

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1260

H.P. 835

House of Representatives, March 25, 2025

An Act to Revise the Tax Laws Regarding the Mi'kmaq Nation

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative RANA of Bangor.

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

2 **PART A**

3 **Sec. A-1. Legislative findings and purpose.** The Legislature finds and declares
4 that the changes to the State's tax laws that appear in Parts B to F of this Act will:

5 1. Improve the economic opportunities available to and the welfare of the Mi'kmaq
6 Nation and its members;

7 2. Encourage economic development within the lands of the Mi'kmaq Nation, the
8 benefits of which will accrue not only to the nation and its members but also to surrounding
9 communities and the State; and

10 3. Clarify and simplify the application of the State's tax laws to the Mi'kmaq Nation
11 as well as to its lands and members, in order to reduce the costs of tax compliance to the
12 nation and its members and to reduce the cost to the State of administering its tax laws.

13 **PART B**

14 **Sec. B-1. 36 MRSA §111, sub-§1-F** is enacted to read:

15 **1-F. Mi'kmaq Nation.** "Mi'kmaq Nation" means the sole successor to the Mi'kmaq
16 Nation as constituted in aboriginal times in what is now the State, and all its predecessors
17 and successors in interest. The Mi'kmaq Nation is represented, as of the date of enactment
18 of this subsection, as to lands within the United States by the Mi'kmaq Tribal Council. This
19 definition has the same meaning as under Section 3(1) of the federal Aroostook Band of
20 Micmacs Settlement Act (1991).

21 **Sec. B-2. 36 MRSA §111, sub-§1-G** is enacted to read:

22 **1-G. Mi'kmaq Nation Trust Land.** "Mi'kmaq Nation Trust Land" means land or
23 natural resources acquired by the United States Secretary of the Interior in trust for the
24 Mi'kmaq Nation pursuant to federal legislation concerning the Mi'kmaq Nation and has the
25 same meaning as under Section 3(3) of the federal Aroostook Band of Micmacs Settlement
26 Act (1991).

27 **Sec. B-3. 36 MRSA §111, sub-§8,** as enacted by PL 2021, c. 681, Pt. C, §7, is
28 amended to read:

29 **8. Tribal entity.** "Tribal entity" means a business entity:

30 A. Wholly owned by the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the
31 Passamaquoddy Tribe, the Penobscot Nation, a tribal member or tribal members or
32 some combination thereof. For purposes of determining ownership of an entity, a
33 married couple including at least one tribal member is treated as one tribal member,
34 regardless of which spouse owns the entity; or

35 B. ~~Where~~ When 75% of the ownership interests are held in aggregate by the Houlton
36 Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the
37 Penobscot Nation and the entity is controlled and managed by the Houlton Band of
38 Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot
39 Nation, consistent with the requirements of 13 Code of Federal Regulations, Section
40 124.109(c)(4); as determined by the federal Small Business Administration or the
41 assessor as consistent with 13 Code of Federal Regulations, Section

1 124.109(c)(4)(i)(A); or as determined by the federal Small Business Administration as
2 consistent with 13 Code of Federal Regulations, Section 124.109(c)(4)(i)(B).

3 A tribal entity must be a separate and distinct legal entity organized or chartered by federal,
4 state or tribal authorities.

5 **Sec. B-4. 36 MRSA §111, sub-§9**, as enacted by PL 2021, c. 681, Pt. C, §8, is
6 amended to read:

7 **9. Tribal land.** "Tribal land" means land within the Houlton Band Trust Land, the
8 Mi'kmaq Nation Trust Land, the Passamaquoddy Indian territory or the Penobscot Indian
9 territory.

10 **Sec. B-5. 36 MRSA §111, sub-§10**, as enacted by PL 2021, c. 681, Pt. C, §9, is
11 amended to read:

12 **10. Tribal member.** "Tribal member" means an enrolled member of the Houlton
13 Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot
14 Nation.

15 **Sec. B-6. 36 MRSA §194-E**, as enacted by PL 2021, c. 681, Pt. C, §10, is amended
16 to read:

17 **§194-E. Tribes deemed as acting in a governmental capacity**

18 For purposes of Parts 3 and 8 of this Title, the Passamaquoddy Tribe and the Penobscot
19 Nation are deemed to act in a governmental capacity as described in Title 30, section 6208,
20 subsection 3 and not in a business capacity. For purposes of Parts 3 and 8 of this Title, the
21 Houlton Band of Maliseet Indians is and the Mi'kmaq Nation are deemed to act in a
22 governmental capacity and not in a business capacity.

23 **Sec. B-7. Application.** For the purposes of the Maine Revised Statutes, Title 36,
24 Part 3, this Part applies to sales occurring on or after January 1, 2026. For purposes of Title
25 36, Part 8, this Part applies to tax years beginning on or after January 1, 2026.

26 **PART C**

27 **Sec. C-1. 36 MRSA §1760, sub-§112**, as enacted by PL 2021, c. 681, Pt. D, §1, is
28 amended to read:

29 **112. Tribes.** Sales to the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the
30 Passamaquoddy Tribe or the Penobscot Nation. For purposes of section 1760-C, sales to
31 the tribes identified in this subsection for any purpose are exempt.

32 **Sec. C-2. Application.** This Part applies to sales occurring on or after January 1,
33 2026.

34 **PART D**

35 **Sec. D-1. 36 MRSA §191, sub-§2, ¶QQQ**, as enacted by PL 2021, c. 681, Pt. E,
36 §1, is amended to read:

37 QQQ. The disclosure of information to the Houlton Band of Maliseet Indians, the
38 Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot Nation necessary for the
39 administration of sales tax revenue transfers under section 1815.

40 **Sec. D-2. 36 MRSA §1815, sub-§1-C** is enacted to read:

1-C. Mi'kmaq Sales Tax Fund. The Mi'kmaq Sales Tax Fund, referred to in this section as "the Mi'kmaq fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Mi'kmaq Nation pursuant to subsections 2 and 3.

Sec. D-3. 36 MRSA §1815, sub-§2, as amended by PL 2021, c. 681, Pt. E, §2, is further amended to read:

2. Monthly transfer. By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under this chapter in the previous month on sales occurring on the Passamaquoddy Indian territory, the Penobscot Indian territory ~~and~~, the Houlton Band Trust Land and the Mi'kmaq Nation Trust Land, respectively, reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681. When notified by the assessor, the State Controller shall transfer those amounts to the Passamaquoddy fund, the Penobscot fund ~~and~~, the Maliseet fund and the Mi'kmaq fund, respectively.

For purposes of this subsection, a sale occurs on the Passamaquoddy Indian territory, the Penobscot Indian territory or, the Houlton Band Trust Land or the Mi'kmaq Nation Trust Land if:

A. The business location of the seller from which the purchase is made is on Passamaquoddy Indian territory, Penobscot Indian territory or Houlton Band Trust Land or Mi'kmaq Nation Trust Land, respectively; and

B. The tangible personal property or taxable service is received by the purchaser also on Passamaquoddy Indian territory, Penobscot Indian territory or Houlton Band Trust Land or Mi'kmaq Nation Trust Land, respectively. For purposes of this paragraph, "received" has the same meaning as in section 1819.

Sec. D-4. 36 MRSA §1815, sub-§3, as amended by PL 2021, c. 681, Pt. E, §2, is further amended to read:

3. Monthly payment. By the end of each month, the Treasurer of State shall make payments to the Passamaquoddy Tribe from the Passamaquoddy fund, to the Penobscot Nation from the Penobscot fund ~~and, to the Houlton Band of Maliseet Indians from the Maliseet fund and to the Mi'kmaq Nation from the Mi'kmaq fund~~ equal to the amounts transferred into the respective fund.

Sec. D-5. Application. This Part applies to sales occurring on or after January 1, 2026.

PART E

Sec. E-1. 36 MRSA §5102, sub-§6, as amended by PL 2021, c. 681, Pt. G, §2, is further amended by amending the last paragraph to read:

"Corporation" does not include the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or a corporation organized by the Passamaquoddy Tribe, the Penobscot Nation ~~or~~, the Houlton Band of Maliseet Indians or the Mi'kmaq Nation under Section 17 of the federal Indian Reorganization Act, 25 United States Code, Section 5124.

Sec. E-2. Application. This Part applies to tax years beginning on or after January 1, 2026.

PART F

Sec. F-1. Rulemaking. The Department of Administrative and Financial Services, Bureau of Revenue Services may adopt rules to implement Parts A, B, C, D and E. Rules adopted under this section may include, but are not limited to, rules specifying reporting requirements and the maintenance by the Mi'kmaq Nation and provision to the bureau of lists of the tribe's tribal land, tribal members, tribal entities and corporations organized under 25 United States Code, Section 5124. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill establishes tax treatment for the Mi'kmaq Nation that is equal to the treatment of other tribal entities by the State as provided in Public Law 2021, chapter 681.