

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out section 1 and inserting the following:

Sec. 1. 36 MRSA §5142, sub-§6, as amended by PL 1987, c. 841, §3, is further amended to read:

6. Apportionment. If a business, trade, profession or occupation is carried on partly within and partly without this State, the items of income and deduction derived from or connected with sources within this State ~~shall~~must be determined as apportioned to this State under chapter 821 or in the case of the rendering of purely personal services by an individual under ~~regulations~~rules to be prescribed by the assessor. The individual's distributive share of partnership income apportioned to this State in accordance with this subsection must be reduced by the partner's reasonable compensation for personal services actually devoted to the practice of law or accountancy multiplied by the apportionment factor of the partnership, but the reduction applies only if:

- A. The partnership is primarily engaged in the practice of law or accountancy;
- B. The partner is a nonresident partner;
- C. The nonresident partner is not present in this State performing personal services on behalf of the partnership for more than 10 days during the taxable year; and
- D. The nonresident partner is a resident of a state that does not impose a personal income tax on compensation from employment or from the performance of personal services.

For the purposes of this subsection, reasonable compensation is determined in the same manner as it is for purposes of the Code, Section 162(a)(1) and related regulations.

Sec. 2. 36 MRSA §5192, sub-§2, as amended by PL 1985, c. 783, §32, is further amended to read:

2. Itemized deductions. If a nonresident partner of any partnership elects to itemize ~~his~~ deductions in determining ~~his~~the partner's tax liability to this State, there ~~shall~~must be attributed to ~~him~~the partner that ~~partner's~~ distributive share of partnership items of deduction from federal adjusted gross income, reduced by an amount equal to the partner's distributive share of those items of deduction multiplied by a fraction, the numerator of which is the partner's reasonable compensation used in determining items of income and deduction for purposes of section 5142, subsection 6 and the denominator of which is the distributive share of the partner's partnership income included in federal adjusted gross income.

Sec. 3. 36 MRSA §5192, sub-§4, as amended by PL 1979, c. 541, Pt. A, §234, is further amended to read:

4. Partner's modifications. Any modification described in section 5122, ~~subsections~~ subsections 1 and 2, ~~which~~ that relates to an item of partnership income, gain, loss or deduction, ~~shall~~ must be made in accordance with the partner's distributive share, for federal income tax purposes of the item to which the modification relates, but limited to the portion of such item derived from or connected with sources in this State. The partner's modification determined in accordance with this subsection must be reduced by an amount equal to the partner's modification amount multiplied by a fraction, the numerator of which is the partner's reasonable compensation used in determining items of income and deduction for purposes of section 5142, subsection 6 and the denominator of which is the distributive share of the partner's partnership income included in federal adjusted gross income.

Sec. 4. Application. This Act applies to tax years beginning on or after January 1, 2008.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: Provides funds for the one-time administrative costs associated with the change in the apportionment of certain partnership income related to the practice of law or accountancy.

GENERAL FUND	2007-08	2008-09
All Other	\$0	\$33,300
GENERAL FUND TOTAL	\$0	\$33,300

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment limits the scope of the bill to partnership income related to the practice of law or accountancy. It provides additional clarification regarding the calculation of income by specifying the method for determining reasonable compensation. It also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)