(Governor's Bill)
(EMERGENCY)
SECOND SPECIAL SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

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H.P. 1374 House of Representatives, November 14, 1983

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Presented by Representative H.C. Higgins of Portland.
Cosponsors: Senator Wood of York and Representative Cashman of Old Town.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT Providing Conformity with the United States Internal Revenue Code.

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 will further delay the processing of 1983 income tax returns; and

Whereas, these provisions are presently necessary to clarify the basis on which 1983 income tax returns are to be filed; and

Whereas, basic conformity to the 1983 United States Internal Revenue Code is essential to provide reasonable ease in the preparation and processing of tax returns; and

Whereas, the add-back on corporate accelerated cost recovery system deductions is necessary to limit the loss of tax revenue; 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:

Sec. 1. 36 MRSA §5102, sub-§11, as amended by PL 1981, c. 704, § 3, is further amended to read:

11. Other terms. Any other term used in this Part has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required. Any reference in this Part to the laws of the United States shall be construed as a reference to the provisions of the United States Internal Revenue Code of 1954, and amendments thereto and other provisions of the laws of the United States relating to federal income taxes as of December 31, 1980. This subsection shall be effective as to items of income, deductions, loss or gain accruing in taxable years ending on or after January 1, 1980 but only to the extent that those items have been earned, received, incurred or accrued on or after that effective date. Notwithstanding other provisions of this subsection, for taxable years ending in 1981 and 1982, any reference in this Part to the laws of the United States shall be construed as a reference to the provisions of the United States Internal Revenue Code of 1954, and amendments thereto and other provisions of the laws of the United States relating to federal income taxes as of December 31, 1981 for items of income, deductions, loss or gain earned, incurred or accrued within those taxable years. Notwithstanding other provisions of this subsection, for taxable years ending in 1983, any reference in this Part to the laws of the United States shall be construed as a reference to the provisions of the United States Internal Revenue Code of 1954, and amendments

thereto and other provisions of the laws of the United States relating to federal income taxes as of January 31, 1983 for items of income, deductions, loss or gain earned, incurred or accrued within those taxable years.

Sec. 2. 36 MRSA §5200-A, sub-§ 1, ¶F is enacted to read:

F. For a taxable year ending in 1983, the sum of the following portions of the deductions allowed for that taxable year to the taxpayer under the United States Internal Revenue Code, Section 168:

(1) 5% of the deductions for 3-year property;

(2) 15% of the deductions for 5-year property;

(3) 25% of the deductions for 10-year property; and

(4) 40% of the deductions for 15-year property.

Sec. 3. 36 MRSA §5206, as amended by PL 1983, c. 477, Pt. F, Sub-pt. 3, § 2, is further amended to read:

§5206. Franchise tax on banking corporations and loan associations

A tax is imposed for each calendar year or fiscal year ending during that calendar year upon the franchise or privilege of doing business in this State of every corporation which is a bank, savings bank, savings institution, trust company and every savings and loan association, or loan and building association, that has a business location in this State. ~~The~~ This tax is measured by applying the tax rates specified in section 5200 to the taxable income of the corporation or association for that taxable year under the laws of the United States ~~as follows:~~ as adjusted in subsection 3. The tax computed under this chapter shall be reduced by the amount of tax payable by the taxpayer for the taxable year under chapter 817 and by the amount of the taxpayer's credit for investment in the Maine Capital Corporation.

~~1. Rate. The rates to be applied to taxable income under this chapter shall be the same as those specified in section 5200. Taxable income, for purposes of this subsection, shall be reduced by the amount of the corporation's or association's federal new jobs credit for tax years beginning on or after January 1, 1978, shall be reduced by the amount of the corporation's or association's credit for investment in the Maine Capital Corporation for tax years beginning on or after January 1, 1979, shall be increased, for the tax year ending in 1982, by the amount of deductions allowed for that tax year to the taxpayer as nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8), plus 18% of the remaining deductions allowed for that tax year under the United States Internal Revenue Code, Sections 167 and 168, shall be decreased, for each of the tax years ending in 1983 through 1985, by 6% of the deductions allowed under the United States Internal Revenue Code, Sections 167 and 168 for the taxpayer's tax year ending in 1982, excluding the amount of deductions allowed for that tax year to the nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8), and is reduced by the amount of the tax payable by the corporation or association for the taxable year under chapter 817.~~

3. Adjustments to taxable income. For purposes of this section, taxable income shall be:

A. Decreased by the amount of the taxpayer's federal new jobs credit;

B. Decreased, for taxable years ending in 1983 through 1985, by 6% of the deductions allowed under the United States Internal Revenue Code, Sections 167 and 168 for the taxpayer's taxable year ending in 1982, excluding the amount of deductions allowed for that taxable year to the nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8);

C. Increased, for taxable year ending in 1982, by the amount of deductions allowed for that tax year to the taxpayer as nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8) plus 18% of the remaining deductions allowed for that year under the United States Internal Revenue Code, Sections 167 and 168; and

D. Increased, for taxable years ending in 1983, by the sum of the following portions of the deductions allowed for that taxable year to the taxpayer under the United States Internal Revenue Code, Section 168:

(1) 5% of the deductions for 3-year property;

(2) 15% of the deductions for 5-year property;

(3) 25% of the deductions for 10-year property; and

(4) 40% of the deductions for 15-year property.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved as to taxable years ending in 1983.

FISCAL NOTE

Sections 2 through 6 of this bill would offset all but $875,700 of the estimated loss of General Fund revenue for Fiscal Year 1984 from the enactment of section 1. It is estimated that revenue from the sales tax for this fiscal year will increase General Fund revenue by $900,000. Accordingly, the increase in estimated revenue will offset the remaining revenue loss from section 1.

STATEMENT OF FACT

This bill provides for recognizing the United States Internal Revenue Code as of January 31, 1983 for 1983 tax years with the exception that corporations, other than subchapter S corporations, are required to make an add-back for accelerated cost recovery system deductions. This treatment applies to taxable years ending in 1983 and is intended to eliminate the loss of revenue in Fiscal Year 1984 that would occur due to accelerated cost recovery system deductions for corporations, yet provide a simple record-keeping approach.

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