passage of S.B. 208.

Additionally, international businesses that may have *de minimis* Montana tax exposure on a water's-edge basis should review how introducing worldwide income and apportionment to Montana's corporation tax would affect their Montana exposure.

Let's talk

If you have any questions regarding S.B. 208, please contact:

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