It is a well known fact that taxpayer compliance will improve with education, communication and simplification of tax laws. A coalition of Montana business associations published this brochure as part of our efforts on taxpayer education and communication. We will be distributing it to our clients and members

The Montana Department of Revenue developed the information for this brochure to help clarify Montana's tax filing requirements for the transfer of real estate and rents received. In addition, our associations have been working closely with the Montana Department of Revenue to promote a better understanding of this issue.

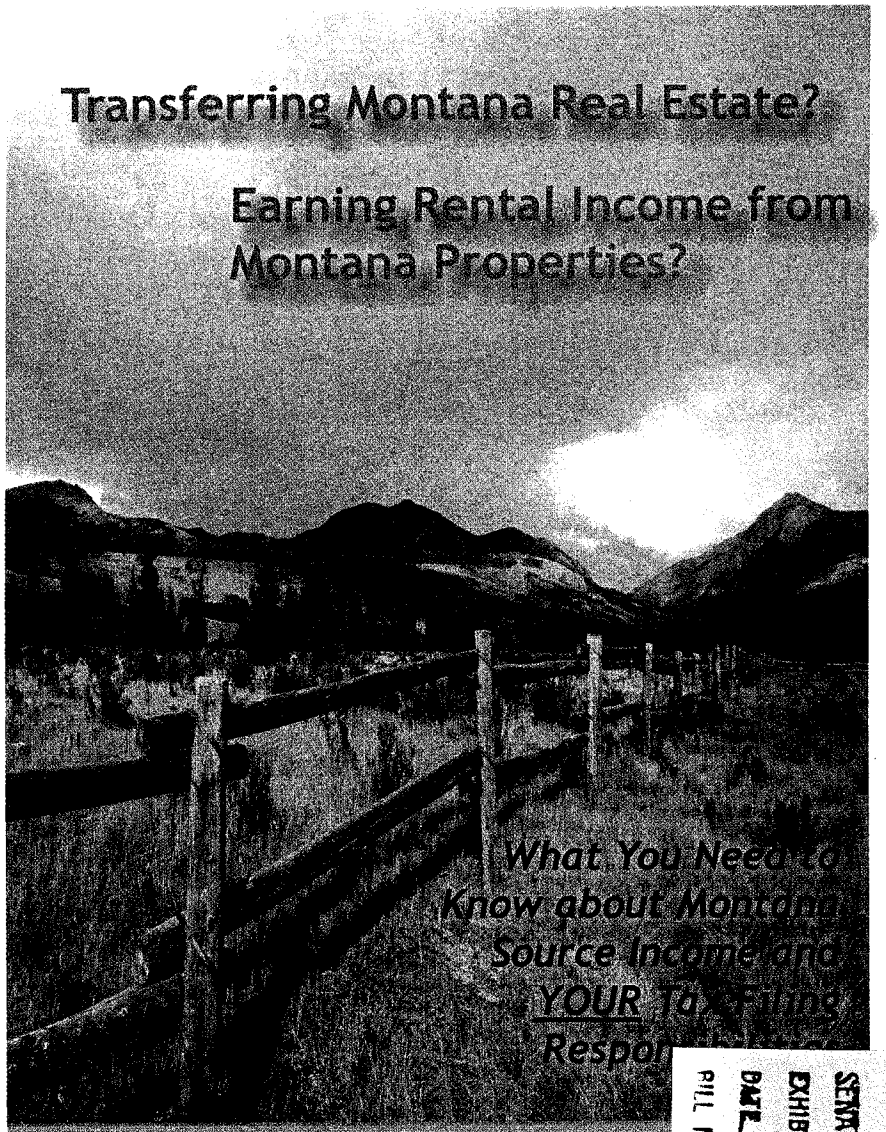
This brochure is intended to provide general information and guidance. It is not a comprehensive statement of Montana tax law. We recommend that you address specific concerns to us or to a qualified tax practitioner.

Most of the information in this publication was made possible by the Department of Revenue and is being published cooperatively by the following Associations:

Montana Land Title Association Foundation
Montana Association of REALTORS
Montana Society of CPAs
Montana Taxpayers' Association

Transferring Montana Real Estate?

Earning Rental Income from Montana Properties?



What You Need to Know about Montana Source Income and YOUR Tax Filing Respon

If you transfer Montana real property, you are required Montana tax return to report any gain that is recognize income tax purposes. "Transfer" includes sales, excha inheritances or any other transaction where the propel ownership.

If you receive rental income from Montana real estate, required to file a Montana tax return to report rents yo

SENATE TAXATION
EXHIBIT NO. 1
DATE 1.20.09
BILL NO. SB181

Every year, thousands of parcels of Montana property are transferred. When the property is transferred, a Montana tax return must be filed to report any recognized taxable gain. Rents received from Montana real estate also are Montana source income, and must be reported.

Nonresidents are required by law to file Montana tax returns and report their Montana source income. Research shows that many nonresidents do not properly report the taxable income on the sale or rental of Montana property to the State of Montana, because they do not understand their Montana tax filing responsibilities.

Because Montana residents are required to report all of their income, regardless of where it is earned, nonreporting is rarely a problem with residents. If a Montana resident becomes a nonresident, the Montana source income rules will apply.

Tax Returns and Reports

When Montana real estate is transferred or rents received, various tax returns and reports must be filed.

A realty transfer certificate, often called an RTC, must be completed before a deed transferring real estate is recorded with the county Clerk and Recorder. An RTC is usually completed by the closing agent. The Montana Department of Revenue uses the realty transfer certificate information to administer property taxes and to ensure income tax compliance.

A Montana tax return must be filed the year the gain is recognized for federal income tax purposes. A tax return must also be filed to report rents received from Montana property.

A Montana pass-through entity information return must be filed the year the gain is recognized for federal income tax purposes if the property is transferred by a pass-through entity (such as an LLC, partnership or S. corporation).

If a taxable gain is realized but deferred to a later tax year, a Montana tax return must be filed the year the gain is recognized for federal income tax purposes. Examples of transfers that permit a gain to be deferred are installment sales, Section 1031 (like-kind) exchanges, and Section 1033 involuntary sales.

Montana Real Estate

For income tax purposes, Montana real estate includes not only land and buildings, but also items such as growing timber, minerals, pipelines and other improvements and interests in real property.

Montana Source Income

Montana source income is defined specifically in Montana law (15-30-101(18) and 15-31-403, MCA). In simple terms, Montana source income is income or gain from property in Montana or from transactions or activities that take place in Montana.

This brochure only addresses Montana source income as it relates to common Montana real estate transfers and rents received from Montana property. It does not cover all types of Montana source income.

For more information

Have a question?

The Montana Department of Revenue can provide you with additional information about Montana source income. If you have questions or need assistance, please call (406) 444-6900.

Want to learn more?

You can find valuable information about Montana source income online.

- Montana's tax laws on source income are located on the State of Montana's website at mt.gov/government.asp
- The Montana Department of Revenue's administrative rules on source income are located on their website at mt.gov/revenue.

Need Montana tax forms?

Visit the department's website at mt.gov/revenue to download Montana tax forms. Or, to request that forms be mailed to you:

- Call (406) 444-6900, or
- Send an e-mail message to dorforms@mt.gov, or
- Write to Montana Department of Revenue, Attn: Forms Distribution, P.O. Box 5805, Helena, MT 59604-5805