SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document No. 2454

H.P. 1853 House of Representatives, April 9, 1984

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.

Cosponsors: Representative Mitchell of Vassalboro, Representative Higgins of Scarborough and Senator Wood of York.

STATE OF MAINE

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

AN ACT to Provide for Conformity with the United States Internal Revenue Code.

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

Sec. 1. 36 MRSA §5102, sub-§11, as amended by PL 1983, c. 590, §1, 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~~ January 31, 1983. 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~~ 1984, 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 §5122, sub-§1, ¶¶D and E, as enacted by PL 1981, c. 706, §35, are amended to read:

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

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

Sec. 3. 36 MRSA §5122, sub-§1, ¶F is enacted to read:

F. For a taxable year ending in 1984, 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) 2.5% of the deductions for 3-year property;

(2) 7.5% of the deductions for 5-year property;

(3) 12.5% of the deductions for 10-year property; and

(4) 20% of the deductions for 15-year property.

Sec. 4. 36 MRSA §5122, sub-§2, as amended by PL 1983, c 519, §25, is further amended to read:

2. Subtractions. For tax years beginning on or after January 1, 1977, federal adjusted gross income shall be reduced by:

A. Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States or on a seller-sponsored loan, as defined by Title 10, section 974, subsection 16 to the extent includible in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States, provided that the amount subtracted shall be decreased by any expenses incurred in the production of the interest or dividend income to the extent that these expenses, including amortizable bond premiums, are deductible in determining federal adjusted gross income; ~~and~~

B. An amount equal to the taxpayer's federal new jobs credit as determined under the laws of the United States~~.~~; and

C. For each of the taxable years ending in 1985 through 1987, 1/3 of the amount by which federal adjusted gross income was increased for the taxable year ending in 1984 under subsection 1, paragraph F.

Sec. 5. 36 MRSA §5200-A, sub-§1, ¶D, as enacted by PL 1981, c. 704, §4, is amended to read:

D. For a taxable year ending in 1982, Subchapter S corporations excepted, the amount of deductions allowed for that taxable year to the taxpayer as the 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 taxable year under the United States Internal Revenue Code, Sections 167 and 168; ~~and~~

Sec. 6. 36 MRSA §5200-A, sub-§1, ¶F, as enacted by PL 1983, c. 590, §2, is amended 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~~.~~; and

Sec. 7. 36 MRSA §5200-A, sub-§1, ¶G is enacted to read:

G. For a taxable year ending in 1984, 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) 2.5% of the deductions for 3-year property;

(2) 7.5% of the deductions for 5-year property;

(3) 12.5% of the deductions for 10-year property; and

(4) 20% of the deductions for 15-year property.

Sec. 8. 36 MRSA §5200-A, sub-§2, ¶¶C and D, as enacted by PL 1981, c. 704, §4, are amended to read:

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

D. For each of the taxable years ending in 1983 through 1985, Subchapter S corporations excepted, 6% of the deductions allowed under the United States Internal Revenue Code, Sections 167 and 168 for the taxable year 1982, excluding the amount of deduction 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)~~.~~; and

Sec. 9. 36 MRSA §5200-A, sub-§2, ¶E is enacted to read:

E. For each of the taxable years ending in 1985 through 1987, 1/3 of the amount by which taxable income was increased for the taxable year ending in 1984 under subsection 1, paragraph G.

Sec. 10. 36 MRSA §5206, sub-§3, ¶¶C and D, as enacted by PL 1983, c. 590, §3, are amended to read:

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~~.~~;

Sec. 11. 36 MRSA §5206, sub-§3, ¶¶E and F are enacted to read:

E. Increased, for taxable years ending in 1984, 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) 2.5% of the deductions for 3-year property;

(2) 7.5% of the deductions for 5-year property;

(3) 12.5% of the deductions for 10-year property; and

(4) 20% of the deductions for 15-year property; and

F. Decreased, for each of the taxable years ending in 1985 through 1987, by 1/3 of the amount by which taxable income was increased for the taxable year ending in 1984 under paragraph E.

FISCAL NOTE

It is estimated that enactment of this bill will result in the following loss of revenue:

	1984-85
GENERAL FUND	$5,085,504
LOCAL GOVERNMENT FUND	211,896

STATEMENT OF FACT

The bill contains the recommendations of the Review Committee on Tax Conformity established by the First Regular Session of the 111th Legislature to conduct a general review of the issue of state-federal conformity and report its conclusions and recommendations.

This bill provides that the date of reference to the United States Internal Revenue Code be changed to January 31, 1983, with no expiration date. The choice of this date incorporates all federal changes except for taxation of certain Social Security benefits which would not be subject to income taxation at the state level under this bill.

This bill provides that, for taxable years ending in 1984, all individual and corporate taxpayers will add-back a portion of their federal Accelerated Cost Recovery System deductions to state taxable income. The add-back is 1/2 of the add-back for 1983 and is designed so that the total add-back for corporations is equal to the net loss to the General Fund in 1984 of corporate conformity. In 1985, there would be full conformity with no add-back required.

This bill provides that the add-back of Accelerated Cost Recovery System deductions for 1984 may be recovered in equal proportions over the 3 years 1985 through 1987.

It is estimated that enactment of this bill will result in a loss of revenue to the General Fund in fiscal year 1984-85 of $5,297,400.

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