

"Corporate Income Taxation in Montana"

a lecture by
State Senator Jim Elliott

Overview of corporate taxation in Montana.

Corporations that do business in Montana are subject to several different kinds of taxes: income tax, natural resource taxes, various selective sales or excise taxes, and property taxes.

The "Corporate License Tax" is an income tax that is calculated at 6.75% of a corporation's net Montana-based income. In 2004 this tax generated \$67 million from roughly 16,000 corporations, or roughly 3.4% of total state and local tax revenues for that year. (Individual income taxes amounted to \$605 million or 34%.) Among those 16,000 corporations, 60% paid just the \$50 minimum and 6% paid nothing at all.

Natural resource taxes, mostly on coal, oil & gas, generated \$86 million in 2004, or 4.3% of total state & local taxes.

Sales and excises taxes totaled \$147 million in 2004, or roughly 7% of total state & local taxes. But the major ones fall largely on individual consumers (e.g., taxes on cigarettes, telecommunications, hotel/motel stays); the few that hit corporations amount to less than 1% of total taxes.

Property taxes are the largest category, totaling about half of all tax collections in the state. They are also the most complex, with many different classes of property that are valued and taxed in different ways and that are eligible for different credits, abatements and exemptions. Of the 11 primary property 'classes' taxed in Montana, seven likely apply solely or largely to corporate property, and four apply to both individual and corporate property; so it is not easy to determine the overall corporate share of property taxes. But out of roughly \$900 million collected in FY 2004, at least \$200 million was paid by corporations.

Before the DoR denied his further requests, Senator Elliott was able to examine income tax return data for the 491 corporations with more than \$5 million in sales in Montana in 2002. Of those, 196 paid less than \$500 in income tax in 2002, and 49 paid less than \$500 for the five years from 2000 through 2004.

If corporate income taxes are such a small percentage of state & local revenues, why the fight over access to data? Beyond the 'right-to-know' and privacy issues, there are two pragmatic concerns. First, there are national data, and several recent 'front-page' examples, about corporations using legal and illegal means to reduce their tax liabilities. Since the starting point for Montana's corporate tax computation is "federal adjusted gross income", those federal tax-evasion strategies may well be diminishing Montana tax collections too. Secondly, Elliott's data suggest there may be inequities in Montana corporate income tax collections that do not reflect profitability but rather are attributable to either very clever or possibly unscrupulous lawyers and accountants. Access to the data could show policymakers how & where to close unintended 'loopholes', increase revenues, and make the tax burden more equitable.

Note: the biennial reports prepared by the Department of Revenue are an excellent source of both tax information and tax data. They are accessible (at least in part) on the web at:

<http://mt.gov/revenue/formsandresources/biennialreports/biennialreports.asp>

RESOURCES

Elliott v. Montana Department of Revenue (Montana Supreme Court # 05-336)
Senator Elliott sued the Department of Revenue seeking certain corporate income tax return data in October, 2004. The District Court decided against Elliott in April, 2005. Elliott then appealed to the Montana Supreme Court. The case is "fully briefed" and oral argument is scheduled for May 3, 2006. Five briefs are available on the internet: appellant's (Elliott), respondent's (DoR), an intervener (Montana Taxpayer's Assoc.), an amicus curiae (Professor Griffing) and appellant's reply (Elliott) - see:
<http://www.lawlibrary.state.mt.us/dscgi/ds.py/View/Collection-1981>
and look for 05-336 under August & October of 2005. The decision and briefs at the District Court are not available on the web.

Senator Elliott's website:

<http://www.jimelliott.org/HTML/archives.html>
includes articles he has written about the lawsuit, specifically:
February 20, 2006 "Just the facts"
October 25, 2004 "Big Business is Our Business"

For a pretty lame critique of Senator Elliott's lawsuit, go to the Tax Foundation website at:

<http://www.taxfoundation.org/news/show/309.html>

For an in-depth article on corporate taxation, and some reforms passed in New Jersey in 2002, see:

http://www.njpp.org/rpt_cbt-report.html
New Jersey Policy Perspective.
A Question of Balance: Taxing Business in the 21st Century, by Mary E. Forsberg, January 2003

For an in-depth look at corporate income taxes at the federal level, see:

<http://www.cbpp.org/10-16-03tax.pdf>
The Decline of Corporate Income Tax Revenues,
by Joel Friedman, October 2003

For a brief summary of arguments for & against corporate tax disclosure, see:

<http://www.itepnet.org/pb16corp.pdf>

Percent Composition of Federal Receipts

	Individual Income Tax	Corporate Income Tax	Payroll Taxes	Excise Taxes	Other
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1950	39.9	26.5	11.0	19.1	3.5
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2000	49.6	10.2	32.2	3.4	4.6
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Source: Office of Management & Budget
Data in this table were calculated from data available at:
<http://www.whitehouse.gov/omb/budget/fy2005/pdf/hist.pdf>

from "*Corporate-Governance Concerns Are Spreading, and Companies Should Take Heed*", an article by Alan Murray in the Wall Street Journal of April 12, 2006.

"Is all this attention to corporate governance good for business? Many corporate executives I talk with worry about the creation of a culture of compliance in their companies. Too much executive time and attention, they fear, is spent on defensive matters like governance, accounting and complying with regulations, leaving too little time and attention on the company's growth."

Given manager's focus on growth (and profit) and their disdain for social obligations, disclosure of corporate tax data, regulatory compliance and governance is essential to protect the public interest and to avoid future Enrons and Libbys.