

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
104th LEGISLATURE

SENATE AMENDMENT "A" to H.P. 1138, L.D. 1458, Bill, "AN ACT Increasing the Sales Tax and the Cigarette Tax, Removing the Sales Tax Exemption on Trade-in Credit for Vehicles and Providing for a Tax on Soft Drinks."

Amend said Bill, in the Title, by striking out the words "and Providing for a Tax on Soft Drinks" and inserting in place thereof the following ', Providing for a Tax on Soft Drinks and Tax on Incomes'

Further amend said Bill by adding at the end, before the emergency clause, the following new section:

'Sec. 10. R. S., T. 36, part 8, additional. Title 36 of the Revised Statutes is amended by adding a new part 8, to read as follows:

PART 8

TAXATION ON INCOMES

CHAPTER 801

TAXATION ON INCOMES

§4901. Rate

The annual tax upon incomes shall be levied at the rate of 4 1/4%.

§4902. Conformity to laws

It is the intention of this chapter, and it shall be construed, anything contained herein to the contrary notwithstanding, not to impose any tax upon any income in violation of the Constitution of the United States or in violation of any constitutional federal laws, or in violation of the Constitution of this State, or in violation of any contractual obligations of exemption from taxation established prior to the effective date of this Act, by the State or any of its political subdivisions or by the United States, which may not be impaired lawfully hereby.

§4903. Who taxable

Taxable income is that received during the calendar year prior to the assessment of the tax by:

1. Individuals. Individuals who are inhabitants or residents of this State on January 1st in any year, and individuals who have ceased to be residents of this State during the preceding calendar year for such part of the year as they were residents in this State.

2. Partnerships. Partnerships, associations and trusts, the beneficial interest in which is not represented by transferable shares, and as provided.

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3. Fiduciaries. Fiduciaries deriving their appointment from a court of this State, and as provided.

§4904. What taxable

Income of the following described classes is taxable:

1. Interest. Interest from bonds, notes, money at interest, and from all debts due the person to be taxed, except interest from notes or bonds of this State, deposits in any savings bank, building and loan association, or savings department of any loan and trust company or national bank in this State or in those of any state which exempts from taxation the principal or income of deposits in such institutions in this State owned by residents of that state, and notes or bonds of any political subdivision of this State issued before the effective date of this Act.

2. Dividends. Dividends, other than stock dividends paid in new stock of the company issuing the same, on shares in all corporations and joint stock companies organized under the laws of any state, territory or nation, except Maine state banks, trust companies, building and loan associations or national banks.

3. Other. Dividends, other than stock dividends paid in new stock of the partnership, associations or trust issuing the same, on shares in partnerships, associations or trusts the beneficial interest in which is represented by transferable shares.

§4905. Exemption

Six hundred dollars of each income otherwise taxable shall be exempt.

§4906. Income from pledged property

For the purposes of this chapter, any securities or property of the classes designated herein producing taxable income, held in pledge, or on margin, or otherwise as security for a debt of the owner, whether standing in the name of the owner or of any other person, shall be deemed the property of the owner, and the income arising therefrom shall be included in his total taxable income.

§4907. Capital distribution

No distribution of capital, whether in liquidation or otherwise, shall be taxable as income, but accumulated profits shall not be regarded as capital.

§4908. Nontaxable income

No tax shall be levied directly or indirectly under this chapter upon any income otherwise taxable hereunder, which is received and used by any educational, religious, charitable or temperance organization incorporated or organized in this State, for the purposes for which it is established; provided that none of the income or profits

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of such organizations is divided among its stockholders or members or is used for purposes other than those for which it is established, or which is received by any trustee for the use of the State or any of its political subdivisions, or for the use of such organization for such purposes.

§4909. Decedents' estates

The estates of deceased persons who last dwelt in this State shall be subject to the taxes imposed by this chapter upon all taxable income received by such persons during their lifetime, which has not already been taxed. The income received by such estates during administration shall be taxable to the estate, except such proportion thereof as equals the proportion of the estate to be distributed to nontaxable persons or organizations. The State Tax Assessor and executors and administrators of estates may effect a settlement by compromise of any question of doubt or dispute arising under this section.

§4910. Income from trusts

The income received by estates held by trustees, any one of whom is an inhabitant of this State, or has derived his appointment from a court of this State, shall be subject to the taxes imposed by this chapter to the extent that the persons to whom the income from the trust is payable, or for whose benefit it is accumulated, are inhabitants of this State.

§4911. Accumulations

Income accumulated in trust for the benefit of unborn or unascertained persons shall be taxed as if accumulated for the benefit of inhabitants of this State.

§4912. From nonresident trustees

If an inhabitant of his State receives income from one or more trustees, none of whom is an inhabitant of this State or has derived his appointment from a court of this State, such income shall be subject to the taxes imposed by this chapter if it would be taxable to such inhabitant if received by him from its source.

§4913. Guardians, etc.

Sections 4909 to 4912 shall apply to guardians, conservators, trustees in bankruptcy, receivers and assignees for the benefit of creditors, so far as apt, to the taxable income received by them and to their beneficiaries, and to corporations acting as trustees or in any other fiduciary capacity.

§4914. Partnerships

Partnerships having a usual place of business in this State, any member of which is an inhabitant thereof, shall be subject to taxes imposed by this chapter. If any of the members of the partnership are not inhabitants of this State only so much of the income thereof

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as is proportionate to the aggregate interest of the partners who are inhabitants of this State in the profits of the partnership shall be taxed.

§4915. Partners

The tax shall be assessed on such a partnership by the name under which it does business, and the partners shall not be taxed with respect to the taxable income derived by them from such a partnership.

§4916.- Members of partnership outside the State

An inhabitant of this State who is a member of a partnership having no usual place of business in this State, who receives income from such partnership derived from such a source that it would be taxable if received directly from such source by such partner, shall as to such income be subject to the taxes imposed by this chapter.

§4917. Application of sections

Sections 4914 to 4916 shall apply so far as apt, to associations and trusts, but not to partnerships, associations and trusts the beneficial interest in which is represented by transferable shares.

§4918. Small business corporations, information reports

Every small business corporation within this State, the stockholders of which have been elected, or elect, to report their share of the corporation's taxable income upon their individual federal income tax returns, pursuant to federal tax laws and regulations, shall annually on or before May 1st, file a list of the names and addresses of all stockholders during the preceding year together with the amount of dividends paid to each with the State Tax Assessor. The information report shall not be filed in any year that no such dividends are paid and stockholders not legally residents in the State of Maine shall not be listed.

§4919. Returns

Returns of taxable income shall be made to the State Tax Assessor on or before May 1st in each year, in such form as he may prescribe, but the Tax Assessor may extend such time for good cause. Returns as required by this chapter shall be made under penalties of perjury.

§4920. -Inspection

Returns shall not be open to the inspection of any person except the State Tax Assessor and his deputies, assistants and clerks when acting under his authority; provided, that a properly authorized representative of the Federal Internal Revenue Bureau may inspect such returns if reciprocal inspection of Maine returns in that bureau is permitted to the Tax Assessor or his representatives.

§4921. Information as to filing of returns

The State Tax Assessor shall, on the request of any inhabitant of the State, state the fact whether or not any person has filed an income tax return for the current or any prior year.

§4922. Payment; interest

All taxes shall be assessed as of January 1st, in each year, and payment thereof shall be made at the time the return is filed on or before May 1st. If taxes are not paid on or before May 15th, interest

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at 10% from the said May 1st shall be added, and the said May 1st shall be deemed to be the due date for all taxes assessed and collected under this chapter. When an extension of time has been granted under section 4919, the date specified in the said extension shall be deemed to be the due date, and interest at the rate of 10% shall be added if payment is not made within 15 days after that date.

§4923. Overpayments

If upon audit of a tax return it is found that an overpayment of the tax has been made in an amount not more than \$10, such overpayment shall be held and credited against the tax to be paid in the succeeding year unless the person making the overpayment upon inquiry by the State Tax Assessor shall request in writing that a refund of the amount overpaid be made to him.

§4924. Warrants, collection

The State Tax Assessor may issue a warrant for the collection of any overdue tax to the tax collector of any municipality, which shall have the same remedies and the same fees for the collection of such taxes as are provided by law for his collection of taxes on personal estate.

§4925. To whom payable

All taxes assessed under this chapter shall be paid to the State Tax Assessor by the taxpayer.

§4926. Reassessment by State Tax Assessor of interest and dividends

If upon examination of the returns and assessment made therein, it shall appear that the amount of the tax exceeds the correct amount due or is deficient, the State Tax Assessor shall reassess the amount of the tax and notify the taxpayer of such corrections. In the event that he determines a deficiency, the amount of said deficiency and interest at the rate of 10% from the original due date shall be forwarded by the taxpayer to the State Tax Assessor within 15 days from the date of the notice herein provided. In the event the reassessment results in a determination of overpayment, the amount of the excess shall be repaid to the taxpayer in the manner provided by section 4930. All assessments made under this section shall be subject to the same right of abatement and appeal as provided in sections 4927 and 4928, and nothing herein contained shall be construed to limit the power of the State Tax Assessor to make a later assessment under section 4932 or to seek a penalty for fraudulent returns as provided by section 4934.

§4927. Abatement for overpayment

Upon written application therefor made by a taxpayer within 3 years from due date of the tax, that an overpayment of the tax was made, the State Tax Assessor upon proof thereof may abate the amount of such overpayment. The Treasurer of State, upon warrant from the State Tax Assessor shall repay the taxpayer the amount of such overpayment. When an overpayment of the tax is refunded the amount thereof shall be withheld from any future distribution of the tax due to the town or city in which the taxpayer resided.

§4928. Application for abatement

Any person aggrieved by the assessment of any tax under this chapter may apply in writing to the State Tax Assessor for an abatement within 60 days after notice of the tax. The State Tax Assessor, upon

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written application, may abate all or a portion of any tax assessed under this chapter in the case of undue hardship or when, in the judgment of the State Tax Assessor such abatement should be made.

§4929. - Appeal

If the abatement is not granted by the State Tax Assessor an appeal may be taken to the Superior Court within 60 days after notice of the decision of the Tax Assessor, and the court shall have the same jurisdiction as provided for tax appeals.

§4930. Refunds

The Treasurer of State, upon warrant from the State Tax Assessor or the court, shall repay to the taxpayer the amount of any abatement, with interest at 6%.

§4931. Minor over or under payments disregarded.

Whenever it appears upon audit of his return that a taxpayer has overpaid his tax or has failed to pay the correct amount due and the discrepancy is less than \$1, the State Tax Assessor may, in his discretion, disregard the error and consider the matter closed if in his opinion the cost to the State to rectify the error would exceed the amount involved.

§4932. Correction of assessment

At any time within 6 years from May 1st in any year if the State Tax Assessor shall find that any taxable person did not file a return, or filed a false, fraudulent, insufficient or incorrect return and would have been liable for a tax or for a greater tax than that assessed, the Tax Assessor may assess and collect such tax, or any additional tax found to be due together with the penalties herein imposed.

§4933. Penalty for delay in filing return

If any taxpayer fails to file a return within the time prescribed there shall be added to his tax \$5 for every day such default shall continue, but the State Tax Assessor may in his discretion, abate the whole or any part of such additional tax for good cause.

§4934. Penalty; fraudulent or incorrect return

Whoever files a fraudulent return, and whoever, having failed to file a return or having filed an incorrect or insufficient return without reasonable excuse, fails to file a return within 20 days after receiving notice of such delinquency from the State Tax Assessor, shall be punished by a fine of not less than \$100 nor more than \$2,000, or imprisonment for not more than one year, or by both.

§4935. Division of interest and dividends

There shall be within the Bureau of Taxation a division of interest and dividends. The State Tax Assessor shall appoint a director and such other assistants as may be necessary subject to the Personnel Law, and within the limits of available appropriations and funds. Subject to the approval of the Governor and Council, the division may incur necessary expenses in the administration of this chapter.

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§4936. Administration by director of interest and dividends

The administration of this chapter and all powers, duties and functions assigned hereunder to the State Tax Assessor except the power to abate as conferred upon the State Tax Assessor by sections 4928, 4929 and 4933, may be performed by the director of the division of interest and dividends subject to the supervision of the State Tax Assessor except as otherwise specifically provided, and subject to his approval he shall have the power to require the production of books, affidavits, papers and documents of all kinds and the appearance of any person, in the State, to determine the amount of any tax or determine whether any tax has been evaded or any return falsified, in addition to the powers conferred upon him by delegation of the Tax Assessor.

§4937. Expenses of Administration

The expense of administration of this chapter shall be paid out of said taxes.'

Further amend said Bill by adding at the end the following:

'Statement of Facts

It is estimated that this chapter will produce \$5,200,000 for the next biennium.'

Proposed by Senator MARTIN of Piscataquis.

Reproduced and distributed pursuant to Senate Rule No. 11A.

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5/13/69