

STATE OF NEW YORK

9234

IN ASSEMBLY

February 22, 2024

Introduced by M. of A. LUNSFORD -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to taxpayers, and combined groups including members, engaged in providing professional employer organization services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 10 of section 210-A of the tax
2 law, as added by section 16 of part A of chapter 59 of the laws of 2014,
3 is amended to read as follows:

4 (a) Receipts from other services and other business receipts.
5 Receipts from services not addressed in subdivisions one through nine of
6 this section and other business receipts not addressed in such subdivi-
7 sions shall be included in the numerator of the apportionment fraction
8 if the location of the customer is within the state. Such receipts from
9 customers within and without the state are included in the denominator
10 of the apportionment fraction. For purposes of this paragraph, taxpay-
11 ers, and combined groups including members, engaged in providing profes-
12 sional employer organization services shall include with such receipts
13 amounts received with respect to wages, benefits, and other employee
14 expenses disbursed to or for the benefit of a client's worksite employ-
15 ees and the related employment taxes if the amounts received are
16 included in the calculation of the business income base or the combined
17 business income base, respectively. Whether the receipts are included in
18 the numerator of the apportionment fraction is determined according to
19 the hierarchy of method set forth in paragraph (b) of this subdivision.
20 The taxpayer must exercise due diligence under each method described in
21 such paragraph (b) before rejecting it and proceeding to the next method
22 in the hierarchy, and must base its determination on information known
23 to the taxpayer or information that would be known to the taxpayer upon
24 reasonable inquiry.

25 § 2. This act shall take effect immediately and shall apply to all
26 open tax years beginning on and after January 1, 2015.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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