

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2025

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Legislative Document

No. 223

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H.P. 146

House of Representatives, January 21, 2025

### An Act to Amend the Mining Excise Tax Laws

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Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Received by the Clerk of the House on January 16, 2025. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

Presented by Representative CLOUTIER of Lewiston.

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

2 **Sec. 1. 1 MRSA c. 31**, as amended, is repealed.

3 **Sec. 2. 14 MRSA §6662, sub-§1, ¶C**, as enacted by PL 1983, c. 189, is amended  
4 by amending subparagraph (2) to read:

5 (2) Payment of ~~any the~~ excise tax under Title 36, ~~sections 2851 to 2865~~ section  
6 2856;

7 **Sec. 3. 36 MRSA §271, sub-§2, ¶A**, as amended by PL 2019, c. 401, Pt. A, §4, is  
8 further amended by repealing subparagraph (6).

9 **Sec. 4. 36 MRSA §271, sub-§10, ¶A**, as enacted by PL 2009, c. 571, Pt. WWW,  
10 §7, is amended to read:

11 A. The filing fee for a petition for an appeal of current use valuation under the tree  
12 growth tax law, chapter 105, subchapter 2-A, the farm and open space tax law, chapter  
13 105, subchapter 10, or the working waterfront land law, chapter 105, subchapter 10-A  
14 or a petition for an appeal relating to section 2865 is \$75.

15 **Sec. 5. 36 MRSA §603, sub-§10**, as amended by PL 1983, c. 776, §2, is further  
16 amended to read:

17 **10. Tax situs.** The tax situs of tangible personal property ~~shall be~~ is at the ~~mine~~ mining  
18 site if that property is:

19 A. Owned, leased or otherwise subject to possessory control of a mining company;  
20 and

21 B. On route to or from, being transported to or from or destined to or from a ~~mine~~  
22 mining site.

23 Except as otherwise provided in this subsection, the tax situs of tangible personal property  
24 leased to a mining company ~~shall be~~ is in the place where the property is situated.

25 For the purposes of this subsection, the definitions of section 2855 ~~shall~~ apply.

26 **Sec. 6. 36 MRSA §655, sub-§1, ¶S**, as amended by PL 2019, c. 440, §1, is repealed.

27 **Sec. 7. 36 MRSA §655, sub-§1, ¶S-1** is enacted to read:

28 S-1. Unextracted minerals. For purposes of this paragraph, "minerals" has the same  
29 meaning as in section 2855, subsection 9;

30 **Sec. 8. 36 MRSA §656, sub-§1, ¶I**, as enacted by PL 1983, c. 555, §3, is repealed.

31 **Sec. 9. 36 MRSA §656, sub-§1, ¶I-1** is enacted to read:

32 I-1. Unextracted minerals. For purposes of this paragraph, "minerals" has the same  
33 meaning as in section 2855, subsection 9.

34 **Sec. 10. 36 MRSA §2013, sub-§1, ¶B-2** is enacted to read:

35 B-2. "Commercial mining" means the commercial extraction or removal of metallic  
36 minerals or overburden or the preparation, washing, cleaning or other treatment of  
37 metallic minerals and includes the bulk sampling, advanced exploration, extraction or  
38 beneficiation of metallic minerals within a mining area.

1           "Commercial mining" does not include:

2           (1) Exploration;

3           (2) The physical extraction, crushing, grinding, storage or heating of calcium  
4           carbonate or limestone to produce cement;

5           (3) The exploration for or physical extraction, crushing, grinding, sorting or  
6           storage of borrow, topsoil, clay or silt; or

7           (4) The exploration for or physical extraction, crushing, grinding, sorting or  
8           storage of gemstones, aggregate, dimension stone or other construction materials  
9           from a quarry.

10          As used in this paragraph, "advanced exploration," "beneficiation," "cement,"  
11          "exploration," "metallic mineral" and "mining area" have the same meanings as in Title  
12          38, section 490-MM.

13          **Sec. 11. 36 MRSA §2013, sub-§1, ¶C**, as amended by PL 2019, c. 7, §2, is further  
14          amended to read:

15          C. "Depreciable machinery and equipment" means, except as otherwise provided by  
16          this paragraph, that part of the following machinery and equipment for which  
17          depreciation is allowable under the Code and repair parts for that machinery and  
18          equipment:

19           (1) New or used machinery and equipment for use directly and primarily in  
20           commercial agricultural production, including self-propelled vehicles; attachments  
21           and equipment for the production of field and orchard crops; new or used  
22           machinery and equipment for use directly and primarily in production of milk,  
23           maple syrup or honey, animal husbandry and production of livestock, including  
24           poultry; new or used machinery and equipment used in the removal and storage of  
25           manure; and new or used machinery and equipment not used directly and primarily  
26           in commercial agricultural production, but used to transport potatoes from a truck  
27           into a storage location;

28           (2) New or used watercraft, nets, traps, cables, tackle and related equipment  
29           necessary to and used directly and primarily in commercial fishing;

30           (3) New or used watercraft, machinery or equipment used directly and primarily  
31           for commercial aquacultural production, including, but not limited to: nets; ropes;  
32           cables; anchors and anchor weights; shackles and other hardware; buoys; fish  
33           tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating  
34           systems; boilers and related pumping systems; diving equipment; feeders and  
35           related equipment; power-generating equipment; tank water-level sensors;  
36           aboveground piping; water-oxygenating systems; fish-grading equipment; safety  
37           equipment; and sea cage systems, including walkways and frames, lights, netting,  
38           buoys, shackles, ropes, cables, anchors and anchor weights; ~~and~~

39           (4) New or used machinery and equipment for use directly and primarily in  
40           commercial wood harvesting, including, but not limited to, chain saws, skidders,  
41           delimbers, forwarders, slashers, feller bunchers and wood chippers; and

42           (5) New or used machinery and equipment for use directly and primarily in  
43           commercial mining.

1 "Depreciable machinery and equipment" does not include a motor vehicle as defined  
2 in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

3 **Sec. 12. 36 MRSA §2013, sub-§2**, as amended by PL 2015, c. 481, Pt. B, §1 and  
4 affected by §2, is further amended to read:

5 **2. Refund authorized.** Any person, association of persons, firm or corporation that  
6 purchases electricity or fuel, or that purchases or leases depreciable machinery or  
7 equipment, for use in commercial agricultural production, commercial fishing, commercial  
8 aquacultural production ~~or~~, commercial wood harvesting or commercial mining must be  
9 refunded the amount of sales tax paid upon presenting to the State Tax Assessor evidence  
10 that the purchase is eligible for refund under this section.

11 Evidence required by the assessor may include a copy or copies of that portion of the  
12 purchaser's or lessee's most recent filing under the ~~United States Internal Revenue~~ Code  
13 that indicates that the purchaser or lessee is engaged in commercial agricultural production,  
14 commercial fishing, commercial aquacultural production ~~or~~, commercial wood harvesting  
15 or commercial mining and that the purchased machinery or equipment is depreciable for  
16 those purposes or would be depreciable for those purposes if owned by the lessee.

17 In the event that any piece of machinery or equipment is only partially depreciable under  
18 the ~~United States Internal Revenue~~ Code, any reimbursement of the sales tax must be  
19 prorated accordingly. In the event that electricity or fuel is used in qualifying and  
20 nonqualifying activities, any reimbursement of the sales tax must be prorated accordingly.

21 Application for refunds must be filed with the assessor within 36 months of the date of  
22 purchase or execution of the lease.

23 **Sec. 13. 36 MRSA §2013, sub-§3**, as amended by PL 2015, c. 481, Pt. B, §1 and  
24 affected by §2, is further amended to read:

25 **3. Purchases made free of tax with certificate.** Sales tax need not be paid on the  
26 purchase of electricity, fuel or a single item of machinery or equipment if the purchaser has  
27 obtained a certificate from the assessor stating that the purchaser is engaged in commercial  
28 agricultural production, commercial fishing, commercial aquacultural production ~~or~~,  
29 commercial wood harvesting or commercial mining and authorizing the purchaser to  
30 purchase electricity, fuel or depreciable machinery and equipment without paying Maine  
31 sales tax. The seller is required to obtain a copy of the certificate together with an affidavit  
32 as prescribed by the assessor, to be maintained in the seller's records, attesting to the  
33 qualification of the purchase for exemption pursuant to this section. In order to qualify for  
34 this exemption, the electricity, fuel or depreciable machinery or equipment must be used  
35 directly in commercial agricultural production, commercial fishing, commercial  
36 aquacultural production ~~or~~, commercial wood harvesting or commercial mining. In order  
37 to qualify for this exemption, the electricity or fuel must be used in qualifying activities,  
38 including support operations.

39 **Sec. 14. 36 MRSA §2854**, as enacted by PL 1981, c. 711, §10, is repealed and the  
40 following enacted in its place:

41 **§2854. Annual excise tax**

42 An annual excise tax is imposed on a mining company for the privilege of conducting  
43 mining in the State and is in addition to any other tax imposed by this Title.

1           **Sec. 15. 36 MRSA §2855, sub-§2**, as enacted by PL 1981, c. 711, §10, is repealed.

2           **Sec. 16. 36 MRSA §2855, sub-§3**, as enacted by PL 1981, c. 711, §10, is repealed.

3           **Sec. 17. 36 MRSA §2855, sub-§4**, as enacted by PL 1981, c. 711, §10, is repealed.

4           **Sec. 18. 36 MRSA §2855, sub-§5**, as enacted by PL 1981, c. 711, §10, is amended  
5 to read:

6           **5. Gross proceeds.** "Gross proceeds" means a mining company's federal gross income  
7 from ~~mining with respect to a mine site property~~, as defined in Section ~~613~~ 613(c)(1) of the  
8 ~~code~~ Code with respect to mining, in the State.

9           **Sec. 19. 36 MRSA §2855, sub-§6**, as enacted by PL 1981, c. 711, §10, is repealed.

10          **Sec. 20. 36 MRSA §2855, sub-§7**, as enacted by PL 1981, c. 711, §10, is repealed.

11          **Sec. 21. 36 MRSA §2855, sub-§8**, as amended by PL 1983, c. 776, §4, is repealed.

12          **Sec. 22. 36 MRSA §2855, sub-§9**, as enacted by PL 1981, c. 711, §10, is amended  
13 to read:

14          **9. Minerals.** "Minerals" means all ~~naturally occurring~~ naturally occurring metallic  
15 minerals as defined in Title 38, section 490-MM, subsection 8.

16          **Sec. 23. 36 MRSA §2855, sub-§10**, as enacted by PL 1981, c. 711, §10, is repealed  
17 and the following enacted in its place:

18          **10. Mining.** "Mining" has the same meaning as in Title 38, section 490-MM,  
19 subsection 11, except that activity described in Title 38, section 490-MM, subsection 11,  
20 paragraph D is mining regardless of any exclusion by the Department of Environmental  
21 Protection pursuant to Title 38, section 490-NN, subsection 4.

22          **Sec. 24. 36 MRSA §2855, sub-§12**, as amended by PL 1983, c. 776, §5, is repealed.

23          **Sec. 25. 36 MRSA §2855, sub-§13**, as enacted by PL 1981, c. 711, §10, is repealed.

24          **Sec. 26. 36 MRSA §2855, sub-§14**, as amended by PL 1993, c. 395, §18, is  
25 repealed.

26          **Sec. 27. 36 MRSA §2855, sub-§15**, as enacted by PL 1981, c. 711, §10, is repealed  
27 and the following enacted in its place:

28          **15. Tax year.** "Tax year" means an accounting period that is the same as the taxpayer's  
29 taxable year for federal income tax purposes.

30          **Sec. 28. 36 MRSA §2855, sub-§16**, as enacted by PL 1981, c. 711, §10, is repealed.

31          **Sec. 29. 36 MRSA §2855, sub-§17**, as enacted by PL 1981, c. 711, §10, is repealed.

32          **Sec. 30. 36 MRSA §2856**, as corrected by RR 2013, c. 2, §45, is repealed and the  
33 following enacted in its place:

34          **§2856. Amount of annual excise tax**

35          The amount of the annual excise tax on a mining company is the mining company's  
36 gross proceeds multiplied by 0.05.

37          **Sec. 31. 36 MRSA §2857**, as enacted by PL 1981, c. 711, §10, is amended to read:

1           **§2857. Returns**

2           **1. Annual return.** A mining company shall file, on or before the date the mining  
3 company's state income tax return is due to be filed, an annual return on a form specified  
4 by the State Tax Assessor for each tax year.

5           **2. Form and contents.** The return shall must indicate:

6           A. The tax due;

7           B. The estimated tax payments made; and

8           C. ~~Credits provided under section 2858; and~~

9           D. Information relating to ~~the value of facilities and equipment, gross proceeds, net~~  
10 ~~proceeds~~ or other relevant information as the State Tax Assessor may ~~by rule~~ require.

11           **3. Payments.** A mining company shall pay the tax due, less estimated tax payments  
12 ~~and credits~~, at the time its annual return is due without extensions.

13           **4. Extensions.** The State Tax Assessor may grant a reasonable extension of time for  
14 filing a return, declaration, statement or other document or payment of tax or estimated tax  
15 required by this chapter on such terms and conditions as ~~he~~ the assessor may require. ~~The~~  
16 An extension for filing a return, declaration, statement or other document under this chapter  
17 may not exceed 8 months, except that, when the mining company is granted an extension  
18 of time within which to file a federal income tax return for the tax year, an extension to file  
19 the mining company's return with respect to the tax imposed by this chapter is automatically  
20 granted for an equivalent period from the date prescribed for filing the return under this  
21 chapter plus 30 days. If an extension of time is granted for payment of an amount of tax  
22 under this chapter, the assessor may require the taxpayer to furnish a bond or other security  
23 in an amount not exceeding twice the amount for which the extension of time for payment  
24 is granted, on terms and conditions the assessor may require.

25           **5. Computation.** In computing a mining company's tax, gross proceeds ~~and net~~  
26 ~~proceeds~~ shall must be computed as if each ~~mine-site~~ mining property were a separate  
27 taxpayer. To the extent the mining property is located both in this State and in one or more  
28 other states or Canadian provinces, the gross proceeds must be allocated or apportioned in  
29 a reasonable manner between the proceeds derived from minerals mined in this State and  
30 the proceeds derived from minerals mined in the other jurisdictions. The State Tax Assessor  
31 may distribute, apportion or allocate on a reasonable basis gross proceeds, deductions,  
32 credits or allowances between or among mining companies or ~~mine-sites~~ mining properties,  
33 if such distribution, apportionment or allocation is necessary to prevent evasion of taxes  
34 imposed by this chapter, or to reasonably reflect ~~clearly~~ the gross ~~or net~~ proceeds of any  
35 mining company ~~or mine-site~~ from mining activity in the State. For purposes of this  
36 paragraph, "mining property" has the same meaning as "property" as defined in Section  
37 614 of the Code.

38           **6. Requirement to file amended returns.** The requirement to file an amended return  
39 is governed by this subsection.

40           A. A taxpayer shall file an amended Maine return as required by this subsection when  
41 the taxpayer files an amended federal return affecting the taxpayer's liability under this  
42 chapter, the Internal Revenue Service changes or corrects any item affecting the

1 taxpayer's liability under this chapter or for any reason there is a change or correction  
2 affecting the taxpayer's liability under this chapter.

3 B. The amended Maine return required pursuant to paragraph A must be filed within  
4 180 days from the final determination date of the change or correction or the filing of  
5 the federal amended return. For purposes of this paragraph, "final determination date"  
6 means, when the taxpayer files an amended federal return affecting the taxpayer's  
7 liability under this chapter, the date on which the earliest of the following events occurs  
8 with respect to a taxable year for federal income tax purposes:

9 (1) The taxpayer has made payment of an additional income tax liability resulting  
10 from a federal audit, the taxpayer has not filed a petition for redetermination or  
11 claim for refund for the portions of the audit for which payment was made and the  
12 time for filing a petition for redetermination or refund claim has expired;

13 (2) The taxpayer receives a refund from the United States Treasury that resulted  
14 from a federal audit;

15 (3) The taxpayer signs Form 870-AD or another Internal Revenue Service form  
16 consenting to a deficiency or accepting an overassessment;

17 (4) The taxpayer's time for filing a petition for redetermination with the United  
18 States Tax Court expires;

19 (5) The taxpayer and the Internal Revenue Service enter into a closing agreement;

20 (6) A decision from the United States Tax Court, a United States District Court, a  
21 federal court of appeals, the United States Court of Federal Claims or the United  
22 States Supreme Court becomes final; and

23 (7) The taxpayer files an amended return or similar report pursuant to the Code,  
24 Section 6225(c).

25 C. The amended Maine return filed pursuant to this subsection must indicate the  
26 change or correction and the reason for that change or correction. The amended return  
27 constitutes an admission as to the correctness of the change unless the taxpayer includes  
28 with the return a written explanation of the reason the change or correction is erroneous.  
29 If the taxpayer files an amended federal income tax return, a copy of the amended  
30 federal income tax return must be attached to the amended return under this chapter.

31 D. The assessor may require additional information to be filed with the amended Maine  
32 return filed pursuant to this subsection. The assessor may prescribe exceptions to the  
33 requirements of this subsection.

34 **Sec. 32. 36 MRSA §2857-A** is enacted to read:

35 **§2857-A. Accounting periods and methods of accounting**

36 **1. Accounting periods.** The determination of a tax year is subject to the following.

37 A. If a taxpayer's tax year is changed for federal income tax purposes, the taxpayer's  
38 tax year for purposes of the tax imposed by this chapter must be similarly changed.

39 B. Notwithstanding paragraph A and section 2855, subsection 15, if the assessor makes  
40 a determination of jeopardy and terminates the taxpayer's reporting period under  
41 section 145, the tax must be computed for the period determined by that action.



1           **2. Method of accounting.** The method of accounting used by a taxpayer is subject to  
2 this subsection.

3           A. For purposes of the tax imposed by this chapter, a taxpayer's method of accounting  
4 must be the same as the taxpayer's method of accounting for federal income tax  
5 purposes. If a method of accounting has not been regularly used by the taxpayer, gross  
6 income from mining for purposes of this chapter must be computed under a method  
7 that in the opinion of the assessor fairly reflects gross proceeds.

8           B. If a taxpayer's method of accounting is changed for federal income tax purposes, the  
9 taxpayer's method of accounting for purposes of this chapter must be similarly  
10 changed.

11           C. In computing a taxpayer's gross proceeds for any tax year under a method of  
12 accounting different from the method under which the taxpayer's gross proceeds for  
13 the previous year were computed, there must be taken into account those adjustments  
14 that are determined to be necessary solely by reason of the change in order to prevent  
15 amounts from being duplicated or omitted.

16           **Sec. 33. 36 MRSA §2858**, as amended by PL 1987, c. 772, §26, is repealed.

17           **Sec. 34. 36 MRSA §2859**, as repealed and replaced by PL 1985, c. 691, §§27 and  
18 48, is repealed and the following enacted in its place:

19           **§2859. Estimated tax requirements**

20           **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
21 following terms have the following meanings.

22           A. "Allowable credits" means the total amount of payments by a taxpayer that have  
23 been or will be paid to the bureau prior to the date the payment against which they are  
24 to be used as a credit is due and that are available to offset any tax liability estimated  
25 under this chapter.

26           B. "Estimated tax" means the total amount of tax that a person estimates will be due  
27 for a tax year under this chapter, after subtracting allowable credits for that tax year.

28           C. "Period of underpayment" means the period of time from the date an estimated tax  
29 installment is due until the underpayment is satisfied or until the tax return to which  
30 the estimated tax installment applies is due, whichever is less.

31           **2. Requirement to pay estimated tax.** A person subject to taxation under this chapter  
32 shall make payment of estimated tax as required by this chapter. The requirement to make  
33 estimated tax payments is waived if:

34           A. The person's tax liability pursuant to this chapter reduced by allowable credits for  
35 the tax year is less than \$1,000 for the tax year; or

36           B. The person had less than \$1,000 tax liability under this chapter for the immediately  
37 preceding tax year.

38           **3. Amount of estimated tax to be paid.** A person required to make payment of  
39 estimated tax under this chapter is liable for an estimated tax that is no less than the lesser  
40 of:

1           A. An amount equal to the person's tax liability under this chapter for the immediately  
2           preceding tax year, if that preceding year was a tax year of 12 months; and

3           B. An amount equal to 90% of the person's tax liability under this chapter for the  
4           current tax year.

5           **4. Amount of installment.** The amount of estimated tax to be paid in a tax year by a  
6           taxpayer is to be paid in installments by the dates established in this section. The amount  
7           of the estimated tax is to be paid in 4 equal installments unless the taxpayer establishes by  
8           adequate record the actual distribution of tax liability and allowable credits, or both, in  
9           which case the amount of the installment payments must be adjusted accordingly and be  
10           determined in accordance with the portion of the taxpayer's estimated tax liability  
11           applicable to that portion of the taxpayer's tax year, completed by the close of the month  
12           preceding the installment's due date, less estimated tax payments already made for the tax  
13           year.

14           **5. Due dates for estimated tax installments.** An estimated tax installment payment  
15           calculated pursuant to subsection 4 is due the 15th day of the 4th, 6th, 9th and 13th month  
16           following the beginning of the taxpayer's tax year.

17           **6. Penalty.** A penalty accrues automatically on underpayments of the required  
18           installment amount pursuant to subsection 4 for the period of underpayment at the interest  
19           rate provided pursuant to section 186. For cause, the assessor may waive or abate all or any  
20           part of the penalty.

21           **7. Short taxable year.** For a tax year of less than 12 months, the estimated tax must  
22           be paid in full by the 15th day of the last month of the tax year. For payment dates falling  
23           within the short taxable year, payment must be made as provided in subsection 5.

24           **8. Installments paid in advance.** At the taxpayer's election, an installment of  
25           estimated tax required pursuant to subsection 4 may be paid prior to the date prescribed for  
26           its payment.

27           **Sec. 35. 36 MRSA §2861,** as amended by PL 2011, c. 653, §4 and affected by §33  
28           and amended by c. 682, §38, is repealed.

29           **Sec. 36. 36 MRSA §2862,** as amended by PL 2011, c. 653, §5 and affected by §33,  
30           is repealed.

31           **Sec. 37. 36 MRSA §2862-A** is enacted to read:

32           **§2862-A. Distribution of revenues**

33           Revenue from the excise tax imposed pursuant to this chapter must be distributed as  
34           follows:

35           **1. Land for Maine's Future Trust Fund.** Seventy-five percent of the revenue must  
36           be deposited in the Land for Maine's Future Trust Fund established in Title 5, section  
37           6203-D; and

38           **2. General Fund.** Twenty-five percent of the revenue must be deposited in the  
39           General Fund.

40           **Sec. 38. 36 MRSA §2863,** as amended by PL 2017, c. 211, Pt. E, §7, is repealed.

41           **Sec. 39. 36 MRSA §2865,** as amended by PL 2007, c. 627, §76, is repealed.

