

§5196. Reporting federal adjustments; partnership-level audit and administrative adjustment request

1. General rule. Except in the case of final federal adjustments required under federal law or regulations to be taken into account by the partnership in the partnership return for the adjustment year or other year, a partner shall, in accordance with section 5227-A, report and pay any amount due with respect to adjustments arising from a partnership-level audit or other action by the IRS that is reported by the taxpayer on a timely filed amended federal income tax return, including a return or other similar report filed pursuant to the Code, Section 6225(c)(2), or a federal claim for refund by filing a federal adjustments report with the assessor for the reviewed year and, if applicable, paying the additional tax, penalties and interest due no later than 180 days after the final determination date.

In the case of a partnership with partners required to file a federal adjustments report pursuant to this subsection and included in a composite return or subject to withholding under section 5250-B in the reviewed year, the partnership shall file an amended composite return and amended withholding return as required by the assessor and pay any additional tax, penalties and interest due no later than 180 days after the final determination date.

[PL 2021, c. 181, Pt. A, §7 (AMD).]

2. Authority of state partnership representative. The state partnership representative has sole authority to act on behalf of the partnership for the reviewed year with respect to any action required or permitted under this subchapter, and actions required or permitted under this Title arising from this subchapter, including a request for review pursuant to section 151. The partnership's direct partners and indirect partners are bound by the actions of the state partnership representative. The assessor may establish reasonable qualifications and procedures for designating a person other than the federal partnership representative to be the state partnership representative.

[PL 2019, c. 380, §2 (NEW).]

3. Partnership reporting and payment. An audited partnership or a partnership that has filed an administrative adjustment request is subject to tax with respect to final federal adjustments without regard to the election under the Code, Section 6226(a). The amount of tax is determined as provided in this subsection.

A. An audited partnership or a partnership that has filed an administrative adjustment request shall file a completed federal adjustments report, including the distributive share of the adjustment paid by partners under subsection 1 and other information required by the assessor, and, if subject to tax under this subsection, pay the tax due no later than 180 days after the final determination date. [PL 2021, c. 181, Pt. A, §8 (AMD).]

B. The tax due or a refund allowed pursuant to this subsection is determined as follows:

(1) Exclude from final federal adjustments the distributive share of adjustments properly allocable to partners pursuant to subsection 1 and adjustments required under federal law or regulations to be taken into account by the partnership in the partnership return for the adjustment year or other year;

(2) Exclude from final federal adjustments the distributive share of adjustments reported to direct exempt partners not subject to tax on unrelated business taxable income;

(3) For the total distributive shares of the remaining final federal adjustments, remove the portion of such adjustments this State is prohibited from taxing under the Constitution of Maine or the United States Constitution, net of any expenses incurred in production of that income, that are not otherwise excluded pursuant to this paragraph;

(4) For the total distributive shares of the remaining final federal adjustments reported to direct corporate partners subject to tax under chapter 817, and to direct exempt partners subject to tax

on unrelated business taxable income, apportion and allocate such adjustments as provided under chapter 821 and multiply the resulting amount by the highest tax rate under section 5200;

(5) For the total distributive shares of the remaining final federal adjustments reported to direct partners that are nonresident partners subject to tax under section 5111 or 5160, determine the amount of such adjustments that is Maine-source income under sections 5142 and 5192 and multiply the resulting amount by the highest tax rate under section 5111 for the applicable tax year;

(6) For the total distributive shares of the remaining final federal adjustments reported to tiered partners:

(a) Determine the amount of such adjustments that is of a type that would be subject to sourcing under section 5142 and calculate the portion of this amount sourced to this State;

(b) Determine the amount of such positive adjustments that is of a type that would not be subject to sourcing by a nonresident partner under section 5142;

(c) Determine the portion of positive adjustments determined in division (b) that can be established to the satisfaction of the assessor to be properly allocable to indirect partners that are nonresident partners or other partners not subject to tax on the adjustments;

(d) Determine the amount of such negative adjustments that is of a type that would not be subject to sourcing by a nonresident partner under section 5142; and

(e) Determine the portion of negative adjustments determined in division (d) that can be established to the satisfaction of the assessor to be properly allocable to indirect partners that are resident partners or other partners subject to tax on the adjustments;

(7) Multiply the total of the amounts determined in subparagraph (6), divisions (a) and (b), reduced by the amount determined in subparagraph (6), divisions (c) and (e), by the highest tax rate under section 5111;

(8) For the total distributive shares of the remaining final federal adjustments reported to resident direct partners subject to tax under section 5111 or 5160, multiply that amount by the highest tax rate under section 5111 for the applicable tax year;

(9) Add the amounts determined in subparagraphs (4), (5), (7) and (8);

(10) If the result in subparagraph (9) is a positive amount, compute interest and penalties pursuant to sections 186 and 187-B, respectively, and add these amounts to the amount computed in subparagraph (9); and

(11) A negative amount computed pursuant to subparagraph (9) must be treated as an overpayment of tax by the partnership for which a claim for refund may be made by the partnership. [PL 2021, c. 181, Pt. A, §8 (AMD).]

C. Notwithstanding section 5219-H, a partnership may not claim any of the credits in chapter 822 against the tax imposed by this subsection. However, a partnership may claim a credit for income taxes imposed on and paid by the partnership to another state of the United States, a political subdivision of any such state, the District of Columbia or any political subdivision of a foreign country that is analogous to a state of the United States with respect to the distributive shares of the final federal adjustments reported to resident direct partners included in the calculation pursuant to paragraph B, subparagraph (8) and paid by the partnership to this State. The credit under this paragraph is calculated in the same manner as the credit allowed by section 5217-A. [PL 2019, c. 380, §2 (NEW).]

[PL 2021, c. 181, Pt. A, §8 (AMD).]

4. Tiered partners. The direct partners and indirect partners of an audited partnership or of a partnership that has filed an administrative adjustment request that are tiered partners, and all the partners of those tiered partners that are subject to tax under section 5111, 5160 or 5200, are subject to the reporting and payment requirements of this section.

[PL 2021, c. 181, Pt. A, §9 (AMD).]

5. Effect of partnership reporting and payment of amounts due. Except for adjustments required to be reported and the tax paid under subsection 1 and adjustments required under federal law or regulations to be taken into account by the partnership in the partnership return for the adjustment year or other year, the proper reporting of final federal adjustments and payment of amounts due by a partnership under subsections 3 and 4 relieves the partners of the partnership of any tax liability resulting from their distributive shares of the adjustments so reported. The direct partners or indirect partners may not take any deduction or credit for this amount or claim a refund of the amount in this State. The direct partners or indirect partners may not take a deduction, credit or refund with respect to any negative adjustment accounted for in subsection 3, paragraph B, subparagraphs (2) to (11).

[PL 2021, c. 181, Pt. A, §10 (AMD).]

6. Failure of audited partnership, partnership that has filed an administrative adjustment request or tiered partner to report or pay. This section does not prevent the assessor from assessing direct partners or indirect partners for taxes they owe, using the best information available, in the event that a partnership or tiered partner fails to timely make any report or payment required by this subchapter for any reason.

[PL 2021, c. 181, Pt. A, §11 (AMD).]

SECTION HISTORY

PL 2019, c. 380, §2 (NEW). PL 2021, c. 181, Pt. A, §§7-11 (AMD).

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