

# MAINE STATE LEGISLATURE

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Governor's Bill  
(EMERGENCY)  
THIRD SPECIAL SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1703**

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H. P. 1716

House of Representatives, December 4, 1981

Governor's Bill. Reference to the Committee on Taxation suggested and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Martin of Eagle Lake.

Cosponsors: Senator Conley of Cumberland, Representative Higgins of Scarborough and Senator Sewall of Penobscot.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT Providing for Conformity with the United States Internal Revenue Code  
as of December 1, 1981.**

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Be it enacted by the People of the State of Maine, as follows:

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, conformity with provisions of the United States Internal Revenue Code in the administration of the Maine Income Tax Law is of extreme importance; and

Whereas, the Economic Recovery Tax Act of 1981 made numerous changes in the provisions of the United States Internal Revenue Code; and

Whereas, the economic impact on the State of Maine caused by these changes wrought by the Economic Recovery Tax Act of 1981 is dependent on the future course of our national economy; and

Whereas, the tax savings for taxpayers filing income tax returns in Maine for taxable years ending in 1981 has been determined to be relatively modest; and

Whereas, deviation from the changes in the United States Internal Revenue Code enacted by the Economic Recovery Tax Act of 1981 will create substantial additional costs in the administration of the Maine Income Tax Law; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

**36 MRSA § 5102, sub-§ 11**, as last amended by PL 1981, c. 463, Pt. C, § 1, is further amended by adding at the end a new sentence to read:

**Except that for taxable years ending on or after January 1, 1981, but on or before December 31, 1981, any reference in this Part to the laws of the United States shall be construed as a reference to the provisions of the United States Internal Revenue Code of 1954, and amendments thereto and other provisions of the laws of the United States relating to federal income taxes as of December 1, 1981 for items of income, deductions, loss or gain earned, incurred or accrued within this period.**

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

#### FISCAL NOTE

The fiscal impact of this bill is expressed as a range to accommodate the several approaches which have been considered in developing estimates. The cost recovery provisions of the Economic Recovery Tax Act of 1981 pose the greatest difficulty in estimating revenue impact. It is estimated that these provisions could provide from a minimal gain to a potential loss of \$2,180,000 of fiscal year 1982 revenue. The noncost recovery provisions are estimated to yield \$150,000 in additional revenue.

#### Fiscal Year 1982

General Fund	\$144,000-(\$2,093,000)
Local Government Fund	6,000-(\$87,000)

#### STATEMENT OF FACT

This bill provides for conformity with the United States Internal Revenue Code for tax years ending in 1981. This will authorize adoption, for one year only, of those provisions of the Economic Recovery Tax Act which are effective in the 1981 tax year. The following summarizes the principal provisions of the Tax Act.

1. The replacement period for roll over of gain on the sale of principal residence is extended to 24 months before and 24 months after the date of sale of the old residence for both purchased and constructed residences.

2. The one-time exclusion for taxpayers 55 or over of gain on the sale of a principal residence is increased from \$100,000 to \$125,000 for sales after July 20, 1981.

3. An exclusion of \$1,000 interest is allowed each taxpayer on income received from "All-savers Certificates" held to maturity.

4. State Legislators are allowed to treat their residence within the represented district as the tax home for purposes of computing the deduction for living expenses while away from home. The allowable deduction is based on the state per diem rate, not to exceed 110% of the federal per diem rate.

5. Taxpayers may deduct up to \$1,500 for expenses related to adopting a child with special needs, and with respect to whom adoption assistance payments are made under the Social Security Act.

6. Incentive stock options are created which defer gain until the time of sale. Capital gain will be realized on the excess of selling price over the amount paid for stock and the sale must be at least one year after purchase.

7. The Accelerated Cost Recovery System permits cost recovery over predetermined recovery periods which are generally shorter than the "useful life" concept.

8. The charitable contribution deduction for scientific property is increased to the taxpayer's basis plus 50% of the appreciation, not to exceed twice the donor's basis in the property.

9. Costs of acquiring motor carrier operating rights may now be amortized over a 60-month period.

10. Rules are significantly tightened to prevent the use of tax straddles and similar devices to defer taxes and convert ordinary income and short-term capital gains into long-term capital gains.