SECOND REGULAR SESSION

Corrected Copy
3/9/78

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document No. 2184

H. P. 2216 House of Representatives, March 8, 1978

Reported out by the Majority of the Joint Standing Committee on Taxation pursuant to Joint Order, H. P. 2023.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED SEVENTY-EIGHT

AN ACT to Provide for Reform of the State Tax Laws.

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

Sec. 1. 36 MRSA c. 115 is enacted to read:

CHAPTER 115

HOMESTEAD PROPERTY TAX REBATE

§ 1601. Title

This chapter shall be known and may be cited as the "Maine Homestead Property Tax Rebate Act."

§ 1602. Purpose

The purpose of this chapter is to alleviate the burden of property taxation on all Maine owners and renters of a homestead.

§ 1603. Definitions

As used in this chapter, the following terms have the following meanings, unless the context is otherwise indicated.

1. Claimant. "Claimant" means a person who is not eligible for the elderly

householders tax and rent refund and who has filed a claim under this chapter and who was domiciled in this State at least 9 months prior to making a claim. A claimant includes either:

A. A homeowner; or

B. A homestead renter during the entire 9 months preceding the year in which he files a claim for relief under this chapter.

2. Homeowner. "Homeowner" means an individual who has been domiciled in this State for at least 9 consecutive months prior to the filing of a claim for the homestead property tax rebate and who continues to be a resident of this State and who owns the homestead property on April 1, 1978.

3. Homestead property. "Homestead property" means a dwelling owned or rented and used as the dweller's principal place of abode, and includes a mobile home.

4. Household. "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations and expenses. The term does not include bona fide lessees, tenants or roomers and boarders on contract.

§ 1604. Claim as a rebate from state funds

Subject to the limitations provided in this chapter, an eligible claimant may apply for a rebate for the burden of property taxes. This rebate shall be in the following amounts:

1. Homeowner. $30 for each homeowner; and

2. Renter. $20 for each renter of a homestead.

§ 1605. Filing date

No claims shall be allowed unless:

1. Claim filed. The claim is filed with and is in the possession of the State Tax Assessor by August 31, 1978; or

2. Claim received. If the claim is received by the following October 15th and the reason for its lateness is deemed so extraordinary that, in the judgment of the State Tax Assessor, tax relief is still justified.

§ 1606. Eligible claimants

1. Two or more in a household. When 2 or more individuals of a household are able to meet the qualifications for a claimant, they may determine among themselves as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the State Tax Assessor and his decision shall be final.

2. Dependents. A person cannot be an eligible claimant if he is a full or part time student claimed as a dependent of any taxpayer under the Federal Internal Revenue Code.

§ 1607. Payment of claim

The State Tax Assessor shall pay by October 31, 1978 the property tax rebate to all eligible claimaints who file by August 31, 1978.

§ 1608. Administration

1. Claimant forms. The State Tax Assessor shall make available suitable forms with instructions for claimants. The claim shall be signed by the claimant under the penalty of perjury.

2. Proof requirement. The State Tax Assessor shall have authority to request reasonable proof of the claimant's eligibility for a property tax rebate.

§ 1609. Rules and regulations

The State Tax Assessor may in a manner consistent with the Maine Administrative Procedure Act establish reasonable rules and regulations for the effective administration of this chapter.

Sec. 2. 36 MRSA § 1760, sub-§§ 9-B and 9-C are enacted to read:

9-B. Residential electricity. Sale of the first 500 kilowatt hours of residential electricity per month. For the purpose of this subsection, "residential electricity" shall mean electricity furnished to homes, mobile homes, boarding homes and apartment houses.

9-C. Residential gas. Sales of gas when bought for cooking and heating in residences. For the purpose of this subsection, "residences" shall mean homes, mobile homes, boarding homes and apartment houses.

Sec. 3. 36 MRSA, § 1760, sub-§ 39 is enacted to read:

39. Water. Sales of water purchased for use in homes, mobile homes, boarding houses and apartment houses and other buildings designed for both human habitation and sleeping, with the exception of hotels and motels.

Sec. 4. 36 MRSA § 1765, as last repealed and replaced by PL 1975, c. 765, § 20, is repealed and the following enacted in its place:

§ 1765. Trade-in credit for vehicles, boats or aircraft

When one or more motor vehicles, boats, aircraft or self-propelled vehicles used to harvest lumber is traded in toward the sale price of another motor vehicle, boat, aircraft or self-propelled vehicle used to harvest lumber, the tax imposed by chapters 211 to 225 shall be levied only upon the difference between the sale price of the purchased vehicle and the sale price of the vehicle or vehicles taken in trade, except for transactions between dealers involving exchange of the vehicles from inventory.

Sec. 5. 36 MRSA § 2013 is enacted to read:

§ 2013. Refund of sales tax on depreciable machinery and equipment purchases

1. Definitions. As used in this section unless the context otherwise indicates, the following words shall have the following meanings.

A. "Agricultural production" means production of crops for human and animal consumption and production of livestock.

B. "Commercial fishing" means attempting to catch fish or any other marine animal with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport fishermen to available fishing grounds.

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the Internal Revenue Code:

(1) New or used machinery and equipment for use by the purchaser directly and primarily in agricultural production, including self-propelled vehicles, attachments and equipment for the production of field and orchard crops; new or used machinery and equipment used in production of milk and in animal husbandry and production of livestock, including poultry; or

(2) New or used watercraft used primarily for commercial fishing; and nets, cables, tackle and related equipment necessary to the operation of the vessel for fishing purposes.

2. Credit authorized. Any person, association of persons, firm or corporation who purchases depreciable machinery or equipment for use in agricultural production or commercial fishing shall be refunded the amount of sales tax paid by him by presenting to the State Tax Assessor evidence that the machinery or equipment complies with the definitions of subsection 1.

Evidence required by the State Tax Assessor shall include, but not be limited to, a copy of copies of that portion of the purchasers' most recent filing under the Internal Revenue Code which indicates that the purchaser is in fact engaged in agricultural production or commercial fishing and that the purchased machinery or equipment is depreciable for those purposes.

In the event that any piece of machinery or equipment shall be only partially

depreciable under the Internal Revenue Code, any reimbursement of the sales tax shall be prorated accordingly.

Application for refunds shall be filed with the State Tax Assessor within 15 months of the date of purchase and shall be limited to purchases made subsequent to July 1, 1978.

Sec. 6. **36 MRSA § 5102, sub-§ 8, ¶ D** is enacted to read:

D. For the tax years beginning January 1, 1978, an amount equal to the taxpayer's federal new jobs credit as determined under the laws of the United States.

Sec. 7. **36 MRSA § 5115** is enacted to read:

§ 5115. Head of household

For taxable years beginning on and after January 1, 1978, a taxpayer who qualified to file his federal income tax return as a head of a household may also file as a head of a household with the State. If he does so, his tax shall be equal to ½ the amount imposed by section 5111 on his income if he were single, plus ½ of the amount imposed by section 5111 if he were filing a joint return.

Sec. 8. **36 MRSA § 5122, sub-§ 2,** as enacted by P & SL 1969, c. 154, § F, § 1, is repealed and the following enacted in its place:

2. Subtractions. For tax years beginning January 1, 1978, federal adjusted gross income shall be reduced by:

A. Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States, provided that the amount subtracted shall be decreased by any expenses incurred in the production of the interest or dividend income to the extent that these expenses, including amortizable bond premiums, are deductible in determining federal adjusted gross income; or

B. An amount equal to the taxpayer's federal new jobs credit as determined under the laws of the United States.

Sec. 9. **36 MRSA § 5130** is enacted to read:

§ 5130. Retirement credit

For taxable years beginning on and after January 1, 1978, a resident may receive a credit against state taxes due equal to 20% of any credit he received for any year under the Internal Revenue Code, section 37, credit for the elderly. In no case shall this credit reduce the Maine income tax to less than zero.

Sec. 10. **36 MRSA § 5205, sub-§ 3,** as enacted by PL 1973, c. 788, § 194, is repealed and the following enacted in its place:

3. 5% of taxable income not in excess of $25,000, plus 7% of the taxable income in excess of $25,000 attributable on or after January 1, 1974, provided that taxable income, for purposes of this subsection, shall be reduced by the amount of the corporation's or association's federal new jobs credit for tax years beginning on January 1, 1978; and is reduced by the amount of the tax payable by the corporation or association for the taxable year under chapter 817.

Sec. 11. **36 MRSA § 6108,** as repealed and replaced by PL 1973, c. 634. § 3, is amended to read:

§ **6108. Income limitation**

No claim otherwise allowable shall be granted to claimants of single member households with household income in excess of $4,500 **$5,000** in the year for which relief is requested; and no claim otherwise allowable shall be granted to claimants of households of 2 or more members with income in excess of $5,000 **$6,000** in the year for which relief is requested.

Sec. 12. 36 MRSA § 6112, as last amended by PL 1977, c. 579, § D, § 1, is repealed and the following enacted in its place:

§ 6112. Amount of claim

The claim shall be limited to the amount by which property taxes accrued or rent constituting property taxes accrued in such tax year on the claimant's homestead.

Sec. 13. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

		1978-79
FINANCE AND ADMINISTRATION, DEPARTMENT OF		
Bureau of Taxation		
Personal Services	(1)	$12,500
All Other		4,250
Capital Expenditures		750
		$17,500

Sec. 14. Appropriation for Elderly Householders Tax and Rent Refund Act. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1978-79
FINANCE AND ADMINISTRATION, DEPARTMENT OF	
Elderly Householders Tax and Rent Refund Act	
Bureau of Taxation	
All Other	$1,400,000

Sec. 15. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1978-79
FINANCE AND ADMINISTRATION, DEPARTMENT OF	
Maine Homestead Property Tax Rebate Act	
Bureau of Taxation	
Personal Services	$ 50,000
All Other	10,000,000
	$10,050,000

Sec. 16. Effective date. This Act shall become effective on July 1, 1978.

Fiscal Note

This bill results in the following permanent, yearly tax relief expenditures. The total relief provided is $17.44 million. The bill:

1. Exempts from the sales tax the sale of the first 500 KWH of residential electricity, $2.8 million;

2. Exempts from the sales tax the sale of residential gas used for cooking and heating, $.2 million;

3. Exempts from the sales tax the sale of residential water, $.475 million;

4. Increases the benefits of the elderly householders tax and rent refund program, $1.40 million;

5. Establishes as a head of household personal income tax rate, $.15 million;

6. Refunds the sales tax for purchases of agriculture equipment, $1.8 million and fishing equipment, $.32 million;

7. Exempts from the sales tax the trade-in value of self-propelled logging harvesting equipment, $.17 million;

8. Establishes an elderly retirement income tax credit equal to 20% of the federal credit, $.125 million; and

9. Provides a property tax rebate, $10,000,000. Under this property tax rebate, each homestead owner will receive $30 and each renter will receive $20.

STATEMENT OF FACT

The purpose of this bill is to provide pernament tax relief of $17.44 million. The specific tax relief measures are listed in the Fiscal Note.

This bill also counteracts the present effect of the federal new jobs credit on Maine taxable income. The federal credit is partially offset by a federal requirement that the taxpayer's normal deduction for wages paid be reduced by the amount of credit. Since Maine does not allow the credit, use of the federal adjusted gross income figure, which includes the credit offset, would place the taxpayer in a worse position for Maine income tax purposes than if the new jobs credit did not exist. This effect would offset the incentive established by the federal credit and tend to frustrate the federal objective of job creation.