

MAINE STATE LEGISLATURE

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1 (Governor's Bill)
2 FOURTH SPECIAL SESSION
3

4 ONE HUNDRED AND TENTH LEGISLATURE
5

6 **Legislative Document** **No. 2149**
7 H. P. 2406 House of Representatives, April 28, 1982
8 Filed pursuant to Joint Order H. P. 2398
Reported by Representative Post from the Committee on Taxation
and printed under Joint Rules No. 2
EDWIN H. PERT, Clerk

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10
11 **STATE OF MAINE**
12

13 IN THE YEAR OF OUR LORD
14 NINETEEN HUNDRED AND EIGHTY-TWO
15

16 **AN ACT Providing for Administrative Changes**
17 **in the Maine Tax Laws.**
18

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

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

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

25 **Sec. 2.** 36 MRSA c. 2, as enacted by PL 1981, c. 312,
26 is repealed.

27 **Sec. 3.** 36 MRSA §186, 4th sentence, as enacted by PL
28 1981, c. 180, §1, is repealed as follows:

29 ~~The interest rate so determined shall also be the interest~~
30 ~~rate for the state's payment of interest on overpayments.~~

1 **Sec. 4. 36 MRSA §186**, as last amended by PL 1981, c.
2 364, §14, is further amended by adding at the end a new
3 paragraph to read:

4 Except as otherwise provided in this Title, interest,
5 at the rate determined by the State Tax Assessor for under-
6 payments pursuant to this section, shall be paid from the
7 date of overpayment upon any overpayment of tax, interest or
8 penalty.

9 **Sec. 5. 36 MRSA §576-B**, first paragraph, 2nd sentence,
10 as amended by PL 1977, c. 694, §680, is repealed.

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12 as enacted by PL 1977, c. 549, §5, is repealed.

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14 enacted by PL 1981, c. 517, §11, is repealed and the follow-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

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

21 A. The tree growth tax loss is the adjusted tax that
22 would have been assessed, but for this subchapter, on
23 the classified forest lands if they were assessed ac-
24 ording to the undeveloped acreage valuations used in
25 the state valuation then in effect minus the tax that
26 was actually assessed on the same lands in accordance
27 with this subchapter.

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

38 B. The municipal savings in educational costs is
39 determined by multiplying the school subsidy index by
40 the change in state valuation attributable to the use
41 of the valuations determined in accordance with this
42 subchapter on classified forest lands rather than their

1 valuation using the undeveloped acreage valuations used
2 in the state valuation then in effect.

3 Sec. 8. 36 MRSA §578, sub-§2, as amended by PL 1973,
4 c. 308, §8, is further amended to read:

5 2. Unorganized territory. The State Tax Assessor
6 shall adjust the 100% valuation per acre for each type for
7 each county by such ratio or percentage as is then being
8 used to determine the state valuation applicable to other
9 property in the unorganized territory to obtain the assessed
10 values. Commencing April 1, 1973, forest land in the
11 unorganized territory subject to taxation under this sub-
12 chapter shall be taxed at the state same property tax rate
13 ~~provided in section 451,~~ as is applicable to other property
14 in the unorganized territory, which rate shall be applied to
15 the assessed values so determined. ~~If the April 1, 1973~~
16 ~~total assessed valuation of forest lands under this subchap-~~
17 ~~ter for the entire unorganized territory is more than 10%~~
18 ~~less than the April 1, 1972 total assessed valuation of such~~
19 ~~forest lands for the entire unorganized territory,~~ the State
20 Tax Assessor shall adjust the April 1, 1973 assessed values
21 of such forest lands proportionately back to a 10% aggregate
22 change. Upon collection by the State Tax Assessor, such
23 taxes shall be deposited in the General Fund Unorganized
24 Territory Education and Services Fund in accordance with
25 section 342 1605. ~~The assessed values so determined shall~~
26 ~~be used in the 1973 State Valuation of the Unorganized Ter-~~
27 ~~ritory.~~

28 Sec. 9. 36 MRSA §579, first sentence, as repealed and
29 replaced by PL 1979, c. 666, §16, is amended to read:

30 The owner or owners of forest land subject to valuation
31 under this subchapter shall submit a signed schedule in
32 duplicate, on or before April 1st of the year in which that
33 land first becomes subject to valuation under this subchap-
34 ter, to the assessor upon a form to be prescribed by the
35 State Tax Assessor, identifying the land to be valued here-
36 under, listing the number of acres of each forest type,
37 showing the location of each forest type and representing
38 that the land is used primarily for the growth of trees and
39 forest products to be harvested for commercial use.

40 Sec. 10. 36 MRSA §707, sub-§1 is repealed.

41 Sec. 11. 36 MRSA §892, first sentence, as amended by
42 PL 1977, c. 27, §7, is further amended to read:

1 Beginning with the first day of January, following the
2 date on which state taxes are levied, interest at $1\frac{1}{2}\%$ per
3 month or fraction thereof shall accrue on any unpaid bal-
4 ances that are then due.

5 Sec. 12. 36 MRSA §941, 6th ¶ is amended to read:

6 Any person interested in said the real estate may
7 redeem ~~the same~~ it at any time within one year after ~~the~~ its
8 sale thereof by the officer on ~~such~~ that execution by paying
9 the amount for which it was sold with interest at the rate
10 of 6% a year determined by the State Tax Assessor pursuant
11 to section 186.

12 Sec. 13. 36 MRSA §1281, 2nd sentence, as amended by PL
13 1977, c. 509, §30-A, is repealed and the following enacted
14 in its place:

15 Annually, on or before February 20th, the State Tax Assessor
16 shall send by mail to the last known address of each owner
17 of such real estate upon which taxes remain unpaid a notice
18 in writing, containing a description of the real estate
19 assessed, the amount of unpaid taxes and interest, and
20 alleging that a lien is claimed on that real estate for pay-
21 ment of those taxes, interests and costs, with a demand that
22 payment be made by the next March 1st.

23 Sec. 14. 36 MRSA §1281, 5th sentence, as amended by PL
24 1977, c. 509, §30-C, is repealed and the following enacted
25 in its place:

26 If those taxes and interest to date of payment and costs are
27 not paid by March 1st, the State Tax Assessor shall record
28 by March 15th, in the registry of deeds of the county or
29 registry district where the real estate lies, a certificate
30 signed by him, setting forth the name or names of the owners
31 according to the last state valuation, or the valuation
32 established in accordance with section 1331; the description
33 of the real estate assessed as contained in the last state
34 valuation, or the valuation established in accordance with
35 section 1331; the amount of unpaid taxes and interest; the
36 amount of costs; and a statement that demand for payment of
37 those taxes has been made, and that those taxes, interests
38 and costs remain unpaid.

39 Sec. 15. 36 MRSA §1283, 2nd ¶, 4th sentence, is
40 amended to read:

41 The State Tax Assessor shall biennially make a report annu-
42 ally to the Legislature not later than 15 days after such
43 Legislature it convenes.

1 Sec. 16. 36 MRSA §1286, as amended by PL 1967, c. 271,
2 §11, is further amended to read:

3 §1286. Limitation on recovery of tax sold real estate in
4 unorganized places

5 When the State has taxed real estate in unorganized
6 territory, and the ~~Treasurer of State~~ State Tax Assessor has
7 conveyed it, or part of it, for nonpayment of tax, by deed
8 purporting to convey the interest of the State by forfeiture
9 for such nonpayment, or it or a part of it has been conveyed
10 under authority given by the Legislature by a deed purport-
11 ing to convey the interest of the State acquired under sec-
12 tions 1281 to 1283, and the pertinent records of the ~~Treas-~~
13 ~~urer of State or the~~ State Tax Assessor show that the
14 grantee, his heirs or assigns, has paid the state and county
15 taxes thereon, or on his acres or interest therein, as
16 stated in the deed, continuously for the 20 years subsequent
17 to such deed; and when a person claims under a recorded deed
18 describing real estate in unorganized territory taxed by the
19 State, and the pertinent records of the ~~Treasurer of State~~
20 ~~or the~~ State Tax Assessor show that he has, by himself or by
21 his predecessors under ~~such that~~ deed, paid the state and
22 county taxes thereon, or on his acres or interest therein as
23 stated in the deed, continuously for 20 years subsequent to
24 recording ~~such that~~ deed; and whenever, in either case, it
25 appears that the person claiming under such a deed, and
26 those under whom he claims, have, during ~~such that~~ period,
27 held such exclusive, peaceable, continuous and adverse pos-
28 session thereof as comports with the ordinary management of
29 real estate in unorganized territory in this State, and it
30 further appears that during such period no former owner, or
31 person claiming under him, has paid any such tax, or any
32 assessment by the county commissioners, or done any other
33 act indicative of ownership, no action ~~shall~~ may be main-
34 tained by a former owner, or those claiming under him, to
35 recover such real estate or to avoid such deed, unless com-
36 menced within ~~said those~~ 20 years. ~~Such That~~ payment shall
37 give ~~such the~~ grantee or person claiming, his heirs or
38 assigns, a right of entry and seizin in the whole, or such
39 part, in common and undivided, of the whole tract as the
40 deed states, or as the number of acres in the deed is to the
41 number of acres assessed.

42 This section shall apply to rights and interests ac-
43 quired under tax sales made by the ~~Treasurer of State~~ State
44 Tax Assessor for the nonpayment of taxes.

45 Sec. 17. 36 MRSA §1331, first sentence, as repealed
46 and replaced by PL 1977, c. 509, §31, is amended to read:

1 Supplemental assessments may be made within 5 3 years
2 from the last assessment date whenever it is determined that
3 any estates in the unorganized territory liable to taxation
4 have been omitted from assessment or any tax on estates is
5 invalid or void by reason of illegality, error or irregu-
6 larity in assessment.

7 **Sec. 18. 36 MRSA §1481, sub-§5, first sentence, as**
8 **repealed and replaced by PL 1977, c. 564, §132, is repealed**
9 **and the following enacted in its place:**

10 "Vehicle" means a motor vehicle, mobile home, camper
11 trailer, heavier-than-air aircraft or lighter-than-air air-
12 craft.

13 **Sec. 19. 36 MRSA §1752, sub-§8 is repealed.**

14 **Sec. 20. 36 MRSA §1752, sub-§13 is amended to read:**

15 13. Sale. "Sale" means any transfer, exchange or bar-
16 ter, in any manner or by any means whatsoever, for a consid-
17 eration in the regular course of business and includes
18 leases and contracts payable by rental or license fees for
19 the right of possession and use, but only when such leases
20 and contracts are deemed by the State Tax Assessor to be in
21 lieu of purchase by the State Tax Assessor.

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

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

39 **Sec. 22. 36 MRSA §1811-A, as enacted by PL 1965, c.**
40 **196, §1, is amended to read:**

41 §1811-A. Credit for worthless accounts

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

10 Sec. 23. 36 MRSA c. 217, as amended, is repealed.

11 Sec. 24. 36 MRSA §1925, as enacted by PL 1977, c. 316,
12 §2, is repealed.

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

14 §2521-B. Self-insurers; return for calendar year 1982

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

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

25 Sec. 26. 36 MRSA §2970 is repealed.

26 Sec. 27. 36 MRSA §4067, as enacted by PL 1981, c.
27 451, §7, is repealed.

28 Sec. 28. 36 MRSA §4073, as enacted by PL 1981, c. 451,
29 §7, is repealed.

30 Sec. 29. 36 MRSA §4074, 3rd ¶, as enacted by PL 1981,
31 c. 451, §7, is repealed.

32 Sec. 30. 36 MRSA §4076, as enacted by PL 1981, c. 451,
33 §7, is repealed.

34 Sec. 31. 36 MRSA §4079, first sentence, as enacted by
35 PL 1981, c. 451, §7, is repealed.

36 Sec. 32. 36 MRSA c. 718 is enacted to read:

1 The costs of any election shall be paid out of tax
2 money received from the special tax imposed on the industry
3 for which the election is held.

4 Sec. 33. 36 MRSA §5122, sub-§1, ¶B, as amended by PL
5 1981, c. 463, Part C, §2, is further amended to read:

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

11 Sec. 34. 36 MRSA §5122, sub-§1, ¶C, as enacted by PL
12 1981, c. 463, Part C, §2, is amended to read:

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

18 Sec. 35. 36 MRSA §5122, sub-§1, ¶¶ D and E are enacted
19 to read:

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

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

28 Sec. 36. 36 MRSA §5127, sub-§3, ¶A, sub-¶(3), as
29 enacted by PL 1979, c. 577, §1, is repealed and the follow-
30 ing enacted in its place:

31 (3) "Wood furnace" means a wood burning appliance
32 designed to operate as part of a central heating
33 system. The furnace may burn wood solely or in
34 combination with another fuel. "Central heating
35 system" means a system whereby heat is produced in
36 a central combustion chamber and distributed by a
37 series of pipes, ducts or similar physical distri-
38 bution system throughout a building or group of
39 buildings. "Wood furnace" does not include a
40 "fireplace," meaning a hearth, fire chamber of
41 similarly prepared place with a chimney intended

1 to be useable in an open configuration whether or
2 not it can also be closed or operated closed; or a
3 "wood stove," meaning a wood burning appliance
4 designed primarily for space heating purposes.

5 **Sec. 37. 36 MRSA §5142, sub-§1, ¶A,** as enacted by P&SL
6 1969, c. 154, Section F, is amended to read:

7 A. The net amount of items of income, gain, loss, and
8 deduction entering into his federal adjusted gross
9 income which are derived from or connected with sources
10 in this State including (i) his distributive share of
11 partnership income and deductions determined under
12 section 5192 and, (ii) his share of estate or trust
13 income and deductions determined under section 5176,
14 and (iii) his distributive share of the income of an
15 electing small business corporation for federal income
16 tax purposes derived from or connected with sources
17 within this State; and

18 **Sec. 38. 36 MRSA §5142, sub-§5,** as enacted by P&SL
19 1969, c. 154, Section F, is repealed.

20 **Sec. 39. 36 MRSA §5200,** as last repealed and replaced
21 by PL 1977, c. 686, §12, is repealed and the following
22 enacted in its place:

23 §5200. Imposition and rate of tax

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

28 **Sec. 40. 36 MRSA c. 902,** as amended, is repealed.

29 FISCAL NOTE

30 It is estimated that enactment of section 23 of this
31 bill will affect the following funds:

	<u>Fiscal Year 1982-83</u>
32 General Fund	(\$5,700)
33 Local Government Fund	(\$300)

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STATEMENT OF FACT

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

Sections 2 and 32 relocate, to the special taxes portion of the tax laws, the requirement that certain industry taxes be imposed only upon referendum approval by the industry involved.

Sections 3 and 4 extend the payment of interest on overpaid taxes to all taxes imposed by Title 36.

Sections 5 and 6 remove language requiring the State Tax Assessor to determine the discount factor since the Legislature now establishes the discount factor annually.

Section 7 clarifies the procedure used to limit reimbursements under the tree growth tax law. Reimbursements cannot exceed an amount determined by calculating the tree growth tax loss less the municipal savings in educational costs attributable to reduced state valuation.

Section 8 deletes the obsolete language and conforms the sections to the repeal of the uniform property tax and enactment of the unorganized territory educational services tax.

Section 9 conforms the section to the definition of "forest land" to Title 36, section 573.

Section 10 repeals an obsolete provision.

Sections 11 and 12 conform interest rates to the standard interest rate provided by section 186.

Sections 13 and 14 provide for continuous accrual of interest on unpaid property taxes.

Section 15 provides for an annual, rather than a biennial, report to the Legislature regarding disposal of tax delinquent properties.

Section 16 repeals obsolete references to the Treasurer of State.

1 Section 17 conforms the time period for supplemental
2 assessment of unorganized territory property tax to the time
3 period used for organized municipalities.

4 Section 18 includes "camper trailer" in definition of
5 "vehicle" for excise tax purposes.

6 Section 19 repeals an obsolete definition.

7 Section 20 removes superfluous language which clouds
8 the distinction between "sale" and "retail sale" in the
9 sales tax law.

10 Section 21 clarifies the intention of the Legislature
11 in enacting the exemption for rural community health centers
12 enacted in the First Regular Session of the 110th Legis-
13 lature.

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

18 Sections 23 and 24 repeal provisions made unnecessary
19 by uniform administrative provisions.

20 Section 25 corrects an oversight in Public Law 1981,
21 chapter 514 by including return and payment provisions for
22 the tax on certain workers' compensation premiums.

23 Sections 26, 27 and 28 repeal provisions made unnec-
24 essary by uniform administrative provisions.

25 Section 29 repeals an unnecessary provision.

26 Sections 30 and 31 repeal provisions made unnecessary
27 by uniform administrative provisions.

28 Sections 33, 34 and 35 clarify the statutory procedure
29 for the treatment of negative federal adjusted gross income,
30 or taxable income for corporations, carrybacks and
31 carryovers. They essentially reaffirm current state proce-
32 dures and insure that a deduction taken in a loss year can-
33 not be carried forward. The State of Illinois is involved
34 in litigation which has illustrated the need for clear law
35 in this area.

36 Section 36 clarifies the definition of "wood furnace"
37 for the purposes of an energy credit.

1 Sections 37 and 38 provide for the taxation of nonresi-
2 dent stockholders of a Subchapter S corporation operating in
3 Maine. Currently, the corporation is not subject to Maine
4 income tax, and the stockholder, who reports his distribu-
5 tive share of the income of the corporation as his own
6 income for federal purposes, is not subject to Maine income
7 tax on the income of the corporation, whether or not dis-
8 tributed to him. This appears to be an oversight in the
9 law.

10 Section 39 removes an unnecessary reference to an
11 effective date and states the corporate tax rate in clearer
12 fashion.

13 Section 40 repeals the obsolete Homestead Tax Relief
14 Act.

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