

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 2

H. P. 2

Office of the Clerk of the House

Submitted by the Department of Finance and Administration pursuant to Joint Rule 24.

Filed December 1, 1980, pursuant to Joint Rule 23 of the 109th Legislature, by Mr. Kilcoyne of Gardiner. Printed pursuant to same Joint Rule.

EDWIN H. PERT, Clerk

Presented by Mr. Kilcoyne of Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Adopt Federal Withholding Requirements for Payments to Certain Nonresident Alien Individuals, Foreign Corporations and Partnerships.

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

Sec. 1. 36 MRSA § 5250, sub-§ 1, as last amended by PL 1977, c. 477, § 19, is further amended by adding at the end a new sentence to read:

This section does not apply to wages from which a tax is required to be deducted and withheld under the United States Internal Revenue Code, sections 1441 and 1442.

Sec. 2. 36 MRSA § 5251, as amended by PL 1979, c. 541, Pt. A, § 244, is further amended to read:

§ 5251. Information statement for employee

Every employer required to deduct and withhold tax under this Part ~~from the wages of an employee~~, or who would have been required so to deduct and withhold tax if ~~the an~~ employee had claimed no more than one withholding exemption, shall furnish to each such ~~employee person~~ in respect to the ~~wages items of income subject to withholding~~ paid by such employer to such ~~employee person~~ during the calendar year on or before February 15th of the succeeding year, or, ~~if his~~

employment in the case of an employee who is terminated before the close of such calendar year, within 30 days from the date on which the last payment of wages is made, a written statement as prescribed by the assessor showing the amount of wages paid by the employer to the employee, or in the case of withholding pursuant to section 5255-B the total items of income which were subject to withholding, the amount deducted and withheld as tax, and such other information as the assessor shall prescribe.

Sec. 3. 36 MRSA § 5252, as enacted by P&SL 1969, c. 154, § F, is amended to read:

§ 5252. Credit for tax withheld

Wages and other items of income upon which tax is required to be withheld shall be taxable under this Part as if no withholding were required, but any amount of tax actually deducted and withheld under this chapter in any calendar year shall be deemed to have been paid to the assessor on behalf of the person from whom withheld, and such person shall be credited with having paid that amount of tax for the taxable year beginning in such calendar year. For a taxable year of less than 12 months, the credit shall be made under regulations of the assessor.

Sec. 4. 36 MRSA § 5254, last sentence, as enacted by P&SL 1969, c. 154, § F, is amended to read:

No ~~employee person~~ shall have any right of action against ~~his~~ an employer in respect to any money deducted and withheld ~~from his wages~~ and paid over to the assessor in compliance or in intended compliance with this Part.

Sec. 5. 36 MRSA § 5255-B is enacted to read:

§ 5255-B. Certain items of income under the United States Internal Revenue Code

Any employer maintaining an office or transacting business within this State and who is required to deduct and withhold a tax on items of income under the United States Internal Revenue Code, sections 1441 and 1442 shall deduct and withhold from such items to the extent they constitute Maine net income a tax equal to 5% thereof.

Sec. 6. Effective date. This Act shall take effect as to wages and other items of income paid on or after January 1, 1982.

STATEMENT OF FACT

This bill would more nearly conform Maine's withholding provisions to those of the United States Internal Revenue Code. By securing compliance through a withholding program for items of income other than wages, nonresident aliens currently eluding Maine income tax through failure to file or under reporting of such income will have Maine tax withheld by employers.