

MAINE STATE LEGISLATURE

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1 (Governor's Bill)
2 FOURTH SPECIAL SESSION
3

4 ONE HUNDRED AND TENTH LEGISLATURE
5

6 **Legislative Document**

No. 2147

7 H. P. 2385

House of Representatives, April 28, 1982

8 Reference to the Committee on Taxation suggested and ordered
printed.

EDWIN H. PERT, Clerk

Presented by Representative Mitchell of Vassalboro.

Cosponsor: Senator Collins of Knox.

9

10

11 STATE OF MAINE
12

13 IN THE YEAR OF OUR LORD
14 NINETEEN HUNDRED AND EIGHTY-TWO
15

16 AN ACT Providing for Conformity with
17 the Internal Revenue Code for Taxable
18 Years Ending in 1982.
19

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

21 **Sec. 1. 36 MRSA §5102, sub-§8, as last amended by PL**
22 **1979, c. 541, Pt. A, §230, is repealed and the following**
23 **enacted in its place:**

24 8. Maine net income. "Maine net income" means, for
25 any taxable year for any corporate taxpayer, the taxable
26 income of that taxpayer for that taxable year under the laws
27 of the United States as modified by sections 5200-A and
28 5202-B and allocated or apportioned to this State under
29 chapter 821.

30 **Sec. 2. 36 MRSA §5102, sub-§8-B is enacted to read:**

31 8-B. Maine net income. "Maine net income" means, for
32 any taxable year for any corporate taxpayer, the taxable

1 income of that taxpayer for that taxable year under the laws
2 of the United States as modified by section 5200-A and allo-
3 cated or apportioned to this State under chapter 821.

4 **Sec. 3.** 36 MRSA §5102, sub-§11, as last amended by PL
5 1981, c. 536, is further amended to read:

6 11. Other terms. Any other term used in this Part has
7 the same meaning as when used in a comparable context in the
8 laws of the United States relating to federal income taxes,
9 unless a different meaning is clearly required. Any refer-
10 ence in this Part to the laws of the United States shall be
11 construed as a reference to the provisions of the United
12 States Internal Revenue Code of 1954, and amendments thereto
13 and other provisions of the laws of the United States relat-
14 ing to federal income taxes as of December 31, 1980. This
15 subsection shall be effective as to items of income, deduc-
16 tions, loss or gain accruing in taxable years ending on or
17 after January 1, 1980 but only to the extent that those
18 items have been earned, received, incurred or accrued on or
19 after that effective date. Except that Notwithstanding
20 other provisions of this subsection, for taxable years
21 ending on or after January 1, 1981, but on or before Decem-
22 ber 31, 1981 in 1981 and 1982, any reference in this Part to
23 the laws of the United States shall be construed as a refer-
24 ence to the provisions of the United States Internal Revenue
25 Code of 1954, and amendments thereto and other provisions of
26 the laws of the United States relating to federal income
27 taxes as of December 31, 1981 for items of income, deduc-
28 tions, loss or gain earned, incurred or accrued within this
29 period those taxable years.

30 **Sec. 4.** 36 MRSA §5200-A is enacted to read:

31 §5200-A. Modifications

32 1. Additions. The taxable income of the taxpayer
33 under the laws of the United States shall be increased by:

34 A. The amount of any deduction for tax imposed by this
35 Part or by the equivalent taxing statute of another
36 state;

37 B. The amount of any net operating loss in the taxable
38 year which has been carried back to previous taxable
39 years pursuant to the United States Internal Revenue
40 Code, Section 172;

41 C. The amount of any deduction claimed for the taxable
42 year under the United States Internal Revenue Code,

1 Section 172, which has previously been used to offset
2 the modifications provided by this subsection;

3 D. For a taxable year ending in 1982, Subchapter S
4 corporations excepted, the amount of deductions allowed
5 for that taxable year to the taxpayer as the nominal
6 lessor in a safe harbor lease pursuant to the United
7 States Internal Revenue Code, Section 168(f)(8), plus
8 18% of the remaining deductions allowed for that tax-
9 able year under the United States Internal Revenue
10 Code, Sections 167 and 168; and

11 E. For a taxable year ending in 1982, Subchapter S
12 corporations excepted, the amount of deductions allowed
13 for that taxable year to the taxpayer as the nominal
14 lessor in a safe harbor lease pursuant to the United
15 States Internal Revenue Code, Section 168(f)(8).

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

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

20 B. The amount added to income under the United States
21 Internal Revenue Code, Section 78, foreign dividend
22 gross-up;

23 C. An amount equal to the taxpayer's new jobs credit
24 as determined under the laws of the United States; and

25 D. For each of the taxable years ending in 1983
26 through 1985, Subchapter S corporations excepted, 6% of
27 the deductions allowed under the United States Internal
28 Revenue Code, Sections 167 and 168 for the taxable year
29 1982, excluding the amount of deduction allowed for
30 that taxable year to the nominal lessor in a safe har-
31 bor lease pursuant to the United States Internal Reve-
32 nue Code, Section 168(f)(8).

33 Sec. 5. 36 MRS-A §5202-B is enacted to read:

34 §5202-B. Depreciation option

35 For its taxable year ending in 1982, a corporation may
36 elect, in lieu of the accelerated cost recovery deduction
37 provided by the United States Internal Revenue Code, Section
38 168, and the state modifications provided by section 5200-A,
39 subsection 1, paragraph D or E, and subsection 2, paragraph
40 D, to depreciate property placed in service during that tax-

1 able year in accordance with the United States Revenue Code,
2 Section 167, in effect on December 31, 1980, provided that
3 this election is made with regard to all such property and
4 that the State Tax Assessor may refuse to allow any such
5 deduction if he deems the information provided in substan-
6 tiation of that deduction to be unsatisfactory in relation
7 to generally accepted accounting procedures.

8 **Sec. 6. 36 MRSA §5206, sub-§1, as amended by PL 1979,**
9 **c. 587, §5, is further amended to read:**

10 1. Rate. 4.95% of taxable income not in excess of
11 \$25,000, plus ~~6.93%~~ 1.98% of the taxable income in excess of
12 \$25,000 attributable on or after January 1, 1978, provided
13 that taxable income, for purposes of this subsection, shall
14 be reduced by the amount of the corporation's or associa-
15 tion's federal new jobs credit for tax years beginning on or
16 after January 1, 1978; shall be reduced by the amount of the
17 corporation's or association's credit for investment in the
18 Maine Capital Corporation for tax years beginning on or
19 after January 1, 1979; shall be increased, for the tax year
20 ending in 1982, by the amount of deductions allowed for that
21 tax year to the taxpayer as nominal lessor in a safe harbor
22 lease pursuant to the United States Internal Revenue Code,
23 Section 168(f)(8), plus 18% of the remaining deductions
24 allowed for that tax year under the United States Internal
25 Revenue Code, Sections 167 and 168, shall be decreased, for
26 each of the tax years ending in 1983 through 1985, by 6% of
27 the deductions allowed under the United States Internal Rev-
28 enue Code, Sections 167 and 168 for the taxpayer's tax year
29 ending in 1982, excluding the amount of deductions allowed
30 for that tax year to the nominal lessor in a safe harbor
31 lease pursuant to the United States Internal Revenue Code,
32 Section 168(f)(8); and is reduced by the amount of the tax
33 payable by the corporation or association for the taxable
34 year under chapter 817.

35 **Sec. 7. 36 MRSA §5206, sub-§2 is enacted to read:**

36 2. Rate. 4.95% of taxable income, plus 1.98% of the
37 taxable income in excess of \$25,000, provided that taxable
38 income, for purposes of this subsection, shall be reduced by
39 the amount of the corporation's or association's federal new
40 jobs credit for tax years beginning on or after January 1,
41 1978; shall be reduced by the amount of the corporation's or
42 association's credit for investment in the Maine Capital
43 Corporation for tax years beginning on or after January 1,
44 1979; shall be increased, for the tax year ending in 1982,
45 by the amount of deductions allowed for that tax year to the
46 taxpayer as nominal lessor in a safe harbor lease pursuant

1 to the United States Internal Revenue Code, Section
2 168(f)(8); and is reduced by the amount of the tax payable
3 by the corporation or association for the taxable year under
4 chapter 817.

5 Sec. 8. 36 MRSA §5206-A is enacted to read:

6 §5206-A. Depreciation option

7 For its taxable year ending in 1982, a corporation or
8 association subject to tax under section 5206 may elect, in
9 lieu of the accelerated cost recovery deduction provided by
10 the United States Internal Revenue Code, Section 168, and
11 the 18% add-back and 6% recovery of add-back provided by
12 section 5206, subsection 1 or 2, to depreciate property
13 placed in service during that taxable year in accordance
14 with the United States Internal Revenue Code, Section 167,
15 in effect on December 31, 1980, provided that this election
16 is made with regard to all such property and that the State
17 Tax Assessor may refuse to allow any such deduction if he
18 deems the information provided in substantiation of that
19 deduction to be unsatisfactory in relation to generally ac-
20 cepted accounting procedures.

21 Sec. 9. Certification of sufficient revenue. The
22 State Budget Officer shall document and certify to the
23 Legislature on December 1, 1982 whether or not there is suf-
24 ficient unappropriated revenue available by an amount suffi-
25 cient to fund the full federal conformity, with the excep-
26 tion of safe harbor lease benefits, as embodied by the
27 Revised Statutes, Title 36, section 5102, subsection 8-B;
28 section 5102, subsection 11; section 5200-A, subsection 1,
29 paragraph E; and section 5206, subsection 2. In his certi-
30 fication process, he shall take into account all outstanding
31 contingencies. If the excess revenues are not sufficient to
32 provide full federal conformity, with the exception of safe
33 harbor lease benefits, the Revised Statutes, Title 36,
34 section 5102, subsection 8-B; section 5200-A, subsection 1,
35 paragraph E; and section 5206, subsection 2, are repealed.
36 If the excess revenues are sufficient to provide full fed-
37 eral conformity, with the exception of safe harbor lease
38 benefits, the Revised Statutes, Title 36, section 5102, sub-
39 section 8; section 5200-A, subsection 1, paragraph D;
40 section 5200-A, subsection 2, paragraph D; section 5202-B;
41 section 5206, subsection 1; and section 5206-A, are
42 repealed.

43 Sec. 10. Effective date. This Act shall be effective
44 on December 1, 1982.

1 FISCAL NOTE

2 The following estimates indicate the revenue losses
3 associated with the provisions of this bill:

4 Fiscal Year 1982-83

5 Full Conformity
6 (except safe harbor leases):

7 General Fund (\$9,162,240)
8 Local Government Fund (381,760)

9 Partial Conformity:

10 General Fund (\$5,952,000)
11 Local Government Fund (248,000)

12 STATEMENT OF FACT

13 This bill provides 2 alternatives with respect to con-
14 forming Maine's income tax law with the United States
15 Internal Revenue Code for the 1982 tax year. The alterna-
16 tive effected will be contingent upon whether or not there
17 is sufficient unappropriated revenue available to fund the
18 full federal conformity, with the exception of safe harbor
19 lease benefits.

20 If sufficient excess revenue exists, then full tax con-
21 formity, except for safe harbor leasing provisions, will be
22 adopted.

23 If sufficient excess revenue does not exist, then a
24 partial conformity plan is adopted which provides the fol-
25 lowing: For the 1982 tax year, corporations other than Sub-
26 chapter S corporations may elect either depreciation proce-
27 dures which were in effect before the Economic Recovery Tax
28 Act or the Accelerated Cost Recovery provisions. If Accel-
29 erated Cost Recovery provisions are elected, then 18% of the
30 corporation's total depreciation claimed for the 1982 tax
31 year is added back to Maine taxable income and this amount
32 is recovered in the following 3 years at 6% per year. Indi-
33 viduals, partnerships and Subchapter S corporations are pro-
34 vided with full conformity to the United States Internal
35 Revenue Code for the 1982 tax year.

36 Section 4 also clarifies the statutory procedure for
37 the treatment of negative taxable income for corporations,

1 carrybacks and carryovers. It reaffirms current state
2 procedures and insures that a deduction taken in a loss year
3 cannot be carried forward.

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