

This would be the OPTIONAL section for Partnership Pays.

(3) **Election – Partnership Pays.** Subject to the limitations in Paragraph (c) of this Subsection (3), an Audited Partnership making an election under this Subsection (3) shall:

- (a) No later than 90 days after the Final Determination Date, file a completed Federal Adjustments Report, including partner information, and notify the [State Agency] that it is making the election under this Subsection (3);
- (b) No later than 180 days after the Final Determination Date, pay an amount, determined as follows, in lieu of taxes owed by its Direct and Indirect Partners:
 - (i) Exclude from Final Federal Adjustments and any positive Reallocation Adjustments the distributive share of these adjustments made to an Direct Exempt Partner that is not Unrelated Business Taxable Income;
 - (ii) Exclude from Final Federal Adjustments and any positive Reallocation Adjustments the distributive share of these adjustments made to a Direct or Indirect Partner that has filed a Federal Adjustments Report and paid the [State] tax due, as required under Section B, for the distributive share of adjustments reported on a federal amended return or other similar report as required under IRC section 6225(c) to obtain a modification of federal tax owed;
 - (iii) For the total distributive shares of the remaining Final Federal Adjustments plus positive Reallocation Adjustments allocated to Direct Corporate Partners or Direct Exempt Partners subject to tax under [reference to State law] apportion and allocate such adjustments as provided under [reference to existing multi-state business activity allocation/apportion law or regulation], and multiply that amount by the highest tax rate under [reference to State law];

(iv) For the total distributive shares of the remaining Final Federal Adjustments plus positive Reallocation Adjustments allocated to Non-Resident Direct Partners subject to tax under [reference to State law applying to individuals and /or trusts], determine the amount of such adjustments which is [State] source income under [reference to existing non-resident partner sourcing law or regulation], and multiply this [State] source income amount by the highest tax rate under [reference to State law applying to individuals and/or trusts];

(v) For the total distributive shares of the remaining Final Federal Adjustments plus positive Reallocation Adjustments allocated to Tiered Partners:

- (A) Determine the amount of such adjustments which is [State] source income under [reference to existing non-resident partner sourcing law or regulation];
- (B) Determine the amount of such adjustments which is [State] source income under [reference to existing sourcing law or regulation for income fully sourced based on a taxpayer's residency];
- (C) Determine the amount of such adjustments which is [State] source income under [reference to existing sourcing law or regulation for income fully sourced based on a taxpayer's residency] that can be established, under regulation issued by [State Agency] to be properly allocable to non-resident indirect partners. Alternatively, a

Commented [JH1]: This is the NON-Investment Income Adjustments

Commented [JH2]: This taxes the full federal share of the Investment type income adjustments for Tiered (passthrough) partners

partnership may request a reduction adjustment using the Modified Reporting and Payment Method allowed under Paragraph (5)

Commented [JH3]: Reduction for indirect nonresident partners

(vi) multiply the total of the amounts determined in Subparagraphs(b)(v)(A) and (B) reduced by the amount determined in Subparagraphs(b)(v) (C) by the highest tax rate under [reference to State law applying to individuals and/or trusts];

(vii) For the total distributive shares of the remaining Final Federal Adjustments plus positive Reallocation Adjustments allocated to Resident Direct Partners subject to tax under [reference to State law applying to individuals and /or trusts], multiply that amount by the highest tax rate under [reference to State law applying to individuals and/or trusts];

(viii) Add the amounts determined in Subparagraphs(b)(iii), (iv), (vi) and (vii) of this Subsection C(3).

(c) Final Federal Adjustments subject to this election exclude:

(i) The share of Final Audit Adjustments, including positive Reallocation Adjustments, that must be included in the unitary business income of any Direct or Indirect Corporate Partner that the Audited Partnership is reasonably aware is required to file a return separately or as a member of a group as provided in [reference to State law];

(ii) Any Final Federal Adjustments resulting from an Administrative Adjustment Request;

(iii) Any portion of the Final Federal Adjustments reported or reportable on the Audited Partnership's Federal Partnership Tax Return for the adjustment year as required under IRC section 6225 and the regulations thereunder.