

# MAINE STATE LEGISLATURE

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Date: 06-12-07

(Filing No. S- 288)

**TAXATION**

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**STATE OF MAINE  
SENATE  
123RD LEGISLATURE  
FIRST REGULAR SESSION  
Majority**

COMMITTEE AMENDMENT "A" to S.P. 488, L.D. 1400, Bill, "An Act To Amend the Laws Governing the Taxation of Partnerships"

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 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. 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 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:

**COMMITTEE AMENDMENT**

R.O.S.

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

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

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

23       **Sec. 4. Application.** This Act applies to tax years beginning on or after January 1,  
24 2007.

25       **Sec. 5. Appropriations and allocations.** The following appropriations and  
26 allocations are made.

27 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

28 **Revenue Services - Bureau of 0002**

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

32	<b>GENERAL FUND</b>	<b>2007-08</b>	<b>2008-09</b>
33	All Other	\$33,300	\$0
34			
35	<b>GENERAL FUND TOTAL</b>	<u>\$33,300</u>	<u>\$0</u>

36  
37       Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
38 section number to read consecutively.

**RMS**

COMMITTEE AMENDMENT "A" to S.P. 488, L.D. 1400

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**SUMMARY**

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

6

**FISCAL NOTE REQUIRED**

7

(See attached)



# 123rd MAINE LEGISLATURE

LD 1400

LR 2113(02)

## An Act To Amend the Laws Governing the Taxation of Partnerships

Fiscal Note for Bill as Amended by Committee Amendment "A "

Committee: Taxation

Fiscal Note Required: Yes

### Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
<b>Net Cost (Savings)</b>				
General Fund	\$1,004,127	\$750,583	\$779,784	\$810,975
<b>Appropriations/Allocations</b>				
General Fund	\$33,300	\$0	\$0	\$0
<b>Revenue</b>				
General Fund	(\$970,827)	(\$750,583)	(\$779,784)	(\$810,975)
Other Special Revenue Funds	(\$52,173)	(\$40,337)	(\$42,773)	(\$44,484)

#### Fiscal Detail and Notes

Changing the taxation of the partnership income of certain nonresidents will decrease General Fund Revenue by \$970,827 in fiscal year 2007-08 and \$750,583 in fiscal year 2008-09. This bill also includes a one-time General Fund appropriation of \$33,300 in fiscal year 2007-08 for Maine Revenue Services' administrative programming costs.