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An Act To Amend the Nonresident Income Tax Filing Requirements

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §5142, sub-§8-A, as enacted by PL 2005, c. 332, §22 and affected by §30, is repealed.

Sec. 2. 36 MRSA §5142, sub-§8-B is enacted to read:

8-B. Minimum taxability threshold; exemptions. Minimum taxability thresholds for nonresidents are governed by this subsection.

A. Compensation for personal services performed in the State as an employee is Maine-source income subject to taxation under this Part if the nonresident taxpayer is present in the State performing personal services for more than 12 days during that taxable year and directly earns or derives more than \$3,000 in gross income during the year in the State from all sources.

B. A nonresident individual who is present for business in the State on other than a systematic or regular basis, either directly or through agents or employees, has Maine-source income derived from or effectively connected with a trade or business in the State and subject to taxation under this Part only if the nonresident individual was present in the State for business more than 12 days during the taxable year and earns or derives more than \$3,000 of gross income during the taxable year from contractual or sales-related activities.

C. Performance of the following personal services for 24 days during a calendar year may not be counted toward the 12-day threshold under paragraph A:

(1) Personal services performed in connection with presenting or receiving employment-related training or education;

(2) Personal services performed in connection with a site inspection, review, analysis of management or any other supervision of a facility, affiliate or subsidiary based in the State by a representative from a company, not headquartered in the State, that owns that facility or is the parent company of the affiliate or subsidiary;

(3) Personal services performed in connection with research and development at a facility based in the State or in connection with the installation of new or upgraded equipment or systems at that facility; or

(4) Personal services performed as part of a project team working on the attraction or implementation of new investment in a facility based in the State.

Sec. 3. 36 MRSA §5220, sub-§2, as amended by PL 2005, c. 332, §23, is further amended to read:

2. Nonresident individuals. Every nonresident individual who, pursuant to this Part, has a Maine individual income tax liability for the taxable year. An individual whose only Maine-source income is ~~compensation for personal services performed in Maine that~~ is excluded from Maine adjusted gross income by the threshold contained in section 5142, subsection ~~8-A~~8-B is not subject to taxation under this Part and need not file a return;

Sec. 4. Application. This Act applies to tax years beginning on or after January 1, 2011.

SUMMARY

This bill provides new minimum taxability thresholds for nonresidents. The new thresholds permit greater income-earning activity by nonresidents in the State before Maine income tax liability is triggered. The bill also excludes from the determination of taxability in the State up to 24 days of personal services related to certain training, management functions, equipment upgrades and new investment.