

# MAINE STATE LEGISLATURE

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L.D. 1735

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES (Filing No. H-733)  
110TH LEGISLATURE  
SECOND REGULAR SESSION

6 COMMITTEE AMENDMENT "B" to H.P. 1746, L.D. 1735, Bill,  
7 "AN ACT Providing for Administrative Changes in the Maine  
8 Tax Laws."

9 Amend the Bill by inserting after the enacting clause  
10 the following:

11 'Sec. 1. 9-B MRSA §161, sub-§2, ¶H is enacted to read:

12 H. The making of reports to the State Tax Assessor re-  
13 quired under Title 36, section 3851 and the examination  
14 of the financial records authorized by Title 36,  
15 section 112.

16 Further amend the Bill by inserting after section 3 the  
17 following:

18 'Sec. 5. 36 MRSA §576-B, first paragraph, 2nd sen-  
19 tence, as amended by PL 1977, c. 694, §680, is repealed.

20 'Sec. 6. 36 MRSA §576-B, first paragraph, 3rd sentence,  
21 as enacted by PL 1977, c. 549, §5, is repealed.

22 'Sec. 7. 36 MRSA §578, sub-§1, 6th paragraph, as  
23 enacted by PL 1981, c. 517, §11, is repealed and the follow-  
24 ing enacted in its place:

25 No municipality may receive a reimbursement payment under  
26 this section which would exceed an amount determined by cal-  
27 culating the tree growth tax loss less the municipal savings  
28 in educational costs attributable to reduced state valua-  
29 tion.

30 A. The tree growth tax loss is the adjusted tax that  
31 would have been assessed, but for this subchapter, on  
32 the classified forest lands if they were assessed ac-  
33 ording to the undeveloped acreage valuations used in  
34 the state valuation then in effect minus the tax that

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2 was actually assessed on the same lands in accordance  
3 with this subchapter.

4 In determining the adjusted tax that would have been  
5 assessed, the tax rate to be used is computed by adding  
6 the additional school support required by the modified  
7 state valuation attributable to the increased valuation  
8 of forest land to the original tax committed and divid-  
9 ing this sum by the modified total municipal valuation.  
10 The adjusted tax rate is then applied to the valuation  
11 of forest land based on the undeveloped acreage valua-  
12 tions, adjusted by the certified ratio, to determine  
13 the adjusted tax.

14 B. The municipal savings in educational costs is  
15 determined by multiplying the school subsidy index by  
16 the change in state valuation attributable to the use  
17 of the valuations determined in accordance with this  
18 subchapter on classified forest lands rather than their  
19 valuation using the undeveloped acreage valuations used  
20 in the state valuation then in effect.'

21 Further amend the Bill by inserting after section 16  
22 the following:

23 'Sec. 21. 36 MRSA §1760, sub-§16, first sentence, as  
24 last amended by PL 1981, c. 502, is further amended to read:

25 Sales to incorporated hospitals, incorporated nonprofit  
26 nursing homes licensed by the Department of Human Services,  
27 incorporated nonprofit home health care agencies certified  
28 under Title XVIII of the Social Security Act of 1965 as  
29 amended, incorporated nonprofit rural community health cen-  
30 ters engaged in, or providing facilities for, the delivery  
31 of comprehensive primary health care, institutions incorpo-  
32 rated as nonprofit corporations for the sole purpose of con-  
33 ducting medical research or for the purpose of establishing  
34 and maintaining laboratories for scientific study and inves-  
35 tigation in the field of biology or ecology or operating  
36 educational television or radio stations, schools and regu-  
37 larly organized churches or houses of religious worship,  
38 excepting sales, storage or use in activities which are  
39 mainly commercial enterprises.

40 Sec. 22. 36 MRSA §1811-A, as enacted by PL 1965, c.

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2 196, §1, is amended to read:

3 §1811-A. Credit for worthless accounts

4 The tax paid on sales represented by accounts found to  
5 be worthless and actually charged off as worthless may be  
6 credited upon against the tax due on a subsequent report  
7 filed within 3 years of the charge-off, but, if any such ac-  
8 counts are thereafter collected by the retailer, a tax shall  
9 be paid upon the amounts so collected. For the purpose of  
10 sections 1954 and 1955 such credit shall be considered as  
11 being required to be reported on or before the 15th day of  
12 the month following that in which the charge-off was made.

13 Further amend the Bill by inserting after section 18  
14 the following:

15 'Sec. 25. 36 MRSA §2521-B is enacted to read:

16 §2521-B. Self-insurers; return for calendar year 1982

17 Every group self-insurer issuing workers' compensation  
18 insurance policies covering the payment of compensation and  
19 benefits and every individual self-insurer which  
20 self-insures the payment of compensation and benefits as  
21 provided for in Title 39 subject to the .05% tax imposed by  
22 this chapter shall file a return covering the calendar year  
23 1982 on or before the last day of January, 1983.

24 At the time of filing such returns, each group self-  
25 insurer and each individual self-insurer shall pay to the  
26 State Tax Assessor the amount of tax shown due.'

27 Further amend the Bill by inserting after section 25  
28 the following:

29 'Sec. 33. 36 MRSA §5102, sub-§8, as last amended by PL  
30 1979, c. 541, Part A, §230, is repealed and the following  
31 enacted in its place:

32 8. Maine net income. "Maine net income" means, for  
33 any taxable year and for any corporate taxpayer, the taxable  
34 income of that taxpayer for that taxable year under the laws  
35 of the United States as modified by section 5200-A and allo-  
36 cated or apportioned to this State under chapter 821.

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2 Sec. 34. 36 MRSA §5122, sub-§1, ¶B, as amended by PL  
3 1981, c. 463, Part C, §2, is further amended to read:

4 B. Interest or dividends on obligations of any author-  
5 ity, commission, instrumentality, territory or posses-  
6 sion of the United States which by the laws of the  
7 United States are exempt from federal income tax but  
8 not from state income tax; and

9 Sec. 35. 36 MRSA §5122, sub-§1, ¶C, as enacted by PL  
10 1981, c. 463, Part C, §2, is amended to read:

11 C. For a taxable year beginning in 1981 or 1982,  
12 interest and dividends excluded under the United States  
13 Internal Revenue Code, Section 116, except for an  
14 amount equivalent to the amount of dividends, not  
15 exceeding \$100, received by the individual;

16 Sec. 36. 36 MRSA §5122, sub-§1, ¶¶ D and E are enacted  
17 to read:

18 D. The amount of any net operating loss in the taxable  
19 year which has been carried back to previous years pur-  
20 suant to the United States Internal Revenue Code,  
21 Section 172; and

22 E. The amount of any deduction claimed for the taxable  
23 year under the United States Internal Revenue Code,  
24 Section 172 which has previously been used to offset  
25 the modifications provided by this subsection.

26 Further amend the Bill by inserting after section 26  
27 the following:

28 Sec. 38. 36 MRSA §5142, sub-§1, ¶A, as enacted by  
29 P&SL 1969, c. 154, Section F, is amended to read:

30 A. The net amount of items of income, gain, loss, and  
31 deduction entering into his federal adjusted gross  
32 income which are derived from or connected with sources  
33 in this State including (i) his distributive share of  
34 partnership income and deductions determined under  
35 section 5192 and, (ii) his share of estate or trust  
36 income and deductions determined under section 5176,

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2 and (iii) his distributive share of the income of an  
3 electing small business corporation for federal income  
4 tax purposes derived from or connected with sources  
5 within this State; and

6 Sec. 39. 36 MRSA §5142, sub-§5, as enacted by P&SL  
7 1969, c. 154, Section F, is repealed.

8 Sec. 40. 36 MRSA §5200, as last repealed and replaced  
9 by PL 1977, c. 686, §12, is repealed and the following  
10 enacted in its place:

11 §5200. Imposition and rate of tax

12 A tax is hereby imposed upon every taxable corporation  
13 for each taxable year at the rate of 4.95% of that corpora-  
14 tion's Maine net income plus 1.98% of that corporation's  
15 Maine net income in excess of \$25,000.

16 Sec. 41. 36 MRSA §5200-A is enacted to read:

17 §5200-A. Modifications

18 1. Additions. The taxable income of the taxpayer  
19 under the laws of the United State shall be increased by:

20 A. The amount of any deduction for tax imposed by this  
21 Part or by the equivalent taxing statute of another  
22 state;

23 B. The amount of any net operating loss in the taxable  
24 year which has been carried back to previous taxable  
25 years pursuant to the United States Internal Revenue  
26 Code, Section 172; and

27 C. The amount of any deduction claimed for the taxable  
28 year under the United States Internal Revenue Code,  
29 Section 172, which has previously been used to offset  
30 the modifications provided by this subsection.

31 2. Subtractions. The taxable income of the taxpayer  
32 under the laws of the United States shall be decreased by:

33 A. Income which, under the laws of the United States,  
34 is exempt from taxation by states;

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2 B. The amount added to income under the United States  
3 Internal Revenue Code, Section 78, foreign dividend  
4 gross-up; and

5 C. An amount equal to the taxpayer's new jobs credit  
6 as determined under the laws of the United States.'

7 Further amend the Bill by renumbering the sections to  
8 read consecutively.

9 FISCAL NOTE

10 It is estimated that enactment of section 21 of -this  
11 Bill will result in a loss of \$6,240 to the General Fund and  
12 \$260 to the Local Government Fund. Enactment of the remain-  
13 der of the Bill is not estimated to result in any loss of  
14 revenue.

15 STATEMENT OF FACT

16 The purpose of this amendment is to provide additional  
17 administrative corrections to Maine tax law. Specifically  
18 the new sections are explained as follows.

19 Section 4 provides that the making of reports to the  
20 State Tax Assessor by financial institutions as required by  
21 Title 36, section 3851 is permitted in Title 9-B, and that  
22 the State Tax Assessor is permitted to examine financial  
23 records under his general powers set forth in Title 36,  
24 section 112.

25 Sections 5 and 6 remove the language requiring the  
26 State Tax Assessor to determine the discount factor since  
27 the Legislature now establishes the discount factor annu-  
28 ally.

29 Section 7 clarifies the procedure used to limit reim-  
30 bursements under the tree growth tax law. Reimbursements  
31 cannot exceed an amount determined by calculating the tree  
32 growth tax loss less the municipal savings in educational  
33 costs attributable to reduced state valuation.

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2 Section 21 clarifies the intention of the Legislature  
3 in enacting the exemption for rural community health centers  
4 enacted in the First Regular Session of the 110th Legis-  
5 lature.

6 Section 22 clarifies the provision allowing a sales tax  
7 credit for worthless accounts by specifically providing that  
8 the credit must be taken within 3 years of the charge-off.  
9 Title 36, sections 1954 and 1955 have been repealed.

10 Section 25 is necessitated by PL 1981, chapter 514  
11 which imposed an additional tax of .05% upon all gross  
12 direct premiums on contracts made in the State for workers'  
13 compensation. In addition to imposing this tax on insurance  
14 companies and associations, group self-insurers were  
15 included. However, Title 36, section 2521-A was not amended  
16 to include return and payment provisions for these classes  
17 of taxpayers. This amendment would correct that oversight.

18 Sections 33-36, 40 and 41 are intended to clarify the  
19 statutory procedure for the treatment of negative federal  
20 adjusted gross income (or taxable income for corporations),  
21 carrybacks and carryovers. They essentially reaffirm cur-  
22 rent state procedures and insure that a deduction taken in a  
23 loss year cannot be carried forward. The State of Illinois  
24 is involved in litigation which has illustrated the need for  
25 clear law in this area.

26 Sections 38 and 39 provide for the taxation of nonresi-  
27 dent stockholders of a Subchapter S corporation operating in  
28 Maine. Currently, the corporation is not subject to Maine  
29 income tax, and the stockholder, who reports his distribu-  
30 tive share of the income of the corporation as his own  
31 income for federal purposes, is not subject to Maine income  
32 tax on the income of the corporation, whether or not dis-  
33 tributed to him. This appears to be an oversight in the  
34 law.

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Reported by the Minority of the Committee on Taxation.  
Reproduced and distributed under the direction of the Clerk  
of the House.

3/31/82

(Filing No. H-733)