

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2167

H. P. 1958

House of Representatives, February 3, 1976

Subsequently referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Palmer of Nobleboro.

Cosponsor: Mr. Rolde of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT Providing for an Investment Tax Credit and a Credit for the
Creation of New Jobs.

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

Sec. 1. 36 MRSA c. 841 is enacted to read:

CHAPTER 841

TAX CREDIT FOR INVESTMENT AND
CREATION OF NEW JOBS

§ 5351. Credit

A taxpayer shall be allowed a credit to be computed as hereinafter provided against the tax imposed by this Part. The amount of the credit shall be 2% of the qualified investment as defined in section 5352.

§ 5352. Qualified investment

For purposes of this chapter, the term "qualified investment" means, with respect to any taxable year, the aggregate of:

1. New section 5351 property. The cost or other basis for federal income tax purposes of new section 5351 property placed in service by the taxpayer during such taxable year, plus

2. Used section 5351 property. The cost or other basis for federal income tax purposes of used section 5351 property placed in service by the taxpayer during such taxable year.

§ 5353. Property definitions

1. Section 5351 property. "Section 5351 property" means:

A. Tangible personal property; or

B. Other tangible property, including buildings and structural components of buildings, but only if the property is used as an integral part of or the principal use of which is in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, timber harvesting or commercial fishing, or of furnishing transportation, communications, electrical energy, gas or water.

"Section 5351 property" includes only property which has a situs in this State, is depreciable pursuant to the Internal Revenue Code, has a useful life of 4 years or more and is acquired by purchase as defined in section 179(d) of the Internal Revenue Code.

2. New section 5351 property. "New section 5351 property" means section 5351 property:

A. The construction, reconstruction or erection of which is completed by the taxpayer after July 1, 1976; or

B. Acquired after July 1, 1976, if the original use of such property commences with the taxpayer and commences after such date.

In applying section 5352 in the case of property described in subsection 1, there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction or erection after July 1, 1976.

3. Used section 5351 property. "Used section 5351 property" means section 5351 property acquired by purchase after July 1, 1976, which is not new section 5351 property.

§ 5354. Dollar limitation on used section 5351 property

The cost or basis of used section 5351 property taken into account under section 5352, subsection 2, for any taxable year shall not exceed \$50,000. If such cost exceeds \$50,000, the taxpayer shall select the items to be taken into account, but only to the extent of an aggregate cost of \$50,000. Such cost selection shall be made, changed and apportioned in the manner provided in section 48(c) (2) of the Internal Revenue Code.

§ 5355. Leased property

1. General. A person who is a lessor of property may elect with respect to any new section 5351 property, other than property described in subsection 4, to treat the lessee as having acquired such property for an amount equal to:

A. Except as provided in subparagraph B, the fair market value of such property; or

B. If the property is leased by a corporation which is a component member of a controlled group, within the meaning of section 46(a) (5) of the

Internal Revenue Code, to another corporation which is a component member of the same controlled group, the basis of such property to the lessor.

2. Special rule for certain short term leases.

A. General. A person who is a lessor of property described in subsection 4 may elect with respect to such property to treat the lessee as having acquired a portion of such property for the amount determined under subparagraph B.

B. Determination of lessee's investment. The amount for which a lessee of property described in subsection 4 shall be treated as having acquired a portion of such property is an amount equal to a fraction, the numerator of which is the term of the lease and the denominator of which is the class life of the property leased, determined under section 167(m) of the Internal Revenue Code, of the amount for which the lessee would be treated as having acquired the property under subsection 1.

C. Determination of lessor's qualified investment. The qualified investment of a lessor of property described in subsection 4 in any such property with respect to which he has made an election under this section is an amount equal to his qualified investment in such property, as determined under section 5352, multiplied by a fraction equal to the excess of one over the fraction used under subparagraph B to determine the lessee's investment in such property.

3. Limitations. The elections provided by subsections 1 and 2 may be made with respect to property which would be new section 5351 property if acquired by the lessee. For purposes of the preceding sentence and section 5352, the useful life of property in the hands of the lessee is the useful life of such property in the hands of the lessor. If a lessor makes the election provided by subsection 1 with respect to any property, the lessee shall be treated for all purposes of this chapter as having acquired such property. If a lessor makes the election provided by subsection 2 with respect to any property, the lessee shall be treated for all purposes of this chapter as having acquired a fractional portion of such property equal to the fraction determined under subsection 1, paragraph B, with respect to such property.

4. Property to which subsection 2 applies. Subsection 2 shall apply only to property which:

A. Is new section 5351 property;

B. Has a class life, determined under section 167(m) of the Internal Revenue Code, in excess of 14 years;

C. Is leased for a period which is less than 80% of its class life; and

D. Is not leased subject to a net lease, within the meaning of section 57(c) (2) of the Internal Revenue Code.

§ 5356. Maximum credit

The credit allowed under section 5351 for any taxable year shall not reduce

the tax due for such year to less than 50% of that amount which otherwise would have been due without such credit.

§ 5357. Carryover

If the amount of credit allowable under this chapter for any taxable year would reduce the tax due to less than 50% of that amount which would have been due, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years, subject to the same limitations provided above.

§ 5358. Recapture

If property on which credit has been taken is disposed of or otherwise ceases to be section 5351 property with respect to the taxpayer prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back to the tax due in the year of disposition; provided, if such property is disposed of or ceases to be section 5351 property with respect to the taxpayer after it has been section 5351 property with respect to the taxpayer for more than 15 consecutive years, it shall not be necessary to add back the credit as provided in this paragraph. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the months of useful life. For purposes of this chapter, useful life of property shall be the same as the taxpayer uses for depreciation purposes when computing his federal income tax liability.

§ 5359. Alternative credit for new jobs

In lieu of the credit provided in section 5351, a taxpayer, which is an employing unit as defined in Title 26, section 1043, shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this Part. The amount of the credit for each taxable year shall be, with respect to the taxpayer, 10% of his net dollar increase in wages for employment. For purposes of this chapter "net dollar increase in wages for employment" shall mean the excess of wages for employment subject to Title 26, section 1221, for the taxable year over such wages for the immediately preceding taxable year, less any such excess which is attributable to any statutory increase in wages for employment subject to Title 26, section 1221.

§ 5360. Corporate taxpayers limitation

As used in the preceding section, "taxpayer" does not include any corporate taxpayer which results from reorganizing an existing corporate taxpayer in this State or the creation of a parent, subsidiary or affiliate of which 50% or more of the assets, voting stock or value of all outstanding shares is owned or controlled by the same person, corporation or association.

§ 5361. Maximum credit

The credit allowed under section 5359 for any taxable year shall not reduce the tax due for such year to less than 50% of that amount which otherwise would have been due without such credit.

§ 5362. Transition

Credits allowed by this chapter shall be allowed for taxable years ending on or after the effective date of this Act.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Department of Finance and Administration, Bureau of Taxation, for the fiscal year 1976-77 the sum of \$20,000 to carry out the purposes of this Act.

Sec. 3. Effective date. This Act shall become effective on July 1, 1976.

STATEMENT OF FACT

This bill provides alternative income tax credits for qualified investments or the creation of jobs. Its purpose is to encourage and promote the creation of new full-time jobs in Maine. It is virtually impossible to estimate accurately the impact or employment which this bill would provide. And, any estimated, potential loss of revenue to the State would be outweighed by future revenues solely or mainly attributable to the credit provisions of the bill.