

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 574

H. P. 451

House of Representatives, February 6, 1975

Referred to Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Powell of Wallagrass Plantation.

Cosponsor: Mr. Peterson of Caribou.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Eliminate the State Tax on Inventories and Restore the
Original Law.

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

Sec. 1. 5 MRSA, § 283, sub-§ 7, as last enacted by PL 1973, c. 620, § 1, is repealed.

Sec. 2. 30 MRSA, § 5056, as enacted by PL 1973, c. 592, § 2 is repealed.

Sec. 3. 36 MRSA, c. 4, as enacted by PL 1973, c. 592, § 3, is repealed.

Sec. 4. 36 MRSA, §§ 455 and 456, as enacted by PL 1973, c. 592, § 4-A, are repealed.

Sec. 5. 36 MRSA, § 583, sub-§ 2, as last repealed and replaced by PL 1973, c. 645, § 2, is repealed and the following enacted in place thereof:

2. Appeal to Forestry Appeal Board. Any person aggrieved by the decision upon such petition may, within 30 days after notice thereof from the municipal assessor, appeal therefrom to the Forestry Appeal Board established by section 565 and the Forestry Appeal Board may amend or reaffirm such determinations as the board sees fit and may order a refund in whole or in part of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid; which amounts shall be paid out of the municipal treasury, if there are funds available, and if not, payment shall be made in the following tax year. The application to the Forestry Appeal Board shall be filed with the Director of the Bureau of Forestry, with a copy to the

assessors of the municipality concerned, and shall include the name and address of the Forestry Appeal Board member selected by the applicant. Section 843-B shall apply to such proceedings.

Sec. 6. 36 MRSA, § 583, sub-§ 3, as last repealed and replaced by PL 1973, c. 645, § 3, is repealed and the following enacted in place thereof:

3. Appeal to Superior Court. Either party may appeal from the decision of said Forestry Appeal Board to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Sec. 7. 36 MRSA, § 603, sub-§ 1, ¶ B, as repealed by PL 1973, c. 592, § 7, is reenacted to read:

B. All manufactured merchandise, except products either intended for manufacture into other merchandise or used or for use in connection therewith and except merchandise in the possession of a transportation company or other carrier for the purpose of transporting the same, shall be taxed in the place where situated;

Sec. 8. 36 MRSA, § 603, sub-§ 2, ¶ A, as repealed and replaced by PL 1973, c. 592, § 8, is repealed and the following enacted in place thereof:

A. Portable mills, logs in any place to be manufactured therein, and all manufactured lumber excepting lumber in the possession of a transportation company and in transit;

Sec. 9. 36 MRSA, § 603, sub-§ 2, ¶ B, as repealed by PL 1973, c. 592, § 9, is reenacted to read:

B. All potatoes stored awaiting sale or shipment, except as otherwise provided in section 655, subsection 1, paragraph B;

Sec. 10. 36 MRSA, § 603, sub-§ 2, ¶ G, as last amended by PL 1973, c. 592, § 10, is repealed and the following enacted in place thereof:

G. All camp trailers, as defined in section 1481, except those taxed as stock in trade;

Sec. 11. 36 MRSA, § 603, sub-§§ 4 and 5, as last repealed by PL 1973, c. 592, § 11, are reenacted to read:

4. Domestic fowl raised for meat purposes or egg production. The business of raising domestic fowl exclusively for meat purposes or egg production shall be taxed in the place where found on the basis of the value of the average number of fowl so kept during the preceding taxable year, or any portion of that period when the business has not been carried on for one year.

A. The average number of fowl raised exclusively for meat production so kept shall be determined on the basis of one bird per square foot of house capacity or 25% of the total number of birds kept during the preceding period. House capacity shall be used unless the taxpayer shall have complied with section 706.

A-1. The average number of fowl, except breeder fowl, kept for egg production shall be determined on the basis of one bird for each 2 square feet

of house capacity, unless the taxpayer shall have complied with section 706, except when fowl are kept in cages or under a high density system of management in which case the average number shall be determined by averaging actual inventories during the preceding taxable year or any portion of that period when the business has not been carried on for a year.

A-2. The average number of breeder fowl kept for egg production shall be determined on the basis of one bird for each 3 square feet of house capacity, unless the taxpayer shall have complied with section 706, except when fowl are kept in cages or under a high density system of management in which case the average number shall be determined by averaging actual inventories during the preceding taxable year or any portion of that period when the business has not been carried on for a year.

B. The value to be used for a fowl, in determining the value of the average number of fowl, shall be based upon $\frac{1}{2}$ the average value during the preceding taxable year of a mature bird, as approved by the State Tax Assessor.

C. If the business of raising fowl exclusively for meat purposes has been carried on for less than one year the following formula shall be used: The number of square feet of house capacity divided by 12, times the number of months or part thereof that the business has been carried on. The business shall be considered as having been carried on during normal clean-out periods. The formula set forth in this paragraph shall not apply where 4 or more successive lots of fowl have been grown in the house during the year.

C-1. If the business of raising fowl exclusively for egg production has been carried on for less than one year the following formula shall be used: The number of square feet of house capacity divided by 12, times the number of months or part thereof that the business has been carried on. The business shall be considered to have been carried on during normal clean-out periods.

D. The tax shall be assessed upon the owner of the fowl or may be assessed upon the person in possession. If assessed upon the person in possession, he shall have the same right to recover said tax as is provided for in subsection 3, paragraph B.

E. When the business is so taxed, fowl shall not be taxed under subsection 5.

F. The absence of fowl on April 1st shall not be conclusive evidence as to the nonoperation of the business.

G.

(1) The term "fowl" and "domestic fowl," as used in this subsection, shall include only that kind of fowl commonly known as chickens, genus *gallus domesticus*, and shall not include other kinds of fowl such as turkeys, ducks and geese.

(2) The term "fowl raised for egg production" shall include growing birds for flock replacement.

(3) The term "mature bird," as used in this subsection, shall mean one which is marketable, if for meat purposes, or ready to lay, if for egg production.

(4) The term "breeder fowl" shall mean that kind of fowl which produces eggs for production of chicks.

5. Mules, horses, neat cattle and domestic fowl. Mules, horses, neat cattle and domestic fowl shall be taxed in the municipality where they are regularly kept to the owner or person who has them in possession. Presence in a place for pasturing or other temporary purposes shall not be considered as regularly kept therein.

If a municipal line so divides a farm that the dwelling house is in one municipality and the barn or outbuildings or any part of them is in another, such animals kept for the use of said farm shall be taxed in the municipality where the house is.

Sec. 12. 36 MRSA, § 608, as repealed by PL 1973, c. 592, § 12, is reenacted to read:

§ 608. Blooded animals

Blooded animals, brought into the State and kept for improvement of the breed, shall not be taxed at a higher rate than animals of the same quality and kind bred in the State.

Sec. 13. 36 MRSA, § 655, sub-§ 1, as repealed and replaced by PL 1973, c. 592, § 13 and as amended, is repealed and the following enacted in place thereof:

1. Personal property.

A. The household furniture, including television sets and musical instruments, of each person in any one household; and his wearing apparel, farming utensils and mechanics' tools necessary for his business.

B. Hay, grain, potatoes, orchard products and wool owned by and in possession of the producer.

C. Mules and horses less than 6 months old; colts of draught type less than 3 years old; neat cattle less than 24 months old to the number of 50; sheep to the number of 35 and all lambs under one year old; swine to the number of 10 and all swine under 4 months old; domestic fowl to the number of 50; goats to the number of 35 and all kids less than one year old.

D. All radium used in the practice of medicine.

E. Property in the possession of a common carrier while in interstate transportation or held en route awaiting further transportation to the destination named in a through bill of lading.

F. Food products while stored in the custody of a warehouseman as defined in Title 35, section 15, awaiting shipment outside the State, provided such food products were packed in this State and the principal ingredients thereof were grown or produced in the State or brought to the State directly from the sea.

G. Vessels built, in the process of construction, or undergoing repairs, which are within the State on the first day of each April and are owned by persons residing out of the State. "Vessels" as used in this paragraph shall not be construed to include pleasure vessels and boats.

H. Pleasure vessels and boats in the State on the first day of each April whose owners reside out of the State, and which are left in this State by the owners for the purposes of repair or storage, except those regularly kept in the State during the preceding year.

I. All hides and the leather, the product thereof, which are owned by persons residing out of the State, when it appears that the hides were sent into the State to be tanned and to be carried out of the State when tanned.

J. Personal property in another state or county and legally taxed there.

K. Vehicles exempt from excise tax in accordance with section 1483, except those constituting stock in trade.

L. Snowmobiles as defined in Title 12, section 1971, except those constituting stock in trade.

M. All farm machinery used exclusively in production of hay and field crops to the aggregate actual market value not exceeding \$5,000, excluding motor vehicles. Motor vehicle shall mean any self-propelled vehicle.

N. Water pollution control facilities and air pollution control facilities as defined in section 656, subsection 1, paragraph E.

O. All beehives.

Sec. 14. 36 MRSA, §§ 843-A and 843-B, as repealed by PL 1973, c. 592, § 15 and as last reenacted by PL 1973, c. 645, §§ 4 and 5, are repealed and the following enacted in place thereof:

§ 843-A. To Forestry Appeal Board

Where the property subject to tax is forest land, as defined in section 564, if the assessors refuse to make the abatement asked for, the applicant may apply in writing to the Forestry Appeal Board within 90 days after notice of the decision from which such appeal is being taken or after the application shall be deemed to have been denied, and if the board thinks he is over-assessed, he shall be granted such reasonable abatement as they think proper, and if he has paid the tax he shall be reimbursed out of the municipal treasury, if there are funds available and if not, payment shall be made in the following tax year.

The application to the Forestry Appeal Board shall be filed with the Director of the Bureau of Forestry, with a copy to the assessors of the municipality concerned, and shall include the name and address of the Forestry Appeal Board member selected by the applicant. Either party may appeal from the decision of said board to the Superior Court.

§ 843-B. Hearing

On receipt of an application for review by the Forestry Appeal Board, the Director of the Bureau of Forestry shall notify the applicant of the review and shall secure the designation of the 2 other members of the board for the case in question, and with the approval of the board members, designate a time and place for hearing and make such other arrangements for such hearing as may be necessary. The board may summons witnesses, administer oaths, order the production of books, records, papers and instruments and direct the production of any evidence it deems necessary in order to make a decision. The technical rules of evidence shall not apply at such hearings. The decision of the board shall be filed with the Director of the Bureau of Forestry, who shall notify the county commissioners and the assessors of the municipality in question. The assessors of such municipality, upon receipt of such decision, shall record the same and make such abatement or refund, if any, as may be required thereby.

Sec. 16. 36 MRSA, § 846, as reenacted by PL 1973, c. 592, § 18 and as amended, is repealed.

Sec. 16. 36 MRSA, § 848, first sentence, as amended by PL 1973, c. 592, § 19 and c. 645, § 9, is repealed and the following enacted in place thereof:

The appeal provided for in sections 844 and 845 shall be tried at the first term held not less than 10 days after the notice has been given, unless delay shall be granted at the request of the municipality for good cause, and said court shall, if requested by the municipality, advance the case upon the docket so that it may be tried and decided with as little delay as possible.

Sec. 17. 36 MRSA, § 849, first ¶, as amended by PL 1973, c. 592, § 20 and c. 625, § 250, and as last repealed and replaced by PL 1973, c. 645, § 10, is repealed and the following enacted in place thereof:

If upon the trial provided for in sections 845, 847 and 848 it appears that the applicant has complied with all provisions of law, he may be granted such abatement as the court deems reasonable, under the same circumstances as an abatement may be granted by the county commissioners.

FISCAL NOTE

This Act will provide savings on appropriations of \$7,000,000 for the next biennium and \$30,000,000 per biennium thereafter.

STATEMENT OF FACT

The purpose of this bill is to eliminate the state tax on inventories and restore the original law.