

MAINE STATE LEGISLATURE

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L.D. 1735

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-771)
110TH LEGISLATURE
SECOND REGULAR SESSION

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HOUSE AMENDMENT "~~B~~" 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 after the enacting clause
the following:

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'Sec. 1. 9-B MRSA §161, sub-§2, ¶H 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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'Sec. 4. 36 MRSA §576-B, first paragraph, 2nd sen-
tence, as amended by PL 1977, c. 694, §680, is repealed.

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21

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as enacted by PL 1977, c. 549, §5, is repealed.

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enacted by PL 1981, c. 517, §11, is repealed and the follow-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

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

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A. The tree growth tax loss is the adjusted tax that
would have been assessed, but for this subchapter, on
the classified forest lands if they were assessed ac-
cording to the undeveloped acreage valuations used in
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. 17. 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. 18. 36 MRSA §1811-A, as enacted by PL 1965, c.

1 HOUSE AMENDMENT "D" to H.P. 1746, L.D. 1735

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. 19. 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. 25-A. 36 MRSA §5102, sub-§8, as last amended by
30 PL 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 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 sections 5200-A and
36 5202-B and allocated or apportioned to this State under

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2 chapter 821.

3 Sec. 25-B. 36 MRSA §5102, sub-§11, as amended by PL
4 1981, c. 536, is further amended to read:

5 11. Other terms. Any other term used in this Part has
6 the same meaning as when used in a comparable context in the
7 laws of the United States relating to federal income taxes,
8 unless a different meaning is clearly required. Any refer-
9 ence in this Part to the laws of the United States shall be
10 construed as a reference to the provisions of the United
11 States Internal Revenue Code of 1954, and amendments thereto
12 and other provisions of the laws of the United States relat-
13 ing to federal income taxes as of December 31, 1980. This
14 subsection shall be effective as to items of income, deduc-
15 tions, loss or gain accruing in taxable years ending on or
16 after January 1, 1980 but only to the extent that those
17 items have been earned, received, incurred or accrued on or
18 after that effective date. Except that Notwithstanding this
19 subsection, for taxable years ending on or after January 1,
20 1981, but on or before December 31, in 1981 and 1982, any
21 reference in this Part to the laws of the United States
22 shall be construed as a reference to the provisions of the
23 United States Internal Revenue Code of 1954, and amendments
24 thereto and other provisions of the laws of the United
25 States relating to federal income taxes as of December 31
26 December 31, 1981 for items of income, deductions, loss or
27 gain earned, incurred or accrued within this period those
28 taxable years.

29 Sec. 25-C. 36 MRSA §5122, sub-§1, ¶B, as amended by PL
30 1981, c. 463, Part C, §2, is further amended to read:

31 B. Interest or dividends on obligations of any author-
32 ity, commission, instrumentality, territory or posses-
33 sion of the United States which by the laws of the
34 United States are exempt from federal income tax but
35 not from state income tax; and

36 Sec. 25-D. 36 MRSA §5122, sub-§1, ¶C, as enacted by PL
37 1981, c. 463, Part C, §2, is amended to read:

38 C. For a taxable year beginning in 1981 or 1982,
39 interest and dividends excluded under the United States
40 Internal Revenue Code, Section 116, except for an

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2 amount equivalent to the amount of dividends, not
3 exceeding \$100, received by the individual;

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

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

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

14 Further amend the Bill by inserting after section 26
15 the following:

16 Sec. 27. 36 MRSA §5142, sub-§1, ¶A, as enacted by P&SL
17 1969, c. 154, Section F, is amended to read:

18 A. The net amount of items of income, gain, loss, and
19 deduction entering into his federal adjusted gross
20 income which are derived from or connected with sources
21 in this State including (i) his distributive share of
22 partnership income and deductions determined under
23 section 5192 and, (ii) his share of estate or trust
24 income and deductions determined under section 5176,
25 and (iii) his distributive share of the income of an
26 electing small business corporation for federal income
27 tax purposes derived from or connected with sources
28 within this State; and

29 Sec. 28. 36 MRSA §5142, sub-§5, as enacted by P&SL
30 1969, c. 154, Section F, is repealed.

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

34 §5200. Imposition and rate of tax

35 A tax is hereby imposed upon every taxable corporation
36 for each taxable year at the rate of 4.95% of that corpora-

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2 tion's Maine net income plus 1.98% of that corporation's
3 Maine net income in excess of \$25,000.

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

5 §5200-A. Modifications

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

8 A. The amount of any deduction for tax imposed by this
9 Part or by the equivalent taxing statute of another
10 state;

11 B. The amount of any net operating loss in the taxable
12 year which has been carried back to previous taxable
13 years pursuant to the United States Internal Revenue
14 Code, Section 172;

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

19 D. For a taxable year ending in 1982, the United
20 States Internal Revenue Code, Subchapter V corporations
21 excepted, the amount of deductions allowed for that
22 taxable year to the taxpayer as the nominal lessor
23 under the safe harbor lease pursuant to the United
24 States Internal Revenue Code, Section 168(f)(8), plus
25 18% of the remaining deductions allowed for that tax-
26 able year in the United States Internal Revenue Code,
27 Sections 167 and 168.

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

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

32 B. The amount added to income under the United States
33 Internal Revenue Code, Section 78, foreign dividend
34 gross-up;

35 C. An amount equal to the taxpayer's new jobs credit

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2 as determined under the laws of the United States; and

3 D. For each of the taxable years ending 1983 through
4 1985, the United States Internal Revenue Code, Subchap-
5 ter V corporations excepted, 6% of the deductions
6 allowed under the United States Internal Code, Sections
7 167 and 168 for the taxable year 1982, excluding the
8 amount of deduction allowed for that taxable year to
9 the nominal lessor in a safe harbor lease pursuant to
10 the United States Internal Revenue Code, Section
11 168(f)(8).

12 Sec. 31. 36 MRSA §5202-B is enacted to read:

13 §5202-B. Depreciation option

14 For its taxable year ending in 1982, a corporation may
15 elect, in lieu of the accelerated cost recovery deduction
16 provided by the United States Internal Revenue Code, Section
17 168, and the state modifications provided by section 5200-A,
18 subsection 1, paragraph D, and subsection 2, paragraph D, to
19 depreciate property placed in service during that taxable
20 year in accordance with the United States Internal Revenue
21 Code, Section 167, in effect on December 31, 1980, provided
22 that this election is made with regard to all such property
23 and that the State Tax Assessor may refuse to allow any such
24 deduction if he deems the information provided in substan-
25 tiation of that deduction to be unsatisfactory in relation
26 to generally accepted accounting procedures.

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

29 1. Rate. 4.95% of taxable income not in excess of
30 \$25,000, plus ~~6.93%~~ 1.98% of the taxable income in excess of
31 \$25,000 attributable on or after January 1, 1978, provided
32 that taxable income, for purposes of this subsection, shall
33 be reduced by the amount of the corporation's or associa-
34 tion's federal new jobs credit for tax years beginning on or
35 after January 1, 1978; shall be reduced by the amount of the
36 corporation's or association's credit for investment in the
37 Maine Capital Corporation for tax years beginning on or
38 after January 1, 1979; shall be increased for the tax year
39 ending in 1982, by the amount of deductions allowed for that
40 tax year to the taxpayer as nominal lessor in a safe harbor

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2 lease pursuant to the United States Internal Revenue Code,
3 Section 168(f)(8), plus 18% of the remaining deductions
4 allowed for that tax year under the United States Internal
5 Revenue Code, Sections 167 and 168; shall be decreased,
6 excluding the amount of deductions allowed for that tax year
7 to the nominal lessor in a safe harbor lease pursuant to the
8 United States Internal Revenue Code, Section 168(f)(8); for
9 each of the tax years ending in 1983 through 1985 by 6% of
10 the deductions allowed under the United States Internal Rev-
11 enue Code, Sections 167 and 168 for the taxpayer's tax year
12 ending in 1982; and is reduced by the amount of the tax pay-
13 able by the corporation or association for the taxable year
14 under chapter 817.

15 Sec. 33. 36 MRS.A §5206-A is enacted to read:

16 §5206-A. Depreciation option

17 For its taxable year ending in 1982, a corporation or
18 association subject to tax under section 5206, may elect, in
19 lieu of the accelerated cost recovery deduction provided by
20 the United States Internal Revenue Code, Section 168, and
21 the 18% add-back and 6% recovery of add-back provided by
22 section 5206, subsection 1, to depreciate property placed in
23 service during that taxable year in accordance with the
24 United States Internal Revenue Code, Section 167, in effect
25 on December 31, 1980, provided that this election is made
26 with regard to all such property and that the State Tax
27 Assessor may refuse to allow any such deduction if he deems
28 the information provided in substantiation of that deduction
29 to be unsatisfactory in relation to generally accepted ac-
30 counting procedures.

31 Further amend the Bill by renumbering the sections to
32 read consecutively.

33 FISCAL NOTE

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

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2 STATEMENT OF FACT

3 The purpose of this amendment is to provide additional
4 administrative corrections to Maine tax law. Specifically
5 this amendment:

6 1. Provides that the making of reports to the State
7 Tax Assessor by financial institutions as required by Title
8 36, section 3851 is permitted in Title 9-B, and that the
9 State Tax Assessor is permitted to examine financial records
10 under his general powers set forth in Title 36, section 112;

11 2. Removes the language requiring the State Tax Asses-
12 sor to determine the discount factor since the Legislature
13 now establishes the discount factor annually;

14 3. Clarifies the procedure used to limit reimburse-
15 ments under the tree growth tax law. Reimbursements cannot
16 exceed an amount determined by calculating the tree growth
17 tax loss less the municipal savings in educational costs
18 attributable to reduced state valuation;

19 4. Clarifies the intention of the Legislature in
20 enacting the exemption for rural community health centers
21 enacted in the First Regular Session of the 110th Legis-
22 lature;

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

27 6. Corrects an oversight in Public Law 1981, chapter
28 514 by including return and payment provisions for the tax
29 on certain workers' compensation premiums;

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

37 8. Provides for the taxation of nonresident stockhold-

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2 ers of a Subchapter V corporation operating in Maine. Cur-
3 rently, the corporation is not subject to Maine income tax,
4 and the stockholder, who reports his distributive share of
5 the income of the corporation as his own income for federal
6 purposes, is not subject to Maine income tax on the income
7 of the corporation, whether or not distributed to him. This
8 appears to be an oversight in the law; and

9 9. Provides conformity with the United States Internal
10 Revenue Code for the 1982 tax year except for safe harbor
11 leasing provisions and accelerated cost recovery system
12 depreciation provisions for corporations other than Subchap-
13 ter V corporations. For the 1982 tax year, corporations,
14 other than Subchapter V corporations, may elect either
15 depreciation procedures which were in effect before the Eco-
16 nomic Recovery Tax Act or the Accelerated Cost Recovery
17 provisions. If Accelerated Cost Recovery provisions are
18 elected, then 18% of the corporations' total depreciation
19 claimed for the 1982 tax year is added back to Maine taxable
20 income, and this amount is recovered in the following 3
21 years at 6% per year. Individuals, partnerships and Sub-
22 chapter V corporations are provided with full conformity to
23 the United States Internal Revenue Code for the 1982 tax
24 year.

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