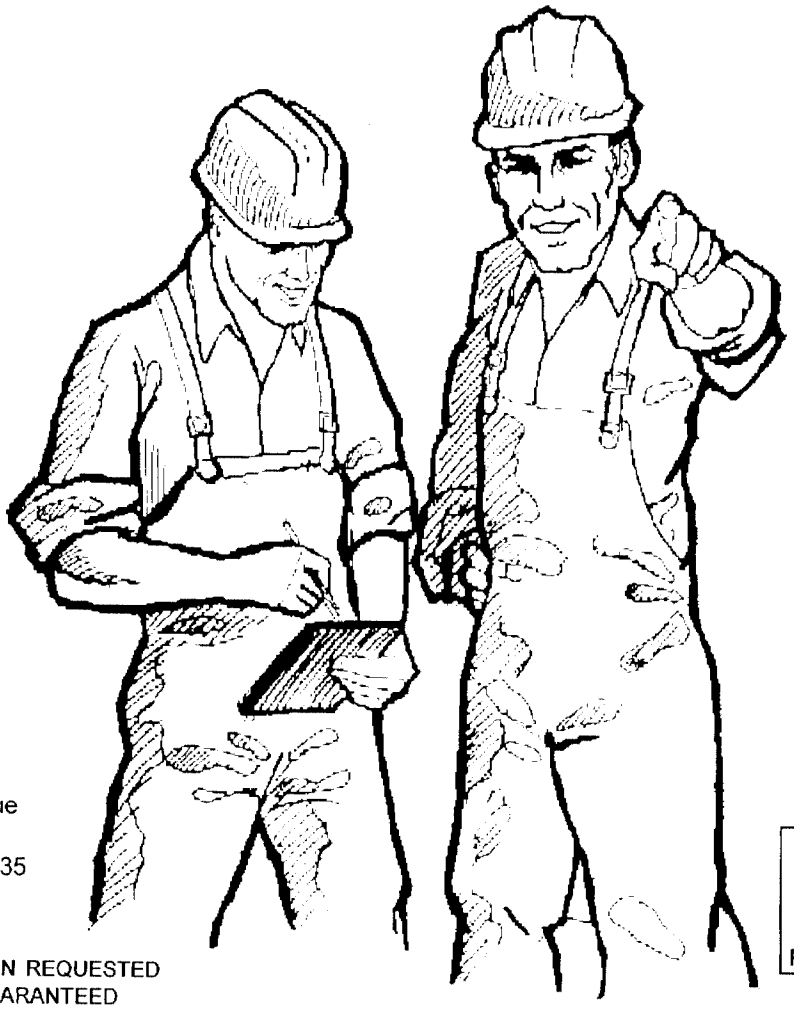
Governor Marc Racicot

Montana

Business Tax Guide for Public Contractors Gross Receipts Tax



Department of Revenue
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Helena, MT 59604-5835

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Montana Public Contractors Gross Receipts Tax

As a contractor or subcontractor working on a publicly funded project where the owner is a public entity, you are required to pay or have withheld from your earnings 1% of the gross contract price. This tax applies to public contracts of $5,000 and above. It is collected by the Montana Department of Revenue, Business Tax Section.

The basic steps for reporting and remitting the Contractors Gross Receipts Tax are:

- Within 10 days after a public contract is awarded, a Contract Award Report (Form PC-1) must be filed with the Department of Revenue. This form may be filed by the awarding agency or by the prime contractor. You'll want to ensure that this form is filed properly and on time.

- Within 30 days of a payment to the prime contractor, the 1% tax must be forwarded to the Montana Department of Revenue, Business Tax Section, along with a completed Gross Receipts Withholding Report (Form PC-2). Usually, this tax has been withheld by the awarding agency and the agency will complete the report and remit the payment. If the awarding agency does not withhold and remit the 1% tax, it becomes the responsibility of the prime contractor to do so. Again, you'll want to ensure that this form is filed properly and on time. *Please note that when a federal government agency awards a contract, the federal government does <u>not</u> withhold the 1% tax from payments made to prime contractors. Therefore, the prime contractor becomes responsible for reporting and remitting the 1% tax within 30 days of payment.*

- If the project requires a subcontractor, the prime contractor must withhold the 1% tax from payment to the subcontractor and file a completed Gross Receipts Withholding Report (Form PC-2). The Form PC-2 is used as an allocation report and authorizes the Department of Revenue to transfer the amount withheld from the prime contractor's account to the subcontractor's account.

As a public contractor or subcontractor, you are allowed a refund of the Gross Receipts Tax based on paid personal property taxes levied against your construction business. This refund is calculated on a dollar-for-dollar basis. You must submit an Application for Refund of Contractors Gross Receipts Tax (Form PC-4) along with copies of your paid personal property tax receipts and vehicle registration certificates. You can use the 1% tax withheld as a credit when filing your Montana corporation or individual income tax return, depending on how your company is structured.

If you have questions or need assistance, please call us at (406)444-3388.

The following pages outline the 1% gross receipt tax withholding process:

- a completed Contract Award Report (Form PC-1).
- a completed Withholding Report (Form PC-2).
- a completed ledger sheet showing how payments are credited and allocations to subcontractors are debited.
- how personal property tax refunds are applied (Form PC-4).
- how income and corporation tax credits are applied.

OVERVIEW

All contractors and subcontractors working on publicly funded projects, where the owner is a public entity, must have the 1% tax withheld from their payments. The awarding agency must withhold the 1% tax on all payments to the prime contractor. The prime contractor must withhold the 1% tax on all payments made to its subcontractors. Also, a subcontractor must withhold the 1% tax on all payments made to its subcontractors. The federal government will not withhold the tax. Therefore, contractors who are paid in full by the federal government must withhold the 1% tax from the payments they receive and remit the tax within 30 days.

IMPORTANT.....

The Department of Revenue does not take a position on whether or not the 1% tax should be added into the contract bid. What we have always claimed is...<u>the law states that all contractors working on public projects of $5,000 or more are subject to the 1% tax, period.</u>

If a contractor is paid in full, the contractor is responsible to remit the 1% tax within 30 days of payment. Failure to do so will result in a 10% penalty and interest @ 1% per month.

Misconceptions

Some contractors:

- claim, since the 1% was being withheld from the prime contract, the subcontractors should not include the 1% in their bid.
- have told the prime contractor not to withhold because they did not have 1% in their bid.
- believe, <u>if they did not put the 1% tax in their bid,</u> the awarding agency or prime contractor was responsible to pay the tax for them.

All of the above are wrong... See <u>important</u> section and the <u>overview</u> section above.

CONTRACT AWARD REPORT (FORM PC-1)
AWARDING AGENCIES AND PRIME CONTRACTORS

This form is prepared by the awarding agency and filed within 10 days of the contract award. A prime contractor must prepare and file this report within 10 days after being notified by the federal agency that the contractor was awarded the contract (the federal government does not file this report).

The following example represents a completed Form PC-1 using $50,000 as the gross contract price.

	CONTRACT AWARD REPORT STATE OF MONTANA DEPARTMENT OF REVENUE		
1	Contract Awarded by (Agency or Prime Contractor) MT Dept. of Transportation 2701 Prospect Ave. Helena, MT 59620		
2	XYZ Construction PO Box 1234 Helena, MT 59604	3	
		4	6/1/95
		5	12/31/95
6	BR-STPU 3333(3)F	7	**$50,000.00**
8	Bridge Construction		
9	10 Mile Creek Helena, MT		
REPORT SUBMITTED BY	Agency or Prime Contractor Department of Transportation		
AWARD AUTHORIZATION	Authorized Representative		6/1/95

When the completed PC-1 is submitted to the department, a ledger sheet is prepared to trace all debit and credit transactions. See example below.

XYZ Construction PO Box 1234 Helena, MT 59604 Transportation, MT Dept. of 2701 Prospect Ave. Helena, MT 59620	6/1/95 BR-STPU 3333(3)F Bridge Construction 10 Mile Creek Helena, MT	**$50,000.00**

DATE		GROSS RECEIPTS TAX		INCOME OR CORP TAX		PERSONAL PROP TAX		BALANCE	

WITHHOLDING REPORT (FORM PC-2)

This report is prepared by the awarding agency when payments are made to a contractor. The 1% tax is withheld and remitted to the Montana Department of Revenue within 30 days.

Agencies of the federal government do not withhold the tax--they make full payment to the contractor. Therefore, the contractor must pay the tax to the department within 30 days of receipt.

The following example represents a completed Withholding Report Form PC-2 . Note the 1% tax of $500.00 was paid and the remittance box was marked (X), indicating a payment was sent with the form.

	GROSS RECEIPTS WITHHOLDING REPORT STATE OF MONTANA DEPARTMENT OF REVENUE	651234 JUL 01 95	
1	MT Dept. of Transportation 2701 Prospect Ave., Helena, MT 59620		
2	XYZ Construction PO Box 1234 Helena, MT 59604	3	
		4	6/1/95
5	Contract Number	BR-STPU 3333(3)F	
6	Month and Year Earned	6/95	
7	Gross due contractor	$50,000.00	
8	Amt withheld (1% of line 7)	**$500.00**	
9	Net amount paid to contractor	$49,500.00	
10	Check proper box for type of report being filed: [X] Remittance attached for credit to prime [ ] Subcontractor Allocation Date payment made to contractor 6/29/95		
11	Bridge Construction over 10 Mile Creek; Helena, MT		
REPORT SUBMITTED BY		Agency or Prime Contractor Department of Transportation	
AWARD AUTHORIZATION	Authorization Representative	6/30/95	

The following ledger shows how the credit is recorded.

Date received 7-1-95, cashier #651234, date credit was earned 6-95 (from line 6, Form PC-2). Amount $500.00 (from line 8, Form PC-2).

XYZ Construction PO Box 1234 Helena, MT 59604	6/1/95 BR-STPU 3333(3)F Bridge Construction 10 Mile Creek Helena, MT	$50,000.00
Transportation, MT Dept. of 2701 Prospect Ave. Helena, MT 59620		

DATE			GROSS RECEIPTS TAX		INCOME OR CORP TAX		PERSONAL PROP TAX		BALANCE	
7/1/95	651234	6/95	500	00					500	00

CONTRACT AWARD REPORT (FORM PC-1)
PRIME CONTRACTORS AND SUBCONTRACTORS

This report is to be completed and sent to the department by a prime contractor who has subcontracts of $5,000 or more. Form PC-1 must be submitted for each subcontractor. This same filing is required for a subcontractor who has subcontracts of $5,000 or more.

These reports must be filed within 10 days of an awarding date. This document generates the ledger sheets for the contractor and subcontractor.

The following example represents a Contract Award Report (Form PC-1) completed by the prime contractor for a subcontractor.

	CONTRACT AWARD REPORT STATE OF MONTANA DEPARTMENT OF REVENUE		
1	Contract Awarded by (Agency or Prime Contractor) XYZ Construction PO Box 1234 Helena, MT 59620		
2	123 Concrete PO Box 456 Helena, MT 59604	3	
		4	6/8/95
		5	12/31/95
6	BR-STPU 3333(3)F	7	$25,000.00
8	Concrete Beams for Bridge Construction & Installation		
9	10 Mile Creek Helena, MT		
REPORT SUBMITTED BY	Agency or Prime Contractor XYZ Construction		
AWARD AUTHORIZATION	Authorized Representative	6/8/95	

When the completed PC-1 is submitted to the department, a ledger sheet is prepared to trace all debit and credit transactions. See example below.

123 Concrete PO Box 456 Helena, MT 59604 XYZ Construction PO Box 1234 Helena, MT 59620	6/8/95 BR-STPU 3333(3)F Concrete beams and Bridge Construction 10 Mile Creek Helena, MT	$25,000.00

DATE		GROSS RECEIPTS TAX		INCOME OR CORP TAX		PERSONAL PROP TAX		BALANCE	

WITHHOLDING REPORT (FORM PC-2) USED AS AN ALLOCATION OF CREDIT TO A SUBCONTRACTOR

Any contractor subletting a contract of $5,000 or more is required to withhold 1% of the amount due his subcontractor but does not transmit that amount to the Department of Revenue. The contractor will complete Form PC-2 and check the box marked "Subcontractor Allocation".

The amount withheld will be allocated to the subcontractor and deducted from the original 1% withheld from the prime contractor. Review sample ledgers 1 & 2 at the bottom of this page.

Example Form PC-2.

	GROSS RECEIPTS WITHHOLDING REPORT STATE OF MONTANA DEPARTMENT OF REVENUE		
1	XYZ Construction PO Box 1234 Helena, MT 59604		
2	123 Concrete PO Box 456 Helena, MT 59604	3 4	 6/8/95
5	Contract Number	BR-STPU 3333(3)F	
6	Month and Year Earned	6/95	
7	Gross due contractor	$25,000.00	
8	Amt withheld (1% of line 7)	$250.00	
9	Net amount paid to contractor	$24,750.00	
10	Check proper box for type of report being filed: ☐ Remittance attached for credit to prime ☒ Subcontractor Allocation Date payment made to contractor 7/10/95		
11	Concrete Bridge Construction over 10 Mile Creek; Helena, MT		
REPORT SUBMITTED BY		Agency or Prime Contractor XYZ Construction	
AWARD AUTHORIZATION	Authorization Representative	7/11/95	

Example (1) shows XYZ Construction's ledger, with a $250.00 debit to 123 Concrete.
Example (2) shows the allocation of $250.00 to 123 Concrete, from XYZ Construction.

XYZ Construction PO Box 1234 Helena, MT 59604 Transportation, MT Dept. of 2701 Prospect Ave. Helena, MT 59620	BR-STPU 3333(3)F Bridge Construction 10 Mile Creek Helena, MT	6/1/95	$50,000.00

DATE		GROSS RECEIPTS TAX	INCOME OR CORP TAX	PERSONAL PROP TAX	BALANCE
7/1/95	651234 6/95	500 00			500 00
7/10/95	123 Concrete	(250 00)			250 00

123 Concrete P.O. Box 456 Helena, MT 59604 XYZ Construction PO Box 1234 Helena, MT 59604	BR-STPU 3333(3)F Concrete Beams and Bridge Construction 10 Mile Creek Helena, MT	6/8/95	$25,000.00

DATE		GROSS RECEIPTS TAX	INCOME OR CORP TAX	PERSONAL PROP TAX	BALANCE
7/10/95	XYZ Construction 6/95	250 00			250 00

APPLICATION FOR REFUND (FORM PC-4)
PERSONAL PROPERTY REFUND REQUEST

A public contractor, from whom the 1% tax was withheld, will be allowed a dollar-for-dollar refund on any personal property and motor vehicle tax incurred and paid between January 1 and December 31 of the year in which the withholding occurred.

The refund applies only to personal property taxes paid on the equipment used in the construction business of the contractor. Copies of paid personal property tax receipts and vehicle registration receipts must be attached to the refund request.

APPLICATION FOR REFUND OF CONTRACTORS GROSS RECEIPTS TAX

Having paid personal property taxes on assets used in his contracting business, the following public contractor applies for a refund of these taxes from his account.

MAIL REFUND TO: XYZ CONSTRUCTION
PO Box 1234
Helena, MT 59604

MONTANA CONTRACTORS' REGISTRATION NUMBER N/A

PERSONAL PROPERTY TAXES PAID DURING AND FOR CALENDAR YEAR. 1995

1. List below by official contract number or other designation the total amount of contractors gross receipts tax withheld or paid during the calendar year. If more space is needed, attach a separate sheet.

CONTRACT NUMBER OR OTHER DESIGNATION		AMOUNT
MT. Dept. of Transportation BR-STPU 3333(3)F		$500.00
	Less Suballocations	$250.00
	Balance	$250.00

2. List below personal property taxes paid for and during the calendar year covered by this refund claim. Attach copies of paid tax receipts to this claim. If more space is needed, attach a separate sheet.

IDENTIFICATION OF PERSONAL PROPERTY	RECEIPT NUMBER	AMOUNT
89 Ford Truck	D121212	$100.00

TOTAL REFUND CLAIMED $100.00

Form PC-4

Applicant XYZ Construction

By U.R. Hired

Office Telephone 406-123-1234

The following ledger for XYZ Construction indicates that the refund request was processed and the account was debited $100.00, leaving a credit balance of $150.00.

XYZ Construction
PO Box 1234
Helena, MT 59604

Transportation, MT Dept. of
2701 Prospect Ave.
Helena, MT 59620

6/1/95
BR-STPU 3333(3)F
Bridge Construction
10 Mile Creek
Helena, MT

$50,000.00

DATE		GROSS RECEIPTS TAX	INCOME OR CORP TAX	PERSONAL PROP TAX	BALANCE
7/1/95	651234 6/95	500 00			500 00
7/10/95	123 Concrete	(250 00)			250 00
1/15/95	1995 Pers. Prop. Tax Refund 95123456			(100 00)	150 00

INDIVIDUAL INCOME AND CORPORATION TAX CREDIT ALLOWANCES

The 1% tax withheld from any contractor is allowed as a credit against Montana individual income or corporation tax liability incurred by the contractor. The credit is allowed for the taxable period within which the net income from contracts subject to the gross receipts tax is reported.

The credit is allowed for the month it was earned, not when it is received by the department. In other words, if a contractor's progress payment request was for work performed in October and the 1% tax was withheld and paid in the following month of November, the credit was earned in October not November when it was reported and paid to the department.

Please note: this credit does not carry forward from year to year.

The following ledger sheet example uses the credit against an individual income tax liability where the taxpayer is a sole proprietor, sub "S " corporation shareholder or partner. It is important to note that a sole proprietor can use all the available credit . The shareholders and partners are only allowed a percentage according to their share of ownership.

Using the same example, a "C"-corporation can use all the credit against its tax liability.

If there is no tax liability, there would be nothing against which to credit the 1% tax.

Please note: on an actual ledger, only the individual income tax or "C" - corporation tax credit would be shown-- <u>one or the other, not both.</u>

Sample ledger

XYZ Construction
PO Box 1234
Helena, MT 59604

6/1/95
BR-STPU 3333(3)F
Bridge Construction
10 Mile Creek
Helena, MT

$50,000.00

Transportation, MT Dept. of
2701 Prospect Ave.
Helena, MT 59620

DATE		GROSS RECEIPTS TAX	INCOME OR CORP TAX	PERSONAL PROP TAX	BALANCE
7/1/95	651234	500 00			500 00
7/10/95	123 Concrete	(250 00)			250 00
1/15/96	1995 Pers. Prop.Tax Refund 95123456			(100 00)	150 00
2/23/96	1995 Inc. or Corp Tax credit 958888		(150 00)		0 00

Contract Award Report

STATE OF MONTANA

DEPARTMENT OF REVENUE

CONTRACT AWARDING AGENCY OR PRIME CONTRACTOR MUST COMPLETE THIS FORM AND MAIL TO THE STATE DEPARTMENT OF REVENUE WITHIN 10 DAYS AFTER CONTRACT OR BID HAS BEEN OFFICIALLY AWARDED.

1	Contract Awarded by (Agency or Prime Contractor) Name Address City/Town Zip Code	MAIL TO: Business Tax Section Income & Miscellaneous Tax Division Department of Revenue PO Box 5835 Helena, MT 59604
2	Contract Awarded to (Prime or Subcontractor) Name Address City/Town Zip Code	3 Montana Contractor's Registration Number 4 Contract Award Date 5 Construction Completion Date
6	Contract Number/Official Designation	7 Contract Amount
8	Description of Work to be performed	
9	Location of work to be performed (be specific)	

Report Submitted by	Agency or Prime Contractor	
Award Authorization	Preparer's Signature	Date
	Preparer's Telephone Number	

Form PC-1
(Rev. 11-95)

GROSS RECEIPTS WITHHOLDING REPORT

State of Montana

DEPARTMENT OF REVENUE

Department of Revenue Use Only

The agency or contractor must, in accordance with Section 15-50-206, Montana Code Annotated, withhold one percent (1%) of incremental payments due the contractor or subcontractor. Amounts withheld from a prime contractor must be forwarded with this report to the Department of Revenue. Amounts withheld from subcontractors must be reported on this form so that proper allocation of credit can be made from prime contractor's account to the subcontractor.

1	Contract Awarded by (Agency or Prime Contractor) Name Address City/Town Zip	**MAIL TO:** **Business Tax Section** **Income & Miscellaneous Tax Division** **Department of Revenue** **PO Box 5835** **Helena, MT 59604**
2	Contract Awarded to (Prime or Subcontractor) Name Address City/Town Zip	3 Montana Contractor's Registration Number 4 Contract Award Date
5	Contract Number/Official Designation.	>
6	Month and year increment payment earned.	>
7	Gross amount due contractor or subcontractor at the time of this report.	>
8	Amount withheld (1% of line 7). If payment made to prime contractor, remittance must accompany report.	>
9	Net amount paid contractor or subcontractor at the time of this report.	>
10	Check proper box for type of report being filed: ☐ Remittance attached for credit to prime contractor's account. ☐ Subcontractor Allocation. Authorization to transfer credit to subcontractor. Failure of prime contractor to file a distribution report within thirty (30) days of payment will result in a 10% penalty. Date payment made to subcontractor _____	
11	Location and brief description of work being performed:	

REPORT SUBMITTED BY	Agency or Prime Contractor	
AWARD AUTHORIZATION	Preparer's Signature	Date
	Preparer's Telephone Number	

Form PC-2
(Rev. 12-95)

APPLICATION FOR REFUND OF CONTRACTORS GROSS RECEIPTS TAX

Having paid personal property taxes on assets used in his contracting business, the following public contractor applies for a refund of these taxes from his account.

MAIL REFUND TO: _____

_____

_____

MONTANA CONTRACTORS' REGISTRATION NUMBER _____

PERSONAL PROPERTY TAXES PAID DURING AND FOR CALENDAR YEAR. _____

1. List below by official contract number or other designation the total amount of contractors gross receipts tax withheld or paid during the calendar year. If more space is needed, attach a separate sheet.

CONTRACT NUMBER OR OTHER DESIGNATION	AMOUNT

2. List below personal property taxes paid for and during the calendar year covered by this refund claim. Attach copies of **paid tax receipts** to this claim. If more space is needed, attach a separate sheet.

IDENTIFICATION OF PERSONAL PROPERTY	RECEIPT NUMBER	AMOUNT

TOTAL REFUND CLAIMED $ _____

Applicant _____

By _____

Office Telephone _____

PC-4
Rev. 12-95

INSTRUCTIONS FOR PREPARATION OF REFUND REQUESTS

1. Refund claims for personal property taxes paid during a calendar year may be filed at any time during that year. Credits are allowed in the year the tax liability was incurred and paid. Those property taxes paid in any other year than when they were due will not be allowed.

2. Refunds may not exceed (1) the amount of personal property taxes paid or (2) the amount of contractors gross receipts tax credits in the applicant's account for the refund year.

3. All personal property taxes listed under item (2) of the application must have **copies of paid** personal property tax receipts attached.

4. Refunds are issued for personal property taxes only. **NO REFUND IS MADE FOR PAYMENT OF REAL PROPERTY TAX.** If a receipt covers both real and personal property taxes, the applicant must get a statement from the county treasurer showing the amount of tax paid on each type of property. Attach this statement to the refund application.

5. New car sales tax, gross vehicle weight charges, junk vehicle fees or similar fees are not personal property taxes. Only the personal property taxes on vehicles are allowed.

6. Refunds will not be issued for personal property taxes paid on automobiles unless the applicant submits a signed statement saying the automobiles are used 100% in the contracting business.

7. Any credits of the contractors' gross receipts tax not refunded for payment of personal property taxes may be used as a credit against a corporation license tax or individual income tax liability.

8. Applications for a refund are to be mailed to:

Business Tax Section
Income and Miscellaneous Tax Division
Department of Revenue
PO Box 5835
Helena, MT 59604