Montana Bill repealing Water’s Edge Election, and thus requiring Worldwide Combined Reporting.
indirectly owned or controlled by an includable corporation.

(b) domestic international sales corporations, as described in 26 U.S.C. 991 through 994, and foreign sales corporations, as described in 26 U.S.C. 921 through 927;

c) export trade corporations, as described in 26 U.S.C. 970 and 971;

d) foreign corporations deriving gain or loss from disposition of a United States real property interest to the extent recognized under 26 U.S.C. 897;

e) a corporation incorporated outside the United States if over 50% of its voting stock is owned directly or indirectly by the taxpayer and if more than 20% of the average of its payroll and property is assignable to a location inside the United States; or

(f) a corporation that is in a unitary relationship with the taxpayer and that is incorporated in a tax haven, including Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Cyprus, Dominica, Gibraltar, Grenada, Guernsey-Sark-Aldeemey, Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Malta, Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, Netherlands Antilles, Niue, Panama, Samoa, San Marino, Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Turks and Caicos Islands, U.S. Virgin Islands, and Vanuatu.

(2) The department shall report biennially to the revenue and transportation interim committee with an update of countries that may be considered a tax haven under subsection (1)(f)."

Section 3. Section 15-31-324, MCA, is amended to read:

"15-31-324. Water's-edge election period -- consent -- change of election. (1) A water's-edge election may be made by a taxpayer and is effective only if every affiliated corporation subject to the taxes imposed under this chapter consents to the election. Consent by the common parent of an affiliated group constitutes consent of all members of the group. An affiliated corporation that becomes subject to taxes under this chapter after the water's-edge election is considered to have consented to the election. The election must disclose the identity of the taxpayer and the identity of any affiliated corporation, including an affiliated corporation incorporated in a tax haven as set forth in 15-31-322(1)(f), in which the taxpayer owns directly or indirectly more than 50% of the voting stock of the affiliated corporation.

(2) Except as provided in subsections (3) and (4), each water's-edge election must be for 3-year renewable periods. A water's-edge election made before [the effective date of this section] is in effect for 3 years.
from the date of the election and must be made within the first 90 days of the first tax year of the 3-year period.

A water’s-edge election may not be made on or after the effective date of this section.

(3) A water’s-edge election made before the effective date of this section may be changed by a taxpayer before the end of each 3-year period only with the permission of the department. In granting a change of election, the department shall impose reasonable conditions that are necessary to prevent the avoidance of tax or clearly reflect income for the election period prior to the change.

(4) A taxpayer subject to the provisions of 15-31-322(1)(f) who has a water’s-edge election that is in effect for tax periods beginning both before and after October 1, 2003, may rescind the election for any tax period beginning after October 1, 2003.

NEW SECTION. Section 4. Repealer. The following sections of the Montana Code Annotated are repealed:

15-31-326. Domestic disclosure spreadsheet -- inclusion of tax havens.

NEW SECTION. Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 1 and 4] are effective July 1, 2020.

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