

MAINE STATE LEGISLATURE

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(EMERGENCY)
(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1262

H. P. 1043

House of Representatives, March 11, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Post of Owl's Head.

STATE OF MAINE

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

AN ACT to Shorten the Holding Period for Abandoned Property, Advance the Due Date for Inheritance Taxes and Revise Business Income Taxes.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and institutions will become due and payable before July 1, 1981; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. 1. 33 MRSA § 1304, sub-§ 1, first sentence, as enacted by PL 1977, c. 707, § 8, is amended to read:

Any demand, savings or matured time deposit in a financial institution, or any

funds paid toward the purchase of shares or other interest in a financial institution shall be presumed abandoned if, within the preceding ~~10~~ 5 years the owner has not:

Sec. 2. 33 MRSA § 1304, sub-§ 2, first sentence, as amended by PL 1979, c. 123, § 1, is further amended to read:

Any sum payable on a check certified in the State or on any written instrument, except a traveler's check or money order, issued in the State on which a financial institution is directly liable shall be presumed abandoned if, within ~~10~~ 5 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

Sec. 3. 33 MRSA § 1304, sub-§ 3, first sentence, as amended by PL 1979, c. 123, § 2, is further amended to read:

Any sum payable on a traveler's check or money order on which a financial institution or other business association is directly liable shall be presumed abandoned if, within ~~15~~ 5 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

Sec. 4. 33 MRSA § 1304, sub-§ 4, as enacted by PL 1977, c. 707, § 8, is amended to read:

4. Safe deposit box. Any funds or other personal property, tangible or intangible, contained in or removed from a safe deposit box or other safekeeping repository shall be presumed abandoned if the owner has not claimed the property within ~~10~~ 5 years of the expiration of the lease, rental or other agreement.

Sec. 5. 33 MRSA § 1305, sub-§ 1, first sentence, as enacted by PL 1977, c. 707, § 8, is amended to read:

Any funds held or owing by a life insurer that are due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated shall be presumed abandoned if they have not been claimed or paid within ~~10~~ 5 years after becoming due or payable as established from the insurer's records.

Sec. 6. 33 MRSA § 1305, sub-§ 3, as enacted by PL 1977, c. 707, § 8, is amended to read:

3. Presumption of maturity. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds are deemed to be due and payable if the policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based; unless the person appearing entitled thereto has, within the preceding ~~10~~ 5 years, assigned, readjusted or paid premiums on the policy, made payments on a loan, or corresponded in writing with the life insurer concerning the policy.

Sec. 7. 33 MRSA § 1306, sub-§ 1, first sentence, as enacted by PL 1977, c. 707, § 8, is amended to read:

Any funds held or owing by a fire, casualty, surety or any other insurer that are due and payable, as established from the records of the insurer, either to an insured, a principal or other claimant under any insurance policy or contract shall be presumed abandoned if they have not been claimed or paid within ~~10~~ 5 years after becoming due or payable.

Sec. 8. 33 MRSA § 1307, sub-§ 1, first sentence, as enacted by PL 1977, c. 707, § 8, is amended to read:

Any deposit, advance, toll, collateral, security or other property held by a utility to secure payment or as an advance for services to be furnished shall be presumed abandoned if it has not been claimed or returned within ~~10~~ 5 years after:

Sec. 9. 33 MRSA § 1307, sub-§ 2, as enacted by PL 1977, c. 707, § 8, is amended to read:

2. Refunds. Any funds which a utility has been ordered to refund shall be presumed abandoned if they have not been claimed or paid within ~~10~~ 5 years after the date they became payable in accordance with the final determination or order providing for the refund.

Sec. 10. 33 MRSA § 1308, sub-§ 1, as enacted by PL 1977, c. 707, § 8, is amended to read:

1. Dividends. Any dividend, profit, distribution, interest, payment on principal or other funds held or owing by a business association for or to its share holder, certificate holder, member, bondholder or other security holder, or a participating patron of a cooperative, shall be presumed abandoned if, within ~~10~~ 5 years after the date prescribed for delivery or payment, they have not been claimed or the owner has not corresponded in writing with the holder concerning these funds.

Sec. 11. 33 MRSA § 1308, sub-§ 2, first sentence, as enacted by PL 1977, c. 707, § 8, is amended to read:

Any intangible interest in a business association, as evidenced by stock records or membership records of the association, shall be presumed abandoned if, for ~~10~~ 5 years:

Sec. 12. 33 MRSA § 1310, sub-§ 1, first sentence, as enacted by PL 1977, c. 707, § 8, is amended to read:

All property held in a fiduciary capacity for the benefit of another person shall be presumed abandoned if, within ~~10~~ 5 years of it becoming payable or distributable, the owner has not:

Sec. 13. 33 MRSA § 1311, as enacted by PL 1977, c. 707, § 8, is amended to read:

§ 1311. Property held by governmental agents

All property, not otherwise covered in this chapter, and held for the owner by a

court, public corporation or authority, or agent or instrumentality of the United States, this State or any other state, or by a public officer or political subdivision thereof shall be presumed abandoned if it is not claimed within ~~40~~ 5 years of becoming payable or distributable.

Sec. 14. 33 MRSA § 1312, sub-§ 1, first sentence, as repealed and replaced by PL 1979, c. 641, § 10, is amended to read:

Any cash or sums payable on a written instrument other than a money order or traveller's check and all other personal property with a fair market value of \$1,000 or more not otherwise covered in this chapter, that is held or owing the ordinary course of the holder's business shall be presumed abandoned if it has not been claimed within ~~40~~ 5 years after becoming payable or distributable.

PART B

Sec. 1. 36 MRSA § 3681, as amended by PL 1973, c. 224, § 1, is further amended to read:

§ 3681. Due date

Except as otherwise provided in sections 3524 and 3636, the ~~tax~~ taxes imposed by chapters 511 to 567 shall be payable at the expiration of ~~42~~ 9 months from the date of death of the decedent. **Personal representatives, trustees, grantees, donees, beneficiaries and surviving joint owners shall be and remain liable for the taxes until they are paid.** The State Tax Assessor may, for cause, extend the time of payment.

Sec. 2. 36 MRSA § 3742, as last amended by PL 1977, c. 679, § 26, is repealed.

Sec. 3. **Effective date.** Section 1 of this Part shall become effective for decedents with a date of death on or after July 1, 1981.

PART C

Sec. 1. 36 MRSA § 5102, sub-§ 8, ¶ E is enacted to read:

E. That portion of the taxpayer's net operating loss deduction under the United States Internal Revenue Code, Section 172, which is attributable to net operating losses incurred in tax years beginning on or after January 1, 1980.

Sec. 2. 36 MRSA § 5122, sub-§ 1, ¶ C is enacted to read:

C. An amount equal to the portion of the taxpayer's net operating loss deduction under the United States Internal Revenue Code, Section 172, which is attributable to net operating losses incurred in tax years beginning on or after January 1, 1980.

PART D

Sec. 1. 36 MRSA § 5201-A is enacted to read:

§ 5201-A. Filing fee

A filing fee of \$50 is imposed upon every corporation required to file an income tax return under section 5220, subsection 5. The tax liability of that corporation under section 5200 or under section 5206 shall be credited against the filing fee, except that the filing fee shall in no event be reduced to less than zero. The filing fee shall be subject to administrative review under section 151 in the same manner as assessment of a tax.

Sec. 2. **Effective date.** This Part shall become effective for taxable years beginning on or after January 1, 1980.

PART E

Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of Part B of this Act.

	1981-82	1982-83
FINANCE AND ADMINISTRATION, DEPARTMENT OF		
Bureau of Taxation		
Positions	(1)	(1)
Personal Services	\$15,000	\$15,000
Capital Expenditures	500	

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except as otherwise specified.

STATEMENT OF FACT

Part A will change from 10 years to 5 years and in section 3 from 15 years to 5 years the period of time items commonly referred to as abandoned property shall be held prior to turning them over to the State. This action will generate a one-time revenue of \$1,300,000.

Part B advances the tax due date for Maine death taxes from 12 months to 9 months after the death of the decedent in conformity with the federal death tax. Consequently, revenue accrued to the State will be accelerated and it is estimated that fiscal year 1981-82 revenue would reflect a one-time increase of \$2,500,000. Also, certain language changes are effected to conform to the Probate Code effective January 1, 1981.

Part C removes the net operating loss carrybacks and carryovers from the income tax law. Based on federal law, a net operating loss can be carried back 3 years. Any loss remaining can be carried over to as many as 7 years following the loss year. The carryback, carryover provision allows the possibility of requiring

the State to refund taxes collected for 3 years as well as forfeit taxes for the next 7 years. Since Maine's economy and corporate tax revenue depends heavily on a relatively few large corporate taxpayers, a year of substantial loss to any of these corporations could result in an expenditure of unbudgeted state funds and substantial reduction in future revenues. This legislation eliminates the recognition of these adjustments in determining Maine taxable income. It is estimated that the carryback option resulted in refunds amounting to \$1,300,000 in 1980.

Part D is designed to impose an annual filing fee of \$50 to cover the cost of processing corporate income and franchise tax returns. The fee would be set off against corporate income or franchise tax liability so that a corporation paying \$50 or more in those taxes would not be required to pay the fee. This Part is estimated to produce an additional annual General Fund revenue of \$250,000.

Part E appropriates funds to carry out the purposes of Part B.