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:

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

(a) Receipts from other services and other business receipts. Receipts from services not addressed in subdivisions one through nine of this section and other business receipts not addressed in such subdivisions shall be included in the numerator of the apportionment fraction if the location of the customer is within the state. Such receipts from customers within and without the state are included in the denominator of the apportionment fraction. **For purposes of this paragraph, taxpayers, and combined groups including members, engaged in providing professional employer organization services shall include with such receipts amounts received with respect to wages, benefits, and other employee expenses disbursed to or for the benefit of a client's worksite employees and the related employment taxes if the amounts received are included in the calculation of the business income base or the combined business income base, respectively.** Whether the receipts are included in the numerator of the apportionment fraction is determined according to the hierarchy of method set forth in paragraph (b) of this subdivision. The taxpayer must exercise due diligence under each method described in such paragraph (b) before rejecting it and proceeding to the next method in the hierarchy, and must base its determination on information known to the taxpayer or information that would be known to the taxpayer upon reasonable inquiry.

§ 2. This act shall take effect immediately and shall apply to all 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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