

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1419

H. P. 1195

House of Representatives, March 19, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative McHenry of Madawaska.

Cosponsor: Representative Hall of Sangerville.

STATE OF MAINE

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

AN ACT to Provide Deductions under the State Individual Income Tax for Necessities and to Increase the Corporate Income Tax.

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

Sec. 1. 36 MRSA § 5121, as enacted by P&SL 1969, c. 154, § F, is amended to read:

§ 5121. Taxable income

The entire taxable income of a resident individual of this State shall be his federal adjusted gross income as defined in the laws of the United States with the modifications and less the deductions ~~and personal exemptions~~ provided in this chapter.

Sec. 2. 36 MRSA § 5124-A, as enacted by PL 1977, c. 477, § 17, is repealed and the following enacted in its place:

§ 5124-A. Standard deduction; resident

The standard deduction of a resident individual or of a resident husband and wife who file a joint return or of a resident married person who files a separate return is the most recent lower level annual budget for a 4-person family for Boston, Massachusetts as published by the United States Bureau of Labor Statistics.

Sec. 3. 36 MRSA § 5125, as enacted by P&SL 1969, c. 154, § F, is repealed and the following enacted in its place:

§ 5125. Itemized deductions

In determining taxable income a resident individual may elect to deduct ordinary and necessary living expenses. Ordinary and necessary living expenses include, but are not limited to, food, clothing, mortgage or rent payments, repairs to homes, utilities, cost of maintaining and operating automobiles used for employment, child care, medical and dental services and insurance, expenses of obtaining an education and other tax payments.

Sec. 4. 36 MRSA § 5126, as last amended by PL 1979, c. 615, § 4, is repealed.

Sec. 5. 36 MRSA § 5140, as enacted by P&SL 1969, c. 154, § F, is amended to read:

§ 5140. Nonresident individuals—taxable income

The taxable income of a nonresident individual shall be that part of his federal adjusted gross income derived from sources within this State determined by reference to section 5142 less the deductions ~~and personal exemptions~~ provided in this chapter.

Sec. 6. 36 MRSA § 5143-A, as enacted by PL 1979, c. 711, Pt. H, § 2, is repealed and the following enacted in its place:

§ 5143-A. Standard deduction; nonresident

The standard deduction of a nonresident individual or of a nonresident husband and wife who file a joint return or of a nonresident married person who files a separate return shall be that percentage of the standard deduction for residents in the same category which is arrived at by dividing the nonresident's adjusted gross income from sources within this State by his adjusted gross income he would be required to report if he were a resident.

Sec. 7. 36 MRSA § 5145, as amended by PL 1979, c. 711, Pt. H, § 5, is repealed.

Sec. 8. 36 MRSA § 5200, sub-§ 1, as last repealed and replaced by PL 1977, c. 686, § 12, is amended to read:

1. **Rate.** ~~4.95%~~ 10% of Maine net income not in excess of \$25,000 plus ~~6.93%~~ 15% of any Maine net income in excess of \$25,000 attributable on or after January 1, ~~1978~~ 1981.

Sec. 9. **Statutory referendum procedure; submission at statewide election; effective date.** This Act shall be submitted to the legal voters of the State of Maine at a statewide election to be held on the Tuesday following the first Monday of November following passage of this Act. The city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law

for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

“Shall deductions be provided under the state individual income tax for necessities and shall the corporate income tax be increased?”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the word “Yes” or “No.” The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are in favor of the Act, the Governor shall proclaim that fact without delay, and the Act shall become effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

STATEMENT OF FACT

This bill provides for more equitable treatment of noncorporate income taxpayers.

Under present law, corporate taxpayers are entitled to deduct all the “ordinary and necessary” expenses of keeping their businesses in operation. However, individual taxpayers may only deduct certain limited expenses. The personal exemption of \$1,000 per person is, by no means, adequate to provide for an individual’s subsistence needs.

Therefore, this bill would eliminate the current personal exemption and provide a deduction for “ordinary and necessary” living expenses for individual taxpayers. “Ordinary and necessary” expenses would include, but not be limited to, food, clothing, mortgage and rental payments, repairs to homes, utilities, cost of maintaining and operating automobiles used for employment, child care, medical and dental services and insurance, expenses of obtaining an education and other tax payments. It is intended that “ordinary and necessary” should be interpreted administratively in the same manner that it is for business expenses. A more adequate standard deduction is provided for persons who prefer not to do extensive calculations.

This bill would increase the corporate income tax to compensate for any loss of revenues.