

§5142. Adjusted gross income from sources in this State

1. General. The Maine adjusted gross income of a nonresident individual derived from or connected with sources in this State is the sum of the following amounts:

A. The net amount of items of income, gain, loss, and deduction entering into the nonresident individual's federal adjusted gross income that are derived from or connected with sources in this State including (i) the individual's distributive share of partnership or limited liability company income and deductions determined under section 5192, (ii) the individual's share of estate or trust income and deductions determined under section 5176, and (iii) the individual's pro rata share of the income of an S corporation derived from or connected with sources in this State; and [PL 2005, c. 12, Pt. LLLL, §1 (AMD).]

B. The portion of the modifications described in section 5122, subsections 1 and 2 that relates to income derived from or connected with sources in this State, including any modifications attributable to the nonresident individual as a partner of a partnership, shareholder of an S corporation, member of a limited liability company or beneficiary of an estate or trust. [PL 2005, c. 12, Pt. LLLL, §1 (AMD).]

C. [PL 2005, c. 12, Pt. LLLL, §1 (RP).]
[PL 2011, c. 240, §32 (AMD).]

2. Attribution. Items of income, gain, loss, and deduction derived from or connected with sources within this State are those items attributable to:

A. The ownership or disposition of any interest in real or tangible personal property in this State; [PL 2005, c. 12, Pt. LLLL, §2 (AMD).]

B. A business, trade, profession or occupation carried on in this State; and [PL 2005, c. 12, Pt. LLLL, §2 (AMD).]

C. Proceeds from any gambling activity conducted in this State or lottery tickets purchased in this State, including payments received from a 3rd party for the transfer of the rights to future proceeds related to any gambling activity or lottery tickets. [PL 2005, c. 332, §20 (AMD).]
[PL 2005, c. 12, Pt. LLLL, §2 (AMD); PL 2005, c. 332, §20 (AMD).]

3. Intangibles. Income from intangible personal property including annuities, dividends, interest and gains from the disposition of intangible personal property, shall constitute income derived from sources within this State only to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in this State.
[P&SL 1969, c. 154, §F (NEW).]

3-A. Gain or loss on sale of partnership interest. Notwithstanding subsection 3, the gain or loss on the sale of a partnership interest is sourced to this State in an amount equal to the gain or loss multiplied by the ratio obtained by dividing the original cost of partnership tangible property located in Maine by the original cost of partnership tangible property everywhere, determined at the time of the sale. Tangible property includes property owned or rented and is valued in accordance with section 5211, subsection 10. If more than 50% of the value of the partnership's assets consists of intangible property, gain or loss from the sale of the partnership interest is sourced to this State in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold. For purposes of this subsection, the sales factor of a partnership is determined in accordance with section 5211, subsection 14, subsection 15 and subsection 16-A, paragraphs A to E. This subsection does not apply to the sale of a limited partner's interest in an investment partnership where more than 80% of the value of the partnership's total assets consists of intangible personal property held for investment, except that such property cannot include an interest in a partnership unless that partnership is itself an investment partnership.

If the apportionment provisions of this subsection do not fairly represent the extent of the partnership's business activity in this State, the taxpayer may petition for, or the State Tax Assessor may require, in respect to all or any part of the partnership's business activity the employment of any other method to effectuate an equitable apportionment to this State of the partner's income from the sale of the partnership interest.

[PL 2019, c. 401, Pt. C, §6 (AMD).]

4. Deductions for losses. Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gains, losses and deductions derived from or connected with sources in this State, under regulations to be prescribed by the assessor but otherwise shall be determined in the same manner as the corresponding federal deductions.

[P&SL 1969, c. 154, §F (NEW).]

5. Small business corporation.

[PL 1981, c. 706, §38 (RP).]

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 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 to be prescribed by the assessor.

[PL 1987, c. 841, §3 (AMD).]

7. Service in Armed Forces. Compensation paid by the United States for service in the Armed Forces of the United States performed by a nonresident shall not constitute income derived from sources within this State.

[P&SL 1969, c. 154, §F (NEW).]

8. Minimum taxability threshold.

[PL 2005, c. 332, §21 (RP); PL 2005, c. 332, §30 (AFF).]

8-A. Minimum taxability threshold.

[PL 2011, c. 380, Pt. CCCC, §1 (RP); PL 2011, c. 380, Pt. CCCC, §4 (AFF).]

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

A. Except as provided by paragraph D, 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. [PL 2011, c. 622, §5 (AMD); PL 2011, c. 622, §7 (AFF).]

B. Except as provided by paragraph D, 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. [PL 2011, c. 622, §5 (AMD); PL 2011, c. 622, §7 (AFF).]

C. Performance of the following personal services for 24 days during a taxable 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. [PL 2011, c. 548, §25 (AMD); PL 2011, c. 548, §36 (AFF).]

D. Compensation for personal services performed in the State as an employee and income derived from or effectively connected with a trade or business in the State is not Maine-source income subject to taxation under this Part if the nonresident taxpayer is present in the State during the taxable year solely for the performance of services or the conducting of business during a disaster period and the compensation or income is directly related to a declared state disaster or emergency and the services were requested by the State, a county, city, town or political subdivision of the State or a registered business. [PL 2011, c. 622, §5 (NEW); PL 2011, c. 622, §7 (AFF).]

[PL 2011, c. 548, §25 (AMD); PL 2011, c. 548, §36 (AFF); PL 2011, c. 622, §5 (AMD); PL 2011, c. 622, §7 (AFF).]

9. Compensation for work under interlocal agreement. Compensation received as an employee of a political subdivision of an adjoining state performing service in this State pursuant to an interlocal agreement under Title 30-A, chapter 115 is not considered income derived from sources within this State as long as the performance of the service under the interlocal agreement does not displace an employee currently performing the service who is a resident of this State. [PL 2011, c. 130, §1 (NEW); PL 2011, c. 130, §2 (AFF).]

SECTION HISTORY

P&SL 1969, c. 154, §F1 (NEW). PL 1981, c. 706, §§37,38 (AMD). PL 1987, c. 841, §3 (AMD). PL 1993, c. 478, §1 (AMD). PL 1999, c. 521, §B2 (AMD). PL 1999, c. 521, §B11 (AFF). PL 2003, c. 391, §6 (AMD). PL 2003, c. 673, §E1 (AMD). PL 2003, c. 673, §E3 (AFF). PL 2005, c. 12, §§LLLL1,2,MMMM1 (AMD). PL 2005, c. 12, §MMMM3 (AFF). PL 2005, c. 332, §§20-22 (AMD). PL 2005, c. 332, §30 (AFF). PL 2007, c. 240, Pt. V, §1 (AMD). PL 2007, c. 627, §83 (AMD). PL 2009, c. 434, §71 (AMD). PL 2009, c. 434, §85 (AFF). PL 2011, c. 130, §1 (AMD). PL 2011, c. 130, §2 (AFF). PL 2011, c. 240, §32 (AMD). PL 2011, c. 380, Pt. CCCC, §§1, 2 (AMD). PL 2011, c. 380, Pt. CCCC, §4 (AFF). PL 2011, c. 548, §25 (AMD). PL 2011, c. 548, §36 (AFF). PL 2011, c. 622, §5 (AMD). PL 2011, c. 622, §7 (AFF). PL 2019, c. 401, Pt. C, §6 (AMD).

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