

§5132. Income or loss from sources on tribal land

1. General. The Maine adjusted gross income of a tribal member derived from or connected with sources on tribal land is the sum of the following amounts:

A. The net amount of items of income, gain, loss and deduction entering into the tribal member's federal adjusted gross income that are derived from or connected with sources on tribal land including:

(1) The tribal member's distributive share of partnership or limited liability company income and deductions derived from or connected with sources on tribal land determined following the methods for sourcing income to this State under section 5192, except that subsections 2 to 6 of this section and not section 5142 apply under section 5192, subsection 1;

(2) The tribal member's share of estate or trust income and deductions derived from or connected with sources on tribal land determined following the methods for sourcing income to this State under section 5176, except that subsections 2 to 6 of this section and not section 5142 apply under section 5176, subsection 1; and

(3) The tribal member's pro rata share of the income of an S corporation derived from or connected with sources on tribal land; and [PL 2021, c. 681, Pt. G, §5 (NEW).]

B. The portion of the modifications described in section 5122, subsections 1 and 2 that relates to income derived from or connected with sources on tribal land, including any modifications attributable to the tribal member 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 2021, c. 681, Pt. G, §5 (NEW).]

[PL 2021, c. 681, Pt. G, §5 (NEW).]

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

A. The ownership or disposition of any interest in real or tangible personal property on tribal land; [PL 2021, c. 681, Pt. G, §5 (NEW).]

B. A business, trade, profession or occupation carried on within tribal land; and [PL 2021, c. 681, Pt. G, §5 (NEW).]

C. Proceeds from any gambling activity conducted on tribal land or lottery tickets purchased on tribal land, including payments received from a 3rd party for the transfer of the rights to future proceeds related to any such gambling activity or lottery tickets, except that proceeds from Maine State Lottery tickets, including payments received from a 3rd party for the transfer of the rights to future proceeds related to the lottery tickets, are not derived from or connected with sources on tribal land. [PL 2021, c. 681, Pt. G, §5 (NEW).]

[PL 2021, c. 681, Pt. G, §5 (NEW).]

3. Intangibles. Income from intangible personal property including annuities, dividends, interest and gains from the disposition of intangible personal property constitutes income derived from sources within tribal land only to the extent that such income is from property employed in a business, trade, profession or occupation carried on within tribal land.

[PL 2021, c. 681, Pt. G, §5 (NEW).]

4. 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 tribal land in an amount equal to the gain or loss multiplied by the ratio obtained by dividing the original cost of partnership tangible property located on tribal land 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 tribal land in accordance with the property and payroll factors 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 property and payroll factors of a partnership are determined in accordance with chapter 821. 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 on tribal land, 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 tribal land of the partner's income from the sale of the partnership interest.

[PL 2021, c. 681, Pt. G, §5 (NEW).]

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

[PL 2021, c. 681, Pt. G, §5 (NEW).]

6. Apportionment. If a business, trade, profession or occupation is carried on partly within and partly without tribal land, the items of income and deduction derived from or connected with sources within tribal land must be determined as apportioned to tribal land according to the following methods:

A. Except as provided in paragraph B, according to the methods for apportioning income to this State under chapter 821, except that instead of apportioning income to tribal land using the sales factor pursuant to section 5211, subsection 8, income is apportioned to tribal land by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor and the denominator of which is 2; or [PL 2021, c. 681, Pt. G, §5 (NEW).]

B. In the case of the rendering of purely personal services by a tribal member, according to the methods established in regulations to be prescribed by the assessor. [PL 2021, c. 681, Pt. G, §5 (NEW).]

[PL 2021, c. 681, Pt. G, §5 (NEW).]

SECTION HISTORY

PL 2021, c. 681, Pt. G, §5 (NEW).

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