

MAINE STATE LEGISLATURE

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L.D. 1735

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-770)
110TH LEGISLATURE
SECOND REGULAR SESSION

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HOUSE AMENDMENT "A" to H.P. 1746, L.D. 1735, Bill, "AN
ACT Providing for Administrative Changes in the Maine Tax
Laws."

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Amend the Bill by inserting at the beginning before the
enacting clause the following:

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

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Whereas, this legislation is urgently needed to avoid
confusion on the filing status of businesses and individu-
als; and

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Whereas, an immediate effective date will encourage
easier administration and application of the law; and

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

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Further amend the Bill by inserting after the enacting
clause the following:

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

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

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

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2 'Sec. 4. 36 MRSA §576-B, first paragraph, 2nd sen-
3 tence, as amended by PL 1977, c. 694, §680, is repealed.

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5 as enacted by PL 1977, c. 549, §5, is repealed.

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7 enacted by PL 1981, c. 517, §11, is repealed and the follow-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

9 No municipality may receive a reimbursement payment under
10 this section which would exceed an amount determined by cal-
11 culating the tree growth tax loss less the municipal savings
12 in educational costs attributable to reduced state valua-
13 tion.

14 A. The tree growth tax loss is the adjusted tax that
15 would have been assessed, but for this subchapter, on
16 the classified forest lands if they were assessed ac-
17 cording to the undeveloped acreage valuations used in
18 the state valuation then in effect minus the tax that
19 was actually assessed on the same lands in accordance
20 with this subchapter.

21 In determining the adjusted tax that would have been
22 assessed, the tax rate to be used is computed by adding
23 the additional school support required by the modified
24 state valuation attributable to the increased valuation
25 of forest land to the original tax committed and divid-
26 ing this sum by the modified total municipal valuation.
27 The adjusted tax rate is then applied to the valuation
28 of forest land based on the undeveloped acreage valua-
29 tions, adjusted by the certified ratio, to determine
30 the adjusted tax.

31 B. The municipal savings in educational costs is
32 determined by multiplying the school subsidy index by
33 the change in state valuation attributable to the use
34 of the valuations determined in accordance with this
35 subchapter on classified forest lands rather than their
36 valuation using the undeveloped acreage valuations used
37 in the state valuation then in effect.

38 Further amend the Bill by inserting after section 16
39 the following:

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2 'Sec. 17. 36 MRSA §1760, sub-§16, first sentence, as
3 last amended by PL 1981, c. 502, is further amended to read:

4 Sales to incorporated hospitals, incorporated nonprofit
5 nursing homes licensed by the Department of Human Services,
6 incorporated nonprofit home health care agencies certified
7 under Title XVIII of the Social Security Act of 1965 as
8 amended, incorporated nonprofit rural community health cen-
9 ters engaged in, or providing facilities for, the delivery
10 of comprehensive primary health care, institutions incorpo-
11 rated as nonprofit corporations for the sole purpose of con-
12 ducting medical research or for the purpose of establishing
13 and maintaining laboratories for scientific study and inves-
14 tigation in the field of biology or ecology or operating
15 educational television or radio stations, schools and regu-
16 larly organized churches or houses of religious worship,
17 excepting sales, storage or use in activities which are
18 mainly commercial enterprises.

19 Sec. 18. 36 MRSA §1811-A, as enacted by PL 1965, c.
20 196, §1, is amended to read:

21 §1811-A. Credit for worthless accounts

22 The tax paid on sales represented by accounts found to
23 be worthless and actually charged off as worthless may be
24 credited upon against the tax due on a subsequent report
25 filed within 3 years of the charge-off, but, if any such ac-
26 counts are thereafter collected by the retailer, a tax shall
27 be paid upon the amounts so collected. For the purpose of
28 sections 1954 and 1955 such credit shall be considered as
29 being required to be reported on or before the 15th day of
30 the month following that in which the charge-off was made.'

31 Further amend the Bill by inserting after section 18
32 the following:

33 'Sec. 19. 36 MRSA §2521-B is enacted to read:

34 §2521-B. Self-insurers; return for calendar year 1982

35 Every group self-insurer issuing workers' compensation
36 insurance policies covering the payment of compensation and
37 benefits and every individual self-insurer which

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2 self-insures the payment of compensation and benefits as
3 provided for in Title 39 subject to the .05% tax imposed by
4 this chapter shall file a return covering the calendar year
5 1982 on or before the last day of January, 1983.

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

9 Further amend the Bill by inserting after section 25
10 the following:

11 'Sec. 25-A. 36 MRSA §5102, sub-§8, as last amended by
12 PL 1979, c. 541, Part A, §230, is repealed and the following
13 enacted in its place:

14 8. Maine net income. "Maine net income" means, for
15 any taxable year for any corporate taxpayer, the taxable
16 income of that taxpayer for that taxable year under the laws
17 of the United States as modified by sections 5200-A and
18 5202-B and allocated or apportioned to this State under
19 chapter 821.

20 Sec. 25-B. 36 MRSA §5102, sub-§11, as amended by PI
21 1981, c. 536, is further amended to read:

22 11. Other terms. Any other term used in this Part has
23 the same meaning as when used in a comparable context in the
24 laws of the United States relating to federal income taxes,
25 unless a different meaning is clearly required. Any refer-
26 ence in this Part to the laws of the United States shall be
27 construed as a reference to the provisions of the United
28 States Internal Revenue Code of 1954, and amendments thereto
29 and other provisions of the laws of the United States relat-
30 ing to federal income taxes as of December 31, 1980. This
31 subsection shall be effective as to items of income, deduc-
32 tions, loss or gain accruing in taxable years ending on or
33 after January 1, 1980 but only to the extent that those
34 items have been earned, received, incurred or accrued on or
35 after that effective date. Except that Notwithstanding this
36 subsection, for taxable years ending on or after January 1,
37 1981, but on or before December 31, in 1981 and 1982, any
38 reference in this Part to the laws of the United States
39 shall be construed as a reference to the provisions of the
40 United States Internal Revenue Code of 1954, and amendments

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2 thereto and other provisions of the laws of the United
3 States relating to federal income taxes as of ~~December 4~~
4 December 31, 1981 for items of income, deductions, loss or
5 gain earned, incurred or accrued within this period those
6 taxable years.

7 Sec. 25-C. 36 MRSA §5122, sub-§1, ¶B, as amended by PL
8 1981, c. 463, Part C, §2, is further amended to read:

9 B. Interest or dividends on obligations of any author-
10 ity, commission, instrumentality, territory or posses-
11 sion of the United States which by the laws of the
12 United States are exempt from federal income tax but
13 not from state income tax; and

14 Sec. 25-D. 36 MRSA §5122, sub-§1, ¶C, as enacted by PL
15 1981, c. 463, Part C, §2, is amended to read:

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

21 Sec. 25-E. 36 MRSA §5122, sub-§1, ¶¶ D and E are
22 enacted to read:

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

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

33 Sec. 27. 36 MRSA §5142, sub-§1, ¶A, as enacted by P&SL
34 1969, c. 154, Section F, is amended to read:

35 A. The net amount of items of income, gain, loss, and
36 deduction entering into his federal adjusted gross

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2 income which are derived from or connected with sources
3 in this State including (i) his distributive share of
4 partnership income and deductions determined under
5 section 5192 and, (ii) his share of estate or trust
6 income and deductions determined under section 5176,
7 and (iii) his distributive share of the income of an
8 electing small business corporation for federal income
9 tax purposes derived from or connected with sources
10 within this State; and

11 Sec. 28. 36 MRSA §5142, sub-§5, as enacted by P&SL
12 1969, c. 154, Section F, is repealed.

13 Sec. 29. 36 MRSA §5200, as last repealed and replaced
14 by PL 1977, c. 686, §12, is repealed and the following
15 enacted in its place:

16 §5200. Imposition and rate of tax

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

21 Sec. 30. 36 MRSA §5200-A is enacted to read:

22 §5200-A. Modifications

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

25 A. The amount of any deduction for tax imposed by this
26 Part or by the equivalent taxing statute of another
27 state;

28 B. The amount of any net operating loss in the taxable
29 year which has been carried back to previous taxable
30 years pursuant to the United States Internal Revenue
31 Code, Section 172;

32 C. The amount of any deduction claimed for the taxable
33 year under the United States Internal Revenue Code,
34 Section 172, which has previously been used to offset
35 the modifications provided by this subsection; and

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2 D. For a taxable year ending in 1982, the United
3 States Internal Revenue Code, Subchapter V corporations
4 excepted, the amount of deductions allowed for that
5 taxable year to the taxpayer as the nominal lessor
6 under the safe harbor lease pursuant to the United
7 States Internal Revenue Code, Section 168(f)(8), plus
8 18% of the remaining deductions allowed for that tax-
9 able year in the United States Internal Revenue Code,
10 Sections 167 and 168.

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

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

15 B. The amount added to income under the United States
16 Internal Revenue Code, Section 78, foreign dividend
17 gross-up;

18 C. An amount equal to the taxpayer's new jobs credit
19 as determined under the laws of the United States; and

20 D. For each of the taxable years ending 1983 through
21 1985, the United States Internal Revenue Code, Subchap-
22 ter V corporations excepted, 6% of the deductions
23 allowed under the United States Internal Code, Sections
24 167 and 168 for the taxable year 1982, excluding the
25 amount of deduction allowed for that taxable year to
26 the nominal lessor in a safe harbor lease pursuant to
27 the United States Internal Revenue Code, Section
28 168(f)(8).

29 Sec. 31. 36 MRS §5202-B is enacted to read:

30 §5202-B. Depreciation option

31 For its taxable year ending in 1982, a corporation may
32 elect, in lieu of the accelerated cost recovery deduction
33 provided by the United States Internal Revenue Code, Section
34 168, and the state modifications provided by section 5200-A,
35 subsection 1, paragraph D, and subsection 2, paragraph D, to
36 depreciate property placed in service during that taxable
37 year in accordance with the United States Internal Revenue
38 Code, Section 167, in effect on December 31, 1980, provided

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2 that this election is made with regard to all such property
3 and that the State Tax Assessor may refuse to allow any such
4 deduction if he deems the information provided in substan-
5 tiation of that deduction to be unsatisfactory in relation
6 to generally accepted accounting procedures.

7 Sec. 32. 36 MRSA §5206, sub-§1, as amended by PL 1979,
8 c. 587, §5, is further amended to read:

9 1. Rate. 4.95% of taxable income not in excess of
10 \$25,000, plus ~~6.93%~~ 1.98% of the taxable income in excess of
11 \$25,000 attributable on or after January 1, 1978, provided
12 that taxable income, for purposes of this subsection, shall
13 be reduced by the amount of the corporation's or associa-
14 tion's federal new jobs credit for tax years beginning on or
15 after January 1, 1978; shall be reduced by the amount of the
16 corporation's or association's credit for investment in the
17 Maine Capital Corporation for tax years beginning on or
18 after January 1, 1979; shall be increased for the tax year
19 ending in 1982, by the amount of deductions allowed for that
20 tax year to the taxpayer as nominal lessor in a safe harbor
21 lease pursuant to the United States Internal Revenue Code,
22 Section 168(f)(8), plus 18% of the remaining deductions
23 allowed for that tax year under the United States Internal
24 Revenue Code, Sections 167 and 168; shall be decreased,
25 excluding the amount of deductions allowed for that tax year
26 to the nominal lessor in a safe harbor lease pursuant to the
27 United States Internal Revenue Code, Section 168(f)(8); for
28 each of the tax years ending in 1983 through 1985 by 6% of
29 the deductions allowed under the United States Internal Rev-
30 enue Code, Sections 167 and 168 for the taxpayer's tax year
31 ending in 1982; and is reduced by the amount of the tax pay-
32 able by the corporation or association for the taxable year
33 under chapter 817.

34 Sec. 33. 36 MRSA §5206-A is enacted to read:

35 §5206-A. Depreciation option

36 For its taxable year ending in 1982, a corporation or
37 association subject to tax under section 5206, may elect, in
38 lieu of the accelerated cost recovery deduction provided by
39 the United States Internal Revenue Code, Section 168, and
40 the 18% add-back and 6% recovery of add-back provided by
41 section 5206, subsection 1, to depreciate property placed in

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2 service during that taxable year in accordance with the
3 United States Internal Revenue Code, Section 167, in effect
4 on December 31, 1980, provided that this election is made
5 with regard to all such property and that the State Tax
6 Assessor may refuse to allow any such deduction if he deems
7 the information provided in substantiation of that deduction
8 to be unsatisfactory in relation to generally accepted ac-
9 counting procedures.

10 Further amend the Bill by renumbering the sections to
11 read consecutively.

12 Further amend the Bill by inserting at the end before
13 the statement of fact the following:

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

16 FISCAL NOTE

17 It is estimated that enactment of this Bill will result
18 in the loss of \$5,952,000 to the General Fund and \$248,000
19 to the Local Government Fund.

20 STATEMENT OF FACT

21 The purpose of this amendment is to provide additional
22 administrative corrections to Maine tax law. Specifically
23 this amendment:

24 1. Provides that the making of reports to the State
25 Tax Assessor by financial institutions as required by Title
26 36, section 3851 is permitted in Title 9-B, and that the
27 State Tax Assessor is permitted to examine financial records
28 under his general powers set forth in Title 36, section 112;

29 2. Removes the language requiring the State Tax Asses-
30 sor to determine the discount factor since the Legislature
31 now establishes the discount factor annually;

32 3. Clarifies the procedure used to limit reimburse-
33 ments under the tree growth tax law. Reimbursements cannot

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2 exceed an amount determined by calculating the tree growth
3 tax loss less the municipal savings in educational costs
4 attributable to reduced state valuation;

5 4. Clarifies the intention of the Legislature in
6 enacting the exemption for rural community health centers
7 enacted in the First Regular Session of the 110th Legis-
8 lature;

9 5. Clarifies the provision allowing a sales tax credit
10 for worthless accounts by specifically providing that the
11 credit must be taken within 3 years of the charge-off.
12 Title 36, sections 1954 and 1955 have been repealed;

13 6. Corrects an oversight in Public Law 1981, chapter
14 514 by including return and payment provisions for the tax
15 on certain workers' compensation premiums;

16 7. Clarifies the statutory procedure for the treatment
17 of negative federal adjusted gross income (or taxable income
18 for corporations), carrybacks and carryovers. They essen-
19 tially reaffirm current state procedures and insure that a
20 deduction taken in a loss year cannot be carried forward.
21 The State of Illinois is involved in litigation which has
22 illustrated the need for clear law in this area;

23 8. Provides for the taxation of nonresident stockhold-
24 ers of a Subchapter V corporation operating in Maine. Cur-
25 rently, the corporation is not subject to Maine income tax,
26 and the stockholder, who reports his distributive share of
27 the income of the corporation as his own income for federal
28 purposes, is not subject to Maine income tax on the income
29 of the corporation, whether or not distributed to him. This
30 appears to be an oversight in the law; and

31 9. Provides conformity with the United States Internal
32 Revenue Code for the 1982 tax year except for safe harbor
33 leasing provisions and accelerated cost recovery system
34 depreciation provisions for corporations other than Subchap-
35 ter V corporations. For the 1982 tax year, corporations,
36 other than Subchapter V corporations, may elect either
37 depreciation procedures which were in effect before the Eco-
38 nomic Recovery Tax Act or the Accelerated Cost Recovery
39 provisions. If Accelerated Cost Recovery provisions are
40 elected, then 18% of the corporations' total depreciation

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2 claimed for the 1982 tax year is added back to Maine taxable
3 income, and this amount is recovered in the following 3
4 years at 6% per year. Individuals, partnerships and Sub-
5 chapter V corporations are provided with full conformity to
6 the United States Internal Revenue Code for the 1982 tax
7 year.

8 This amendment also adds an emergency preamble and
9 emergency clause to the bill.

10

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Filed by Mrs. Post of Owls Head.
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of the House.

4/13/82

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