

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

September 16, 1969  
Dept. of Education

To: William T. Logan, Jr., Commissioner

Subject: Applicability of Maine Individual Income Tax to income received by Maine public school teachers after July 1, 1969, but which was earned prior to July 1, 1969.

*SYLLABUS:*

INCOME WHICH HAS BEEN RECEIVED BY MAINE PUBLIC SCHOOL TEACHERS AFTER JULY 1, 1969, BUT WHICH WAS EARNED PRIOR TO JULY 1, 1969 IS SUBJECT TO THE MAINE INDIVIDUAL INCOME TAX.

*FACTS:*

Most Maine public school teachers have the option to elect to receive their income for the teaching year over roughly a 10 month period from September through June, or over a 12 month period from September through August. Most teachers have elected to receive their pay over the 12 month period.

The Maine Individual Income Tax Law is effective as to individuals on July 1, 1969.

“This Act shall take effect as to corporations January 1, 1969, and to all other taxpayers covered under this part July 1, 1969 and shall be applicable with respect to items of income, deduction, loss or gain *accruing* in taxable years ending on or after such effective date but only to the extent such items have been earned, *received*, incurred or accrued on or after such effective date.” (emphasis supplied.)

*QUESTIONS:*

Whether income which has been received by teachers after July 1, 1969, but which was earned prior to July 1, 1969 is subject to the Maine Individual Income Tax?

*ANSWER:*

Yes.

*REASONS:*

Items of income which are affected by this law are “those items of income accruing” to the extent that the income has been “earned, received or accrued” after July 1, 1969. “Accruing” in the first instance is not used in a formal accounting sense, as a word of art, but is used generally to mean income arising, accumulating, or coming into existence.

“While ‘accrue’ and its various derivatives are not new to the nomenclature of accounting or taxation, its use has not sufficed to build it into a word of art with a definite connotation . . .” *Helvering v. Enright* 312 U.S. 636, 643, (1961).

It is clear that, pursuant to the statutory language, items of income which are actually “received” on or after July 1, 1969 are taxable.

WENDELL R. DAVIDSON  
Assistant Attorney General