

MAINE STATE LEGISLATURE

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L.D. 1735

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-732)
110TH LEGISLATURE
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 1746, L.D. 1735, Bill,
"AN ACT Providing for Administrative Changes in the Maine
Tax Laws."

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Amend the Bill by inserting after the enacting clause
the following:

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'Sec. 1. 9-B MRSA §161, sub-§2, TH is enacted to read:

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H. The making of reports to the State Tax Assessor re-
quired under Title 36, section 3851 and the examination
of the financial records authorized by Title 36,
section 112.

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Further amend the Bill by inserting after section 3 the
following:

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'Sec. 5. 36 MRSA §576-B, first paragraph, 2nd sen-
tence, as amended by PL 1977, c. 694, §680, is repealed.

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Sec. 6. 36 MRSA §576-B, first paragraph, 3rd sentence,
as enacted by PL 1977, c. 549, §5, is repealed.

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Sec. 7. 36 MRSA §578, sub-§1, 6th paragraph, as
enacted by PL 1981, c. 517, §11, is repealed and the follow-
ing enacted in its place:

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No municipality may receive a reimbursement payment under
this section which would exceed an amount determined by cal-
culating the tree growth tax loss less the municipal savings
in educational costs attributable to reduced state valua-
tion.

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A. The tree growth tax loss is the adjusted tax that
would have been assessed, but for this subchapter, on
the classified forest lands if they were assessed ac-
cording to the undeveloped acreage valuations used in
the state valuation then in effect minus the tax that

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2 was actually assessed on the same lands in accordance
3 with this subchapter.

4 In determining the adjusted tax that would have been
5 assessed, the tax rate to be used is computed by adding
6 the additional school support required by the modified
7 state valuation attributable to the increased valuation
8 of forest land to the original tax committed and divid-
9 ing this sum by the modified total municipal valuation.
10 The adjusted tax rate is then applied to the valuation
11 of forest land based on the undeveloped acreage valua-
12 tions, adjusted by the certified ratio, to determine
13 the adjusted tax.

14 B. The municipal savings in educational costs is
15 determined by multiplying the school subsidy index by
16 the change in state valuation attributable to the use
17 of the valuations determined in accordance with this
18 subchapter on classified forest lands rather than their
19 valuation using the undeveloped acreage valuations used
20 in the state valuation then in effect.'

21 Further amend the Bill by inserting after section 16
22 the following:

23 'Sec. 21. 36 MRSa §1811-A, as enacted by PL 1965, c.
24 196, §1, is amended to read:

25 §1811-A. Credit for worthless accounts

26 The tax paid on sales represented by accounts found to
27 be worthless and actually charged off as worthless may be
28 credited upon against the tax due on a subsequent report
29 filed within 3 years of the charge-off, but, if any such ac-
30 counts are thereafter collected by the retailer, a tax shall
31 be paid upon the amounts so collected. For the purpose of
32 sections 1954 and 1955 such credit shall be considered as
33 being required to be reported on or before the 15th day of
34 the month following that in which the charge-off was made.'

35 Further amend the Bill by inserting after section 18
36 the following:

37 'Sec. 24. 36 MRSa §2521-B is enacted to read:

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2 §2521-B. Self-insurers; return for calendar year 1982

3 Every group self-insurer issuing workers' compensation
4 insurance policies covering the payment of compensation and
5 benefits and every individual self-insurer which
6 self-insures the payment of compensation and benefits as
7 provided for in Title 39 subject to the .05% tax imposed by
8 this chapter shall file a return covering the calendar year
9 1982 on or before the last day of January, 1983.

10 At the time of filing such returns, each group self-
11 insurer and each individual self-insurer shall pay to the
12 State Tax Assessor the amount of tax shown due.

13 Further amend the Bill by inserting after section 25
14 the following:

15 'Sec. 32. 36 MRSA §5102, sub-§8, as last amended by PL
16 1979, c. 541, Part A, §230, is repealed and the following
17 enacted in its place:

18 8. Maine net income. "Maine net income" means, for
19 any taxable year and for any corporate taxpayer, the taxable
20 income of that taxpayer for that taxable year under the laws
21 of the United States as modified by section 5200-A and allo-
22 cated or apportioned to this State under chapter 821.

23 Sec. 33. 36 MRSA §5102, sub-§11, as last amended by PL
24 1981, c. 536, is further amended to read:

25 11. Meaning of terms. Any term used in this Part has
26 the same meaning as when used in a comparable context in the
27 laws of the United States relating to federal income taxes,
28 unless a different meaning is clearly required. Any refer-
29 ence in this Part to the laws of the United States shall be
30 construed as a reference to the provisions of the Internal
31 Revenue Code of 1954, and amendments thereto and other
32 provisions of the laws of the United States relating to fed-
33 eral income taxes as of December 31, ~~1980~~ 1981. This sub-
34 section shall be effective as to items of income, deduc-
35 tions, loss or gain accruing in taxable years ending on or
36 after January 1, 1980 but only to the extent that those
37 items have been earned, received, incurred or accrued on or
38 after that effective date. Except that for taxable years
39 ending on or after January 1, 1981, but on or before Decem-

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2 ber 31, 1981, any reference in this Part to the laws of the
3 United States shall be construed as a reference to the
4 provisions of the United States Internal Revenue Code of
5 1954, and amendments thereto and other provisions of the
6 laws of the United States relating to federal income taxes
7 as of December 1, 1981 for items of income, deductions, loss
8 or gain earned, incurred or accrued within this period.

9 Sec. 34. 36 MRSA §5122, sub-§1, ¶B, as amended by PL
10 1981, c. 463, Part C, §2, is further amended to read:

11 B. Interest or dividends on obligations of any author-
12 ity, commission, instrumentality, territory or posses-
13 sion of the United States which by the laws of the
14 United States are exempt from federal income tax but
15 not from state income tax; and

16 Sec. 35. 36 MRSA §5122, sub-§1, ¶C, as enacted by PL
17 1981, c. 463, Part C, §2, is amended to read:

18 C. For a taxable year beginning in 1981 or 1982,
19 interest and dividends excluded under the United States
20 Internal Revenue Code, Section 116, except for an
21 amount equivalent to the amount of dividends, not
22 exceeding \$100, received by the individual;

23 Sec. 36. 36 MRSA §5122, sub-§1, ¶¶ D and E are enacted
24 to read:

25 D. The amount of any net operating loss in the taxable
26 year which has been carried back to previous years pur-
27 suant to the United States Internal Revenue Code,
28 Section 172; and

29 E. The amount of any deduction claimed for the taxable
30 year under the United States Internal Revenue Code,
31 Section 172 which has previously been used to offset
32 the modifications provided by this subsection.

33 Further amend the Bill by inserting after section 26
34 the following:

35 'Sec. 38. 36 MRSA §5142, sub-§1, ¶A, as enacted by
36 P&SL 1969, c. 154, Section F, is amended to read:

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2 A. The net amount of items of income, gain, loss, and
3 deduction entering into his federal adjusted gross
4 income which are derived from or connected with sources
5 in this State including (i) his distributive share of
6 partnership income and deductions determined under
7 section 5192 and, (ii) his share of estate or trust
8 income and deductions determined under section 5176,
9 and (iii) his distributive share of the income of an
10 electing small business corporation for federal income
11 tax purposes derived from or connected with sources
12 within this State; and

13 Sec. 39. 36 MRSA §5142, sub-§5, as enacted by P&SL
14 1969, c. 154, Section F, is repealed.

15 Sec. 40. 36 MRSA §5200, as repealed and replaced by PL
16 1977, c. 686, §12, is repealed and the following enacted in
17 its place:

18 §5200. Imposition and rate of tax

19 A tax is hereby imposed upon every taxable corporation
20 for each taxable year at the rate of 4.95% of that corpora-
21 tion's Maine net income plus 1.98% of that corporation's
22 Maine net income in excess of \$25,000.

23 Sec. 41. 36 MRSA §5200-A is enacted to read:

24 §5200-A. Modifications

25 1. Additions. The taxable income of the taxpayer
26 under the laws of the United State shall be increased by:

27 A. The amount of any deduction for tax imposed by this
28 Part or by the equivalent taxing statute of another
29 state;

30 B. The amount of any net operating loss in the taxable
31 year which has been carried back to previous taxable
32 years pursuant to the United States Internal Revenue
33 Code, Section 172; and

34 C. The amount of any deduction claimed for the taxable
35 year under the United States Internal Revenue Code,
36 Section 172, which has previously been used to offset

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2 the modifications provided by this subsection.

3 2. Subtractions. The taxable income of the taxpayer
4 under the laws of the United States shall be decreased by:

5 A. Income which, under the laws of the United States,
6 is exempt from taxation by states;

7 B. The amount added to income under the United States
8 Internal Revenue Code, Section 78, foreign dividend
9 gross-up; and

10 C. An amount equal to the taxpayer's new jobs credit
11 as determined under the laws of the United States.

12 Further amend the Bill by renumbering the sections to
13 read consecutively.

14 FISCAL NOTE

15 It is estimated that enactment of section 33 of this
16 Bill will result in the following loss of revenue.

17		1981-82	1982-83
18	General Fund	\$859,200	\$9,450,240
19	Local Government Fund	35,800	393,760

20 Enactment of the remainder of this bill is not esti-
21 mated to result in any loss of revenue.

22 STATEMENT OF FACT

23 The purpose of this amendment is to provide additional
24 administrative corrections to Maine tax law. Specifically
25 the new sections are explained as follows.

26 Section 1 provides that the making of reports to the
27 State Tax Assessor by financial institutions as required by
28 Title 36, section 3851 is permitted in Title 9-B, and that
29 the State Tax Assessor is permitted to examine financial
30 records under his general powers set forth in Title 36,
31 section 112.

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2 Sections 5 and 6 remove the language requiring the
3 State Tax Assessor to determine the discount factor since
4 the Legislature now establishes the discount factor annu-
5 ally.

6 Section 7 clarifies the procedure used to limit reim-
7 bursements under the tree growth tax law. Reimbursements
8 cannot exceed an amount determined by calculating the tree
9 growth tax loss less the municipal savings in educational
10 costs attributable to reduced state valuation.

11 Section 21 clarifies the provision allowing a sales tax
12 credit for worthless accounts by specifically providing that
13 the credit must be taken within 3 years of the charge-off.
14 Title 36, sections 1954 and 1955 have been repealed.

15 Section 24 is necessitated by PL 1981, chapter 514
16 which imposed an additional tax of .05% upon all gross
17 direct premiums on contracts made in the State for workers'
18 compensation. In addition to imposing this tax on insurance
19 companies and associations, group self-insurers were
20 included. However, Title 36, section 2521-A was not amended
21 to include return and payment provisions for these classes
22 of taxpayers. This amendment would correct that oversight.

23 Sections 32, 34-36, 40 and 41 are intended to clarify
24 the statutory procedure for the treatment of negative fed-
25 eral adjusted gross income (or taxable income for corpora-
26 tions), carrybacks and carryovers. They essentially reaf-
27 firm current state procedures and insure that a deduction
28 taken in a loss year cannot be carried forward. The State
29 of Illinois is involved in litigation which has illustrated
30 the need for clear law in this area.

31 Sections 38 and 39 provide for the taxation of nonresi-
32 dent stockholders of a Subchapter S corporation operating in
33 Maine. Currently, the corporation is not subject to Maine
34 income tax, and the stockholder, who reports his distribu-
35 tive share of the income of the corporation as his own
36 income for federal purposes, is not subject to Maine income
37 tax on the income of the corporation, whether or not dis-
38 tributed to him. This appears to be an oversight in the
39 law.

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2 Section 33 conforms Maine income tax law to federal law
3 by permanent adoption of federal changes enacted through
4 December 31, 1981 including the Economic Tax Recovery Act of
5 1981. Incorporation of the following provisions of federal
6 law will have the listed impact on state revenue.

	1981-82	1982-1983
7		
8	1. Marriage penalty relief.	(\$2,400,000)
9	Provides a credit for fam-	
10	ilies where both spouses	
11	work.	
12	2. Child/dependent	
13	care credit.	(104,500)
14	Changes method of calculation	
15	of the credit.	
16	3. Charitable contributions.	(106,000)
17	Permits deduction of a por-	
18	tion of charitable contribu-	
19	tions by persons who do not	
20	itemize.	
21	4. Rollover period for	
22	sale of residence.	(2,500) (2,500)
23	Increased from 18 to 24	
24	months.	
25	5. Exclusion on sale of residence	
26	for persons 55 or older.	(9,000) (27,000)
27	Increased from \$100,000 to	
28	\$125,000.	
29	6. Foreign earned	
30	income exclusion.	(440,000)
31	Increased exclusion for citi-	
32	zens working abroad.	

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2	7.	Individual Retirement	
3		Account extension.	(832,000)
4		Permits increased contribu-	
5		tions and extends eligibil-	
6		ity.	
7	8.	Keogh plan liberalization.	(127,000)
8		Liberalizes rules and permits	
9		increased contributions.	
10	9.	All-Savers Certificates.	(1,212,000)
11		Permits exclusion of quali-	
12		fied interest income.	
13	10.	Group legal	
14		services' plants.	(12,000)
15		Extends exclusion for	
16		employer subsidized plans.	
17	11.	State Legislator's	
18		travel expense.	(3,000) (18,000)
19	12.	Deduction for	
20		adoption expenses.	(4,500) (4,500)
21		For children with special	
22		needs.	
23	13.	Incentive stock options.	(2,500) (1,500)
24		Exclusion of certain quali-	
25		fied options exercised by	
26		employees.	
27	14.	Estimated payments.	(22,000) (15,000)
28		Revises rules on estimated	
29		tax payments.	
30	15.	Accelerated Cost	

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2	Recovery System.	(1,045,000)	(4,180,000)
3	Allows more rapid deprecia-		
4	tion of property placed in		
5	services after 1980.		
6	16. Contributions of		
7	scientific property.	(1,500)	(2,500)
8	A credit for corporate con-		
9	tributions.		
10	17. LIFO inven-		
11	tories/accounting.		(117,000)
12	Simplifies inventory account-		
13	ing by permitting use of		
14	price indexes.		
15	18. Targeted job tax		
16	credit extension.		(38,500)
17	19. Motor carrier		
18	operating rights.	(72,000)	(36,000)
19	20. Reinvestment of public		
20	utilities dividends.		(230,000)
21	Provides an exclusion for		
22	certain reinvestment plans.		
23	21. Tax straddles.	270,000	167,000
24	Withdraws incentives for com-		
25	modity futures investment tax		
26	shelters.		
27	22. Construction		
28	interest/taxes.		(22,000)
29	23. Housing rehabilitation.	(3,000)	(8,000)
30	Extends exemption for low		
31	income and nonbusiness hous-		
32	ing.		

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2	24.	Corporate charitable		
3		contributions.	(62,500)
4		Increases deduction from 5%		
5		to 10% of taxable income.		
6	25.	Bank bad debt		
7		deduction.	(12,500)
8				
9		TOTAL	(\$895,000)	(\$9,844,000)

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Reported by the Majority of the Committee on Taxation.
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of the House.

3/31/82

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