

## §5250-B. Withholding on pass-through entity income of nonresident partners and shareholders

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Member" means an individual or other owner of a pass-through entity. [PL 2003, c. 20, Pt. AA, §1 (NEW); PL 2003, c. 20, Pt. AA, §6 (AFF).]

B. "Nonresident" means a nonresident individual, a business entity that does not have its commercial domicile in the State, or a nonresident estate or trust. [PL 2003, c. 20, Pt. AA, §1 (NEW); PL 2003, c. 20, Pt. AA, §6 (AFF).]

C. "Pass-through entity" means a corporation that for the applicable tax year is treated as an S corporation under the Code and a general partnership, limited partnership, limited liability partnership, limited liability company or similar entity that for the applicable tax year is not taxed as a C corporation for federal tax purposes. For purposes of this section, "pass-through entity" does not include a financial institution subject to tax under chapter 819. [PL 2005, c. 332, §24 (AMD); PL 2005, c. 332, §30 (AFF).]

[PL 2005, c. 332, §24 (AMD); PL 2005, c. 332, §30 (AFF).]

**2. Withholding required.** Except as provided by subsection 3, every pass-through entity that does business in this State must withhold income tax at the highest tax rate provided in this Part on the proportionate quarterly share of Maine source income of each nonresident member. The method for determining the amount of the share of income and for determining the amount of withholding for each nonresident member under this section must be prescribed by rules adopted by the assessor. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2003, c. 20, Pt. AA, §1 (NEW); PL 2003, c. 20, Pt. AA, §6 (AFF).]

**3. Withholding exemptions.** For purposes of this section, a pass-through entity is not required to withhold tax for a nonresident member if:

A. The member's share of annual entity income sourced to the State is less than \$1,000; or [PL 2003, c. 20, Pt. AA, §1 (NEW); PL 2003, c. 20, Pt. AA, §6 (AFF).]

B. The bureau has determined by rule, ruling or instruction that the member's income is not subject to withholding. [PL 2003, c. 20, Pt. AA, §1 (NEW); PL 2003, c. 20, Pt. AA, §6 (AFF).]

[PL 2003, c. 20, Pt. AA, §1 (NEW); PL 2003, c. 20, Pt. AA, §6 (AFF).]

### SECTION HISTORY

PL 2003, c. 20, §AA1 (NEW). PL 2003, c. 20, §AA6 (AFF). PL 2005, c. 332, §24 (AMD). PL 2005, c. 332, §30 (AFF).

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