HOUSE BILL 2112
By Hawk

SENATE BILL 2256

By Norris

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, Part 20 and Title 67, Chapter 4, Part 21, relative to the apportionment of income and net worth by financial asset management companies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2012, is amended by adding the following language as a new subsection (m):

(m)

(1) Notwithstanding any other provision of this part, a financial asset management company may elect to apportion net earnings by multiplying such earnings by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year as determined under this section and the denominator of which is the total receipts of the taxpayer everywhere during the taxable year.

(2) For the purposes of this subsection (m):

(A) "Financial asset management company" means a publicly traded partnership that derives ninety percent (90%) or more of its gross receipts from the performance of financial asset management services, and specifically excludes any type of real estate investment trust as defined in § 67-4-2004;

(B) "Financial asset management services" means the following services when performed with respect to financial investments: managing portfolio assets of others on a fee or commission basis; rendering

investment advice, including investment research and analysis; making determinations as to when sales and purchases of investments are to be made; and selling or purchasing of investments;

(C) "Financial investments" means, without limitation, investments in stocks, stock options, bonds, and alternative asset classes, including, but not limited to, real estate, commodities, and other debt obligations; and

(D) "Publicly traded partnership" means an entity that is a limited partnership, or is treated as a partnership for federal tax purposes, that files with the securities and exchange commission and whose shares are regularly traded on a securities exchange that is either registered as a national securities exchange with the securities exchange commission under Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. § 78f), or is a national securities exchange of a foreign country and regulated in a substantially similar manner by a foreign financial regulatory authority.

(3) To elect the method of apportionment provided in this subsection (m), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.

(4) Once a taxpayer elects the method of apportionment provided in this subsection (m), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (m) for a period of five (5) tax years, beginning with the tax year in which the taxpayer revoked the previous election.

SECTION 2. Tennessee Code Annotated, Section 67-4-2111, is amended by adding the following language as a new subsection (m):

(m)

(1) Notwithstanding any other provision of this part, a financial asset management company may elect to apportion net worth by multiplying such net worth by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year as determined under this section and the denominator of which is the total receipts of the taxpayer everywhere during the taxable year.

(2) For the purposes of this subsection (m):

(A) "Financial asset management company" means a publicly traded partnership that derives ninety percent (90%) or more of its gross receipts from the performance of financial asset management services, and specifically excludes any type of real estate investment trust as defined in § 67-4-2004;

(B) "Financial asset management services" means the following services when performed with respect to financial investments: managing portfolio assets of others on a fee or commission basis; rendering investment advice, including investment research and analysis; making determinations as to when sales and purchases of investments are to be made; and selling or purchasing of investments;

(C) "Financial investments" means, without limitation, investments in stocks, stock options, bonds, and alternative asset classes, including, but not limited to, real estate, commodities, and other debt obligations; and

(D) "Publicly traded partnership" means an entity that is a limited partnership, or is treated as a partnership for federal tax purposes, that

files with the securities and exchange commission and whose shares are regularly traded on a securities exchange that is either registered as a national securities exchange with the securities exchange commission under Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. § 78f), or is a national securities exchange of a foreign country and regulated in a substantially similar manner by a foreign financial regulatory authority.

(3) To elect the method of apportionment provided in this subsection (m), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.

(4) Once a taxpayer elects the method of apportionment provided in this subsection (m), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (m) for a period of five (5) tax years, beginning with the tax year in which the taxpayer revoked the previous election.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to tax years beginning on or after January 1, 2018.