

**§5191. Resident partner -- adjusted gross income**

**1. Modification in determining the adjusted gross income of a resident partner.** Any modification described in section 5122 which relates to an item of partnership income, gain, loss or deduction shall be made in accordance with the partner's distributive share, for federal income tax purposes, of the item to which the modification relates. Where a partner's distributive share of any item is not required to be taken into account separately for federal income tax purposes, the partner's distributive share of that item shall be determined in accordance with the partner's distributive share, for federal income tax purposes, of partnership taxable income or loss generally.

[PL 1989, c. 508, §19 (AMD).]

**2. Character of items.** Each item of partnership income, gain, loss or deduction shall have the same character for a partner under this Part as it has for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a partner as if realized directly from the source from which realized by the partnership or incurred in the same manner as incurred by the partnership.

[P&SL 1969, c. 154, §F1 (NEW).]

**3. Tax avoidance or evasion.** If a partner's distributive share of an item of partnership income, gain, loss or deduction is determined for federal income tax purposes by a special provision in the partnership agreement, the principal purpose of which is the avoidance or evasion of tax under this Part, the partner's distributive share of that item and any modification required with respect to that item must be determined in accordance with the partner's distributive share of the taxable income or loss of the partnership generally, exclusive of items that must be separately computed under the Code, Section 702.

[PL 2011, c. 548, §27 (AMD).]

**SECTION HISTORY**

P&SL 1969, c. 154, §F1 (NEW). PL 1979, c. 541, §A233 (AMD). PL 1989, c. 508, §19 (AMD). PL 2011, c. 548, §27 (AMD).

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