

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS
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is vested with the power to raise money at its annual meeting, or at any legal meeting called for that purpose, and to apply for and accept grants of federal or state aid or both, for the purchase or lease of lands, water power, dams, manufactures and works for providing and supplying electricity; for the purchase of apparatus necessary for equipping and properly maintaining an electric power generating facility; for the proper operation, upkeep and maintenance of such a facility; and for the acquisition, lease, purchase, equipping, repairing, owning, operating and maintaining ferries or boats.

Sec. 6. P & SL 1975, c. 25, § 3-A is enacted to read:

Sec. 3-A. The municipal officers are authorized to fix by regulation, to revise from time to time and to collect fares, rates or other charges for the use of the ferries or boats.

Sec. 7. P & SL 1975, c. 25, § 4, first sentence is amended to read:

The plantation is also authorized to issue general obligation bonds, not to exceed the general law, to pay the cost of the acquisition, construction, reconstruction, improvement, extension and enlargement of, and equipment for, the electric power generating facility or the ferries or boats.

Sec. 8. P & SL 1975, c. 25, § 5 is amended to read:

Sec. 5. The plantation is also authorized, after it has issued general obligation bonds for the electric power generating facility or the ferries or boats, to raise by taxation and appropriate a sum not to exceed 50% of the cost of the principal and interest payments on the general obligation bonds in any year and 50% of the current operating costs for that year.

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

Effective July 7, 1977

CHAPTER 477

AN ACT Concerning the Administration of Laws by the Bureau of Taxation.

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

Sec. 1. 36 MRSA § 6 is enacted to read:

§ 6. Payments; refund or abatement

A taxpayer may pay any tax, make any deposit or file any bond, at any time, without forfeiting any right to apply for a refund or an abatement, or to seek review of the validity of the tax. No such tax, bond or deposit need be

paid, filed or made under protest or under duress, to entitle the taxpayer to apply for a refund or an abatement or to seek review of the validity of the tax. This section shall apply to taxes already assessed as well as taxes to be assessed in the future.

Sec. 2. 36 MRSA § 53, 2nd sentence, is repealed.

Sec. 3. 36 MRSA § 54, as last amended by PL 1975, c. 771, § 397, is repealed.

Sec. 3-A. 36 MRSA § 57 is enacted to read.

§ 57. Contract authority

1. General. The State Tax Assessor shall be authorized to contract with persons on an independent contract basis for the furnishing of technical services to assist the State Tax Assessor in the administration of the tax laws of this State.

2. Confidential information. Notwithstanding any confidentiality provision in this Title, the State Tax Assessor shall be authorized, pursuant to a contract for technical services, to provide information, otherwise confidential, from his records and files to a person retained on an independent contract basis or the person's authorized employees. It shall be unlawful for any person so retained on an independent contract basis or his authorized employees to divulge or make known in any manner any particulars set forth in the information supplied by the State Tax Assessor pursuant to the contract, except as permitted by statute to the State Tax Assessor and his employees and as further limited by the contract for technical services. The State Tax Assessor shall not provide to a person so retained on an independent contract basis or the person's authorized employees any federal tax information supplied to the State Tax Assessor by the Internal Revenue Service unless disclosure to them is permitted by the Internal Revenue Service.

3. Penalties. Any person so retained on an independent contract basis or his authorized employees violating this section shall be subject to the same penalties as provided by law for unlawful disclosure of confidential information by the State Tax Assessor or his employees. If the person so retained on an independent contract basis or an authorized employee of that person is found guilty of a criminal offense for unlawful disclosure, he shall be ineligible to contract with the State for a period of 5 years or be employed by a contractor with the State for a period of 5 years.

Sec. 4. 36 MRSA § 1332, as repealed by PL 1975, c. 765 and as amended by PL 1975, c. 771, § 403, is repealed.

Sec. 5. 36 MRSA § 1752, sub-§ 2-A is enacted to read:

2-A. Directly. "Directly," when used in relation to production of tangible personal property, refers to those activities or operations which constitute an integral and essential part of production, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to production.

Sec. 6. 36 MRSA § 1752, sub-§ 7-B is enacted to read:

7-B. New machinery and equipment. "New machinery and equipment" means new machinery and equipment and attachments therefor, but excludes repair parts, foundations for new machinery and equipment and special purpose buildings used to house or support new machinery and equipment. This section shall not determine in any way, either directly or implicitly the status as "new machinery or equipment" of any special purpose buildings purchased prior to May 1, 1977, used to house or support new machinery and equipment.

"New machinery and equipment" includes parts, which are or will be capitalized, used to convert existing machinery to machinery that performs a different function, manufactures a different product or acquires a higher productive capacity, measured by the units of production, than the highest productive capacity of the machinery at any time prior to conversion.

Sec. 7. 36 MRSA § 1752, sub-§ 9-A is enacted to read:

9-A. Primarily. "Primarily," when used in relation to production of tangible personal property, means the use of a unit of property more than 50% of the time directly in production.

Sec. 8. 36 MRSA § 1752, sub-§ 9-B is enacted to read:

9-B. Production. "Production" means an operation or integrated series of operations engaged in as a business or segment of a business which transforms or converts personal property, by physical, chemical or other means into a different form, composition or character from that in which it originally existed.

Production includes manufacturing, processing, assembling and fabricating operations which meet the definitional requisites set forth above upon property intended for ultimate sale or lease.

Production does not include biological processes, wood harvesting operations, the severance from sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, or activities such as cooking or preparing drinks, meals, food or food products by a retailer for retail sale. The foregoing are examples of activities that are not included within the term "production."

Sec. 9. 36 MRSA § 1752, sub-§ 11, 5th sentence, as repealed and replaced by PL 1975, c. 765, § 19 and as amended by PL 1975, c. 779, is repealed and the following enacted in its place:

"Retail sale" and "sale at retail" do not include the sale of tangible personal property which becomes an ingredient or component part of, or which is consumed or destroyed or loses its identity in the manufacture of, tangible personal property for later sale or lease, other than lease for use in this State, but shall include fuel and electricity but shall not include electricity separately metered and consumed in any electrolytic process for the manufacture of tangible personal property for later sale, nor any fuel oil, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale.

Sec. 10. 36 MRSA § 1760, sub-§ 3, last ¶, last sentence, is amended to read:

Meals, food and drink served to patients and inmates of hospitals licensed by the State for the care of human beings and other institutions licensed by the State for the hospitalization or nursing care of human beings, or institutions, agencies, hospitals, boarding homes and boarding houses licensed by the Department of Health and Welfare Human Services under Title 22, sections 5 and 3797 subtitle 6, and Title 34, section 2211, shall be deemed "food products."

Sec. 11. 36 MRSA § 1760, sub-§ 31, as last amended by PL 1973, c. 794, is repealed and the following enacted in its place:

31. New machinery and equipment. Sales of new machinery and equipment for use by the purchaser directly and primarily in the production of tangible personal property, which property is intended to be sold or leased ultimately for final use or consumption.

Sec. 12. 36 MRSA § 2908, 1st sentence, as last amended by PL 1971, c. 529, § 5, is further amended to read:

Any person, association of persons, firm or corporation who shall buy and use any internal combustion engine fuel as defined in this chapter for the purpose of operating or propelling commercial motor boats, tractors used for agricultural purposes not operating on public ways, or in such vehicles as run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, or for any other commercial use except in motor vehicles operated or intended to be operated upon any of the public highways of this State, or turnpikes operated and maintained by the Maine Turnpike Authority, or except as provided in section 2910 and 2911, in the operation of aircraft, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by this chapter, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of 8/9 of the amount of such tax paid by him upon presenting to the State Tax Assessor a sworn statement accompanied by the original invoices showing such purchases, which statement shall show the total amount of such fuel so purchased and used by such consumer other than in motor vehicles operated or intended to be operated upon any of the public highways of the State and in the operation of aircraft.

Sec. 13. 36 MRSA § 4365, 2nd sentence, as enacted by PL 1973, c. 768, § 2 and as amended by PL 1975, c. 623, § 60, is repealed.

Sec. 14. 36 MRSA § 4365, 3rd sentence, as enacted by PL 1973, c. 768, § 2, is repealed.

Sec. 15. 36 MRSA § 5102, sub-§ 11, last 2 sentences, as last repealed and replaced by PL 1975, c. 765, § 25, are amended to read:

Any reference in this Part to the laws of the United States shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto and other provisions of the laws of the United States relating to federal income taxes as of December 31, 1975 1976. This subsection shall be effective as to items of income, deductions, loss or gain accruing in taxable years ending on or after January 1, 1975 1976 but only to the extent such items have been earned, received, incurred or accrued on or after such effective date.

Sec. 16. 36 MRSA § 5124, as amended by PL 1975, c. 765, § 27 is repealed.

Sec. 17. 36 MRSA § 5124-A is enacted to read:

§ 5124-A. Standard deduction; resident

The standard deduction of a resident individual or of a resident husband and wife who file a joint return or of a resident married person who files a separate return shall be as follows:

1. Single persons. Single persons, the higher of a low-income allowance of \$1,700 or 16% of his Maine adjusted gross income up to a maximum deduction of \$2,400;

2. Married persons; joint returns. Married persons filing joint returns or a surviving spouse, the higher of a low-income allowance of \$2,100 or 16% of Maine adjusted gross income up to a maximum deduction of \$2,800; and

3. Married person; separate return. A married person filing a separate return, the higher of a low-income allowance of \$1,050 or 16% of Maine adjusted gross income up to a maximum deduction of \$1,400, except that if either spouse uses the low-income allowance, both must use it.

Sec. 18. 36 MRSA § 5143, as amended by PL 1975, c. 765, § 28, is repealed and the following enacted in its place:

§ 5143. Standard deduction; nonresident

The standard deduction of a nonresident individual, a nonresident husband and wife who file a joint return or of a nonresident married person who files a separate return shall be the same as the standard deduction allowed under section 5124-A to a resident individual, a resident husband and wife who file a joint return or of a resident married person who files a separate return.

Sec. 19. 36 MRSA § 5250, sub-§ 1, last sentence, as last amended by PL 1975, c. 627, § 3 is repealed and the following enacted in its place:

This section shall not apply to shares of a lobster boat's catch apportioned by a lobster boat operator to a sternman.

Sec. 20. 36 MRSA § 5253, 2nd sentence, as last amended by PL 1971, c. 61, § 9, is further amended to read:

Where the aggregate amount required to be deducted and withheld by any employer for a calendar month exceeds \$100, the employer shall by the last day of the succeeding month file a withholding return as prescribed by the assessor and pay over such aggregate amount to the assessor or to a depository designated by the assessor.

Sec. 21. 36 MRSA § 5253, 3rd sentence, as enacted by P & SL 1969, c. 154, Sec. F, is repealed.

Sec. 22. 36 MRSA § 5313, last sentence, as last repealed and replaced by PL 1975, c. 474, § 2, is amended to read:

The lien may, within said 5-year period, or within 5 years from the date of the last extension of the lien in the manner provided in this section, be extended by filing for record in the ~~office of the register of deeds~~ appropriate office a copy of said notice and from the time of such filing the lien shall be extended for 5 years, unless sooner released or otherwise discharged.

Effective October 24, 1977

CHAPTER 478

AN ACT to Regulate the Dispensing of Prescription Drugs.

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

32 MRSA § 2805, sub-§ 21, as enacted by PL 1971, c. 282, § 6 is amended to read:

21. **Prescription.** "Prescription" shall mean any order, written or verbal, for any drug, medicine or poison by a physician, dentist, veterinarian or other duly licensed and authorized medical practitioner, or his duly authorized legal agent for any drug, medicine or poison. Such a duly authorized agent includes at least a physician assistant authorized under section 2594-A or 3270-A or a nurse who is authorized to prescribe therapeutic or corrective measures under section 2102, subsection 2.

Effective October 24, 1977

CHAPTER 479

AN ACT to Amend or Repeal Certain Laws Relating to Local and County Government.

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

Whereas, Acts of this and previous Legislatures have resulted in certain errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies have created uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary to resolve these uncertainties and confusion to prevent any injustice or hardship on the people of Maine; and