

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1398

7 H.P. 1054 House of Representatives, March 30, 1983

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

10 Referred to the Committee on Taxation. Sent up for concurrence and
ordered printed. Ordered sent forthwith.

EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.

11 Cosponsors: Senator Twitchell of Oxford and Representative Kilcoyne of
Gardiner.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT Providing for Administrative
18 Changes in Maine Tax Laws.
19

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

22 Sec. 1. 36 MRSA §581, 3rd ¶, as amended by PL
23 1979, c. 445, §2, is further amended to read:

24 In either case, and except when the change is
25 occasioned by a transfer to the State or other entity
26 holding the power of eminent domain, resulting from
27 the exercise or threatened exercise of that power,
28 withdrawal shall impose a penalty upon the owner
29 which shall be the greater of (a) an amount equal to
30 the taxes which would have been assessed on the first
31 day of April for the 5 tax years, or any lesser
32 number of tax years starting with the year in which
33 the property was first classified, preceding such
34 withdrawal had such real estate been assessed in each

1 of those years at its fair market value on the date
2 of withdrawal less all taxes paid on said real estate
3 over the preceding 5 years, and interest at the legal
4 rate from the date or dates on which said amounts
5 would have been payable or (b) an amount computed by
6 multiplying the amount, if any, by which the fair
7 market value of the real estate on the date of with-
8 drawal exceeds the 100% valuation of the real estate
9 pursuant to this subchapter on the preceding April
10 1st, by the following rates: 10% from April 1, 1973
11 to March 31, 1978, 20% from April 1, 1978 to March
12 31, 1983 and 30% after March 31, 1983. Fair market
13 value at the time of withdrawal is the assessed just
14 value of comparable property in the municipality ad-
15 justed by the municipality's certified assessment
16 ratio.

17 Sec. 2. 36 MRSA §609 is repealed.

18 Sec. 3. 36 MRSA §610 is repealed

19 Sec. 4. 36 MRSA §1760, sub-§42 is enacted to
20 read:

21 42. Certain property purchased outside the
22 State. Sales of property purchased and used by the
23 present owner outside the State more than 6 months
24 before being brought into the State. For the pur-
25 poses of this subsection, "use" does not include
26 storage, but means actual utilization of the property
27 for a purpose consistent with its design. Property
28 which is required to be registered for use in this
29 State does not qualify for exemption unless it was
30 registered by its present owner outside this State
31 more than 6 months prior to its registration in this
32 State.

33 Sec. 5. 36 MRSA §2013, sub-§2, as amended by PL
34 1981, c. 364, §28, is further amended to read:

35 2. Credit authorized. Any person, association of
36 persons, firm or corporation who purchases deprecia-
37 ble machinery or equipment for use in commercial
38 agricultural production or commercial fishing shall
39 be refunded the amount of sales tax paid by him by
40 presenting to the State Tax Assessor evidence that
41 the machinery or equipment complies with the defini-

1 tions of subsection 1. Evidence required by the
2 State Tax Assessor ~~shall~~ may include, ~~but not be~~
3 ~~limited to,~~ a copy or copies of that portion of the
4 purchaser's most recent filing under the United
5 States Internal Revenue Code which indicates that the
6 purchaser is ~~in fact~~ engaged in commercial agricul-
7 tural production or commercial fishing and that the
8 purchased machinery or equipment is depreciable for
9 those purposes. In the event that any piece of
10 machinery or equipment shall be only partially depre-
11 ciable under the United States Internal Revenue Code,
12 any reimbursement of the sales tax shall be prorated
13 accordingly. Application for refunds shall be filed
14 with the State Tax Assessor within 36 months of the
15 date of purchase and shall be limited to purchases
16 made subsequent to July 1, 1978.

17 Sec. 6. 36 MRS §2621, as amended by PL 1973, c.
18 268, §1, is repealed.

19 Sec. 7. 36 MRS §2621-A is enacted to read:

20 §2621-A. Definitions

21 As used in this chapter, unless the context indi-
22 cates otherwise, the following terms have the follow-
23 ing meanings.

24 1. Net railway operating income. "Net railway
25 operating income" means railway operating revenues,
26 including debits and credits arising from equipment
27 rents and joint facility rents, less railway oper-
28 ating expenses, tax accruals and uncollectible
29 railway revenues.

30 2. Operating investment. "Operating investment"
31 means investment in railway property used in trans-
32 portation service, less depreciation, plus cash,
33 including temporary cash investments and special
34 deposits, plus material and supplies, all as reported
35 by the railroad in its annual report to the Public
36 Utilities Commission. For purposes of railroad
37 excise taxes payable in 1983, based upon operations
38 for the calendar year 1982, "operating investment"
39 also includes freight car operating leases of 10
40 years or more, valued at cost less straight-line
41 depreciation over the initial term of the lease.

1 Sec. 8. 36 MRSA §2624, first ¶, as amended by PL
2 1981, c. 682, §§1 and 2, is further amended to read:

3 The amount of the annual excise tax on railroads
4 shall be ascertained as follows: The amount of the
5 gross transportation receipts as returned to the
6 Public Utilities Commission for the year ended on the
7 31st day of December preceding the levying of such
8 tax shall be compared with the net railway operating
9 income for that year as returned to the Public Utili-
10 ties Commission. When the net railway operating
11 income does not exceed 10% of the gross transporta-
12 tion receipts, the tax shall be an amount equal to 3
13 1/4% of such gross transportation receipts. When the
14 net railway operating income exceeds 10% of the gross
15 transportation receipts but does not exceed 15%, the
16 tax shall be an amount equal to 3 3/4% of the gross
17 transportation receipts. When the net railway oper-
18 ating income exceeds 15% of the gross transportation
19 receipts but does not exceed 20%, the tax shall be an
20 amount equal to 4 1/4% of such gross transportation
21 receipts. When the net railway operating income
22 exceeds 20% of the gross transportation receipts but
23 does not exceed 25%, the tax shall be an amount equal
24 to 4 3/4% of such gross transportation receipts.
25 When the net railway operating income exceeds 25% of
26 the gross transportation receipts, the tax shall be
27 an amount equal to 5 1/4% of such gross transporta-
28 tion receipts. The tax shall be decreased by the
29 amount by which 5 3/4% of operating investment
30 exceeds net railway operating income but shall in no
31 event be decreased below a minimum amount equal to
32 1/4 of 1% of gross transportation receipts. For pur-
33 poses of this section, "operating investment" means
34 investment in railway property used in transportation
35 service (less depreciation) plus cash (including
36 temporary cash investments and special deposits) plus
37 material and supplies, all as reported by the rail-
38 road in its annual report to the Public Utilities
39 Commission. For purposes of railroad excise taxes
40 payable in 1980 through 1983, based upon operations
41 for the calendar years 1979 through 1982, "operating
42 investment" shall also include freight car operating
43 leases of 10 years or more, valued at cost less
44 straight-line depreciation over the initial term of
45 the lease. In the case of railroads operating not
46 over 50 miles of road, the tax shall not exceed 1
47 3/4% of the gross transportation receipts.

1 Sec. 9. 36 MRSA §2624, 3rd ¶ is amended to read:

2 The term "net railway operating income" means the
3 railway operating revenues less the railway operating
4 expenses, tax accruals and uncollectible railway
5 revenues, including in the computation thereof debits
6 and credits arising from equipment rents and joint
7 facility rents. The Public Utilities Commission,
8 after notice and hearing, may determine the accuracy
9 of any returns required of any railroad, and if found
10 inaccurate, may order proper corrections to be made
11 therein.

12 Sec. 10. 36 MRSA §2625 is repealed and the fol-
13 lowing enacted in its place:

14 §2625. Return and payment

15 Every railroad company incorporated under the
16 laws of this State or doing business in this State
17 shall file with the State Tax Assessor annually, on
18 or before April 15th, a railroad excise tax return,
19 on a form prescribed by the State Tax Assessor. The
20 tax shall be paid in equal installments on the next
21 June 15th, September 15th and December 15th.

22 Sec. 11. 36 MRSA §2626, as repealed and replaced
23 by PL 1981, c. 364, §31, is repealed.

24 Sec. 12. 36 MRSA §2628, as amended by PL 1979,
25 c. 378, §20, is repealed.

26 Sec. 13. 36 MRSA §3461, sub-§2 is amended to
27 read:

28 2. Life insurance. All proceeds of life insur-
29 ance policies upon the life of a decedent payable to
30 his estate or to his executors or administrators
31 except, if testate, such part thereof as is
32 bequeathed to a widow or widower, or issue, or, if
33 intestate, such part thereof as descends under Title
34 18, section 853 to a surviving widow, widower or
35 issue.

36 Sec. 14. 36 MRSA §3742, as amended by PL 1981,
37 c. 364, §43, is repealed.

1 Sec. 15. 36 MRSA §5102, sub-§8-A, as enacted by
2 PL 1975, c. 627, §2, is repealed.

3 Sec. 16. 36 MRSA §5111, as amended by PL 1977,
4 c. 686, §7, is repealed and the following enacted in
5 its place:

6 A tax is imposed for each taxable year on the
7 entire taxable income of every resident individual of
8 this State and on the taxable income of every non-
9 resident individual which is derived from sources
10 within this State. The amount of the tax shall be
11 determined in accordance with the following tables:

12 1. For single individuals and married persons
13 filing separate returns:

<u>If the taxable income is:</u>	<u>The tax is:</u>
15 <u>Not over \$2,000</u>	<u>1% of the taxable</u>
16	<u>income</u>
17 <u>\$2,000 but not over</u>	<u>\$20 + 2% of excess</u>
18 <u> \$4,000</u>	<u>over \$2,000</u>
19 <u>\$4,000 but not over</u>	<u>\$60 + 3% of excess</u>
20 <u> \$6,000</u>	<u>over \$4,000</u>
21 <u>\$6,000 but not over</u>	<u>\$120 + 6% of excess</u>
22 <u> \$8,000</u>	<u>over \$6,000</u>
23 <u>\$8,000 but not over</u>	<u>\$240 + 7% of excess</u>
24 <u> \$10,000</u>	<u>over \$8,000</u>
25 <u>\$10,000 but not over</u>	<u>\$380 + 8% of excess</u>
26 <u> \$15,000</u>	<u>over \$10,000</u>
27 <u>\$15,000 but not over</u>	<u>\$780 + 9.2% of excess</u>
28 <u> \$25,000</u>	<u>over \$15,000</u>
29 <u>\$25,000 or more</u>	<u>\$1,700 + 10% of excess</u>
30	<u>over \$25,000</u>

31 2. For unmarried or legally separated individu-
32 als who qualify as heads of household:

<u>If the taxable income is:</u>	<u>The tax is:</u>
34 <u>Not over \$3,000</u>	<u>1% of the taxable</u>
35	<u>income</u>
36 <u>\$3,000 but not over</u>	<u>\$30 + 2% of excess</u>
37 <u> \$6,000</u>	<u>over \$3,000</u>
38 <u>\$6,000 but not over</u>	<u>\$90 + 3% of excess</u>
39 <u> \$9,000</u>	<u>over \$6,000</u>

1	<u>\$9,000 but not over</u>	<u>\$180 + 6% of excess</u>
2	<u>\$12,000</u>	<u>over \$9,000</u>
3	<u>\$12,000 but not over</u>	<u>\$360 + 7% of excess</u>
4	<u>\$15,000</u>	<u>over \$12,000</u>
5	<u>\$15,000 but not over</u>	<u>\$570 + 8% of excess</u>
6	<u>\$22,500</u>	<u>over \$15,000</u>
7	<u>\$22,500 but not over</u>	<u>\$1,170 + 9.2% of</u>
8	<u>\$37,500</u>	<u>excess over</u>
9		<u>\$22,500</u>
10	<u>\$37,500 or more</u>	<u>\$2,550 + 10% of excess</u>
11		<u>over \$37,500</u>

12 3. For the joint income of married individuals
 13 and widows or widowers permitted to file a joint fed-
 14 eral return:

15	<u>If the taxable income is:</u>	<u>The tax is:</u>
16	<u>Not over \$4,000</u>	<u>1% of the taxable</u>
17		<u>income</u>
18	<u>\$4,000 but not over</u>	<u>\$40 + 2% of excess</u>
19	<u>\$8,000</u>	<u>over \$4,000</u>
20	<u>\$8,000 but not over</u>	<u>\$120 + 3% of excess</u>
21	<u>\$12,000</u>	<u>over \$8,000</u>
22	<u>\$12,000 but not over</u>	<u>\$240 + 6% of excess</u>
23	<u>\$16,000</u>	<u>over \$12,000</u>
24	<u>\$16,000 but not over</u>	<u>\$480 + 7% of excess</u>
25	<u>\$20,000</u>	<u>over \$16,000</u>
26	<u>\$20,000 but not over</u>	<u>\$760 + 8% of excess</u>
27	<u>\$30,000</u>	<u>over \$20,000</u>
28	<u>\$30,000 but not over</u>	<u>\$1,560 + 9.2% of</u>
29	<u>\$50,000</u>	<u>excess over</u>
30		<u>\$30,000</u>
31	<u>\$50,000 or more</u>	<u>\$3,400 + 10% of excess</u>
32		<u>over \$50,000</u>

33 Sec. 17. 36 MRS §5113, as enacted by P&SL 1969,
 34 c. 154, §F, is repealed and the following enacted in
 35 its place:

36 §5113. Surviving spouse

37 A taxpayer who qualifies and files a federal
 38 income tax return utilizing the joint return tax
 39 rates as a surviving spouse may file in a similar
 40 manner with the State.

1 Sec. 18. 36 MRSA §5114, as enacted by PL 1975,
2 c. 627, §2-A, is repealed.

3 Sec. 19. 36 MRSA §5115, as enacted by PL 1977,
4 c. 686, §8, is repealed.

5 Sec. 20. 36 MRSA §5127, sub-§3, ¶A, as amended
6 by PL 1981, c. 706, §36, is further amended to read:

7 A. As used in this subsection, "renewable energy
8 system" means a wood furnace or a system, includ-
9 ing any of the systems defined in this paragraph,
10 which are is designed primarily to provide heat-
11 ing, to provide cooling, to produce electrical
12 power, to produce mechanical power, to heat water
13 or any combination thereof, by means of collect-
14 ing and transferring solar, weed or
15 wind-generated energy into such uses and which
16 system also may have the capability of storing
17 the energy for future use.

18 (1) "Solar energy system" means equipment
19 which uses solar energy to heat, cool or
20 produce electricity.

21 (a) An "active solar system" means an
22 assembly of collectors, thermal storage
23 device or devices and transfer liquid
24 which converts solar energy into ther-
25 mal energy and in which energy in addi-
26 tion to solar is used to accomplish the
27 transfer of thermal energy or devices,
28 such as photovoltaics, which convert
29 solar energy into electrical energy.

30 (b) A "passive solar system" means an
31 assembly of natural and architectural
32 components including collectors, ther-
33 mal storage device or devices and
34 transfer fluid which converts solar
35 energy into thermal energy in a con-
36 trolled manner and in which no fans or
37 pumps are used to accomplish the trans-
38 fer of thermal energy. The prime ele-
39 ments in a passive solar system are
40 usually some form of thermal capaci-
41 tance and solar energy control.

1 (2) A "wind energy system" includes any
2 machine or device which converts available
3 wind energy into electrical or mechanical
4 output form. A wind energy system has 4
5 subsystems:-

- 6 (a) A rotor;
7 (b) Power processing components;
8 (c) Frame; and
9 (d) Controlled components.

10 (3) "Wood furnace" means a wood burning
11 appliance designed to operate as part of a
12 central heating system. The furnace may
13 burn wood solely or in combination with
14 another fuel. "Central heating system"
15 means a system whereby heat is produced in a
16 central combustion chamber and distributed
17 by a series of pipes, ducts or similar
18 physical distribution system throughout a
19 building or group of buildings. "Wood fur-
20 nace" does not include a "fireplace," mean-
21 ing a hearth, fire chamber of similarly pre-
22 pared place with a chimney intended to be
23 useable in an open configuration whether or
24 not it can also be closed or operated
25 closed; or a "wood stove," meaning a wood
26 burning appliance designed primarily for
27 space heating purposes.

28 Sec. 21. 36 MRSA §6104, 2nd ¶, as amended by PL
29 1979, c. 541, Pt. B, §59, is further amended to read:

30 If the claimant was the only member of his house-
31 hold, the claim may be paid to his ~~executor or admin-
32 istrater~~ personal representative, but if neither one
33 is not appointed and qualified within 2 years of the
34 filing of the claim, the amount of the claim shall
35 escheat to the State.

36 STATEMENT OF FACT

37 Section 1 clarifies the procedure to be used in

1 determining the fair market value of forest land
2 withdrawn from the Tree Growth Tax Law.

3 Sections 2 and 3 repeal provisions which have
4 been ruled unconstitutional by the Attorney General.

5 Section 4 provides for the exemption from use tax
6 of tangible personal property which is purchased out-
7 side of Maine and which receives bona fide use for 6
8 months outside of Maine prior to entering Maine.
9 This provision complements the exemption provisions
10 of Title 36, section 1760, subsections 23, 23-A, 25
11 and 27 and is consistent with current administrative
12 practice.

13 Section 5 permits the State Tax Assessor to waive
14 the necessity for annual United States Internal Reve-
15 nue Service filings of depreciation schedules to be
16 submitted for sales tax refunds on depreciable equip-
17 ment used in commercial fishing and agriculture.
18 After the initial presentation of evidence, such
19 proof would only be required if a change in business
20 activity occurs or is suspected.

21 Sections 6 to 12 amend the railroad excise tax to
22 allow returns to be filed before April 15th, to re-
23 quire the railroad to self-assess the tax due, to
24 eliminate obsolete information gathering functions of
25 the Public Utilities Commission and to clarify the
26 tax by transferring definitions to a separate section
27 of the law.

28 Section 13 corrects an obsolete reference to
29 Title 18 which has been recodified by Title 18-A
30 which contains no equivalent of section 853.

31 Section 14 repeals an unnecessary provision since
32 Title 36, section 3681, establishes the tax due dates
33 for the taxes imposed by chapters 551 to 567.

34 Sections 15 and 18 repeal obsolete provisions.

35 Sections 16, 17 and 19 simplify the tax rate
36 schedules for the various classes of individual tax-
37 payers by specifically including the appropriate tax
38 rate tables and eliminating the confusing statutory
39 language relating to married joint and head of house-

1 hold filers.

2 Section 20 clarifies existing language in accor-
3 dance with a recent court decision regarding inter-
4 pretation of the statutory language.

5 Section 21 eliminates an obsolete reference to
6 executors and administrators and uses the language of
7 the new Probate Code.

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