

Sec. 12-711(b)-19. Nonqualified deferred compensation

(a) Connecticut adjusted gross income derived from or connected with sources within Connecticut includes nonqualified deferred compensation that is attributable to services performed wholly within Connecticut.

(b) Connecticut adjusted gross income derived from or connected with sources within Connecticut does not include deferred compensation that is attributable to services performed wholly without Connecticut, whether or not the recipient was a nonresident individual at the time that the services were performed.

(c)

(1) Where the employee's services were performed partly within and partly without this state, Connecticut adjusted gross income derived from or connected with sources within Connecticut includes that proportion of the nonqualified deferred compensation included in Connecticut adjusted gross income that the total compensation received from the employer for the services performed in Connecticut during a period consisting of the portion of the taxable year prior to receipt of the nonqualified deferred compensation and the three immediately preceding taxable years bears to the total compensation received from the employer during such period for services performed within and without Connecticut. For purposes of this subsection, the compensation for services performed within Connecticut shall be determined separately for each taxable year or portion of a year in accordance with the applicable provisions of this Part.

(2) A determination on the basis of a period of time greater than the period referred to in subdivision (1) of this subsection may be made if the individual establishes, to the satisfaction of the Commissioner, the amount of his or her total yearly compensation for a longer period of time and the amount allocable to Connecticut in each year in accordance with the applicable provisions of this Part.

(d) "Nonqualified deferred compensation" means the total amount that is distributed to and included in an individual's federal adjusted gross income (and, hence, in that individual's Connecticut adjusted gross income) as deferred compensation. "Nonqualified deferred compensation" does not include any amount that is distributed from a plan, as defined in § 12-711(b)-12 of this Part, or that is governed by § 12-711(b)-16, § 12-711(b)-17 or § 12-711(b)-18 of this Part.

(e) The following example illustrates the application of this section.

Example: Taxpayer P, a nonresident individual, performs services both within and without Connecticut for his employer under an employment contract whereby, for each year's services, he is to receive a salary during the period of employment and an additional \$100,000, payable in 10 equal annual installments of \$10,000, commencing after his employment terminates. The deferred compensation to be paid under the contract between P and his employer is nonqualified deferred compensation. P terminates his employment on July 1, 1995. Assuming that the percentages for apportioning his salary to Connecticut were 25% for 1992, 50% for 1993, 75% for 1994, and 42.8% for the first half of 1995, the portion of additional payments to be included in the Connecticut adjusted gross income derived from or connected with sources within this state would be computed as follows:

Total compensation	Compensation Apportioned
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Regulations of Connecticut State Agencies

			To Connecticut
1992	\$40,000	(25.0%)	\$10,000
1993	44,000	(50.0%)	22,000
1994	48,000	(75.0%)	36,000
1995	(6 months) <u>28,000</u>	(42.8%)	<u>12,000</u>
	Totals		\$80,000

$$\frac{\$80,000}{\$160,000} \times \$10,000 = \$5,000 \quad \begin{array}{l} \text{(amount includible annually in P's Connecticut adjusted gross income} \\ \text{derived from or connected with sources within this state)} \end{array}$$

(f) While this section pertains to Section 12-711(b) of the general statutes, for purposes of supplementary interpretation, as the phrase is used in Section 12-2 of the general statutes, the adoption of this section is authorized by Section 12-701(c) of the general statutes.

(Effective November 18, 1994)