



This Week in State Tax (TWIST)

18th March 2024



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Montana: Impending Due Date for Water's-Edge Election

In Montana, unitary combined groups wishing to file on a water's-edge basis must make a valid election every three years. The election must be made within the first 90 days of the tax year for which the election is to become effective. For example, a calendar year taxpayer would need to make the election by March 30, 2024, for the 2024 tax year and the two subsequent years. Until recently, taxpayers could file a paper Form WE-Elect. Now, all water's edge election requests must be made through the Department's TransAction Portal (TAP). Importantly, any requests received by mail, email, or fax will not be accepted. Further, retroactive elections will not be allowed. The election is binding for a three-year renewable period and may only be revoked with the express written permission of the Department. After a request is submitted, the Department will issue a letter of approval or denial to the email address provided with the water's-edge request. The Department advises taxpayers that if they do not receive this confirmation within two weeks or by the deadline to make a valid water's edge election, there may be an issue and the taxpayer should reach out to the Department via email. Because 2024 is a leap year, the election must be made by March 30, 2024. That date falls on a Saturday so the election due date would appear to be April 1, 2024, the next business day after March 30. The Department has historically shown little flexibility when taxpayers fail to make the water's-edge election in a timely manner. Please contact [Kristina Cauthorn](#) with questions.

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