



Revenue and Transportation Interim Committee

62nd Montana Legislature

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TO: Members of the Revenue and Transportation Interim Committee

FROM: Megan Moore, Legislative Services Division

RE: SJR 23: Projected Corporate Tax Payments for Nonprofit Organizations

DATE: April 23, 2012 (revised)

Attached to this memorandum is data on the amount of Montana corporate tax certain nonprofit corporations might pay if they were not exempt. The methodology for calculating the payments and collecting the data follows, along with a high-level analysis.

This memorandum corrects errors in an earlier memorandum dated April 16, 2012. That memorandum relied on data purchased from GuideStar, a national organization that digitizes nonprofit data. The data erroneously identified total assets as total revenue for many private foundations in the analysis. For these foundations, the error resulted in inaccurate revenues less expenses and inflated projected corporate tax payment calculations.

Methodology

The analysis is provided for certain organizations that filed a Form 990 with the Internal Revenue Service (IRS). Filing of the Form 990 is required by organizations exempt from the federal income tax with some exceptions, such as churches, schools below the college level affiliated with churches, state institutions, government units, political party organizations, candidate committees, and organizations with annual gross receipts of \$50,000 or less.¹ Federal tax exempt status does not guarantee Montana tax exempt status,² however the Form 990 is the best available source for revenue and expense information needed for the calculations provided. **The organizations included in this analysis are not necessarily exempt from the Montana corporate license tax but this analysis assumes they are exempt.**

The analysis is for about 1,500 Montana-based organizations with the top income levels.³ The income figure used to calculate the corporate tax was generated by subtracting total expenses from total revenues and applying the 6.75 percent corporate license tax rate provided for in Section 15-31-121, MCA. The data used is the most recent available, usually 2009 or 2010.

¹Internal Revenue Service, "Annual Exempt Organization Return: Who Must File," available from <http://www.irs.gov/charities/article/0,,id=152729,00.html>.

²Please refer to Section 15-31-102, MCA, or "[Background Report on Income and Property Tax Exemptions](#)," provided to the Revenue and Transportation Interim Committee in September 2011.

³Staff gathered data for 3,000 organizations (because the source from which the data was gathered allows 3,000 downloads) but some records had to be removed from the analysis because the available income information was for gross receipts rather than revenue.

An important consideration for this analysis is how a taxed entity's calculation of corporate tax might differ from the revenues less expenses calculation used here for nonprofit corporations. Section 15-31-119, MCA allows a deduction for carryovers and carrybacks of net operating losses. This provision allows corporate taxpayers to use losses in one tax year to reduce their tax burden in an earlier and/or future tax year. A loss can be carried back 3 years and forward 7 years. Nonprofit organizations with expenses greater than revenues would still be subject to the \$50 minimum corporate tax. However, applying the net operating loss provisions could reduce the projected payments for nonprofits with projected corporate tax payments of greater than \$50 if those organizations operated at a loss in previous years or will operate at a loss in future years.

The other factor that could potentially misstate the corporate tax payment amounts in this analysis is depreciation. Corporate taxpayers deduct expenses from their income. For durable good purchases, however, a corporation does not deduct the full value of the good in the first year. Only a portion of the value is deducted each year, based on IRS depreciation schedules. The Form 990 used by nonprofit organizations includes a line for depreciation but the instructions do not require a nonprofit to record depreciation.⁴ A spot check of different types of nonprofit organizations indicated that most entered values on the line for depreciation. However, there is no way of knowing whether the figures include depreciation for all durable goods or whether the entire purchase price was included in the purchase year's expenses for some durable goods. The corporate tax projection figures could be understated to the extent that some nonprofit organizations list the entire value of durable goods as expenses in the purchase year.

Analysis

Using the calculation described above, the 1,526 organizations included in the analysis would pay about \$32.8 million if the corporate tax was applied. That figure includes \$50 minimum payments for 574 organizations. Guidestar, an organization that collects data on nonprofit organizations, identifies 13,308 Montana-based nonprofits. If the organizations not included in this analysis were each responsible for the minimum \$50 corporate tax, that would generate an additional \$589,050, for a total of \$33.4 million.

The largest nonprofit taxpayer would be the Dennis R. Washington Foundation, paying \$4.9 million, and accounting for nearly 15 percent of the \$32.8 million projected for the organizations analyzed.

Fiscal Year	Corporate License Tax Collections
FY2004	\$67,722,940
FY2005	\$98,213,717
FY2006	\$153,675,069
FY2007	\$177,503,707
FY2008	\$160,341,787
FY2009	\$166,357,514
FY2010	\$87,906,411

Corporate license tax collections for FY2004 through FY2010 are shown for comparison.⁵ Corporations paid \$87.9 million in corporate license tax for FY2010 and 68 percent of corporations paid the \$50 minimum payment.

⁴Internal Revenue Service, "Instructions for Form 990 Return of Organization Exempt From Income Tax," available from <http://www.irs.gov/pub/irs-pdf/i990.pdf>, p. 42.

⁵Montana Department of Revenue, "[Biennial Report](#)," p. 65.

By IRS Subsection

When grouped by type of IRS organization, 501(c)(3) Public Charities and 501(c)(3) Private Nonoperating Foundations⁶ would together account for about 86 percent of the corporate income taxes projected to be paid by nonprofit organizations. These types of organizations are also the most numerous, accounting for 1,299 and 104 of the organizations analyzed, respectively.

The IRS Subsections with a negative value for revenues less expenses have a positive value for the corporate tax calculation because of the \$50 minimum corporate tax.

Corporate Tax Payment Projections by IRS Subsection

By National Taxonomy of Exempt Entities Code

IRS Subsection	Number of Organizations	Revenue Less Expenses	Corporation Tax Calculation
501(c)(3) Public Charity	1,299	\$230,600,077	\$19,917,657
501(c)(3) Private Nonoperating Foundation	104	\$111,825,028	\$8,388,092
501(c)(12) Local Benevolent Life Insurance Associations, Mutual Irrigation and Telephone Companies, and Like Co	31	\$32,573,510	\$2,462,555
501(c)(14) Credit Unions and Other Mutual Financial Organizations	11	\$14,696,565	\$1,010,987
501(c)(9) Employees Associations	22	-\$7,690,798	\$391,918
501(c)(4) Civic Leagues and Social Welfare Organizations	10	\$4,199,478	\$288,753
501(c)(6) Business Leagues, etc.	21	-\$77,440	\$148,087
501(c)(13) Cemetery Companies	1	\$1,199,741	\$80,983
501(c)(19) Post or Organizations of War Veterans	2	\$1,067,048	\$72,026
501(c)(5) Labor, Agricultural and Horticultural Organizations	12	\$549,474	\$55,259
501(c)(7) Social and Recreation Clubs	9	-\$380,083	\$18,225
501(c)(3) Private Operating Foundation	4	-\$344,406	\$1,807
Grand Total	1,526	\$388,218,194	\$32,836,348

Examining the projected corporate tax payments by National Taxonomy of Exempt Entities (NTEE) code provides additional information about the areas in which the nonprofit organizations work. The NTEE code is used by the IRS and the National Center for Charitable Statistics to classify nonprofit organizations. This analysis groups the Core Codes included in the data into the 10 Major Groups because

⁶Nonoperating foundations contribute money to other charitable organizations, while operating foundations administer charitable programs directly.

there are about 400 Core Codes.⁷

The Health group has the largest projected corporate tax payment, \$11.2 million.

Many organizations in the analysis that are not 501(c)(3) public charities did not have an assigned NTEE code. The same is true for some 501(c)(3) private nonoperating foundations, including the organization with the largest projected corporate tax: the Dennis R. Washington Foundation. The "No NTEE code" category had the second-largest projected corporate tax calculation, \$11.1 million.

Among the other organizations with NTEE codes, the Public and Societal Benefit, Human Services, and Education categories rounded out the top five.

Corporate Tax Projections by NTEE Major Group

NTEE Major Group	Number of Organizations	Revenue Less Expenses	Corporation Tax Calculation
Health	196	\$142,579,794	\$11,235,458
No NTEE code	167	\$143,201,780	\$11,125,168
Public, Societal Benefit	209	\$34,720,422	\$3,254,474
Human Services	479	\$35,763,869	\$3,109,404
Education	162	\$15,035,927	\$1,911,717
Environment and Animals	121	\$9,215,987	\$939,927
Arts, Culture, and Humanities	126	\$4,954,225	\$524,405
International Foreign Affairs	19	\$4,750,311	\$336,042
Mutual/Membership Benefit	11	-\$1,197,767	\$277,084
Religion Related	36	-\$806,354	\$122,669
Grand Total	1,526	\$388,218,194	\$32,836,348

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⁷See "NTEE Core Codes (NTEE-CC) Overview" for more information, available from <http://nccs.urban.org/classification/NTEE.cfm>.