Maryland Income Tax
ADMINISTRATIVE RELEASE

Administrative Release No. 12

Subject: Apportionment of Partnership Share of Income by Corporate Partners

I. General

A. Income derived from a business, occupation, profession, or trade carried on or attributable to this State is taxable and reportable by corporate entities.

B. Corporate partners that are unitary businesses and have nexus with Maryland are required to allocate their share of partnership income using an appropriate apportionment method. The apportionment method applies if either the corporate partner or the partnership is conducting business in Maryland.[*]

II. Apportionment

A. In general, the partnership share of income is apportioned in the same manner as other income allocable to this State. For example, a corporation using a three-factor apportionment formula includes in both the numerator and denominator of each of the factors not only its own property, payroll, and sales, but also adds to such amounts its share of the partnership's property, payroll, and sales. The sales factor is double weighted in the three-factor apportionment formula. The income allocation is then determined by applying the average of the ratios of all property, payroll, and sales (both corporate and partnership) to the corporation's Maryland net income. In this manner, the corporation arrives at its Maryland taxable income attributable to business conducted in Maryland.

B. The above procedure applies if either the corporation or the partnership is conducting business in this State. For example, a foreign corporation, whose only connection with Maryland is a partnership interest in a partnership that is doing business in Maryland, will report on its Maryland tax return its federal taxable income and compute its Maryland taxable income by use of the apportionment formula that includes the foreign corporation's share of the partnership's apportionment factors, both numerator (Maryland) and denominator (everywhere).[*]*

C. Similarly, a corporation (whether foreign or domestic) that carries on its trade or business in Maryland will compute its apportionment formula by adding to both the numerator and denominator of the corporation's property, payroll, and sales, the corporate partnership share of the partnership's property, payroll, and sales.

III. Statutory and Regulatory Provisions, etc.

A. For statutory provisions relating to special treatment of corporate income, see Title 10, Subtitle 4 of the Tax-General Article, Annotated Code of Maryland.

B. For regulatory provisions relating to apportionment of corporate income, see Regulations .08-.10 under COMAR 03.04.03.

C. For a discussion of apportionment and nexus requirements, see Administrative Release No. 2.

Revised: September 2008

[*] The term partnership, as used in this Release, includes any entity classified as a partnership, as defined in § 761 of the Internal Revenue Code.

[*]* In this example, the foreign corporation, a nonresident entity partner of the partnership, also may claim a credit on its Maryland return for the amount of tax paid by the partnership attributable to the foreign corporation's share of the partnership's nonresident taxable income. For a discussion of the taxation of a partnership doing business in Maryland and having a nonresident corporate partner, see Administrative Release No. 6.

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