

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 1747, L.D. 2301)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2473

H.P. 1871

House of Representatives, April 13, 1984

Reported by Representative Kilcoyne from the Committee on Taxation  
and printed under Joint Rule 2.

Original bill presented by Representative Higgins of Portland.  
Cosponsored by Senator Wood of York.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT Providing for Administrative  
Changes in Maine Tax Laws.

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

Sec. 1. 6 MRSA §53, sub-§5, as amended by PL  
1981, c. 80, is further amended to read:

5. Use of aircraft on market for sale. Aircraft  
dealers whose principal occupation is the sale of  
aircraft, and who properly register their aircraft  
under this section, may use the aircraft while placed  
upon the market for sale as if the aircraft were reg-  
istered under section 52; including Federal Air Regu-  
lation, Part 135, operations. Nothing in this section  
~~shall~~ may permit aircraft brokers ~~from using~~ to use  
aircraft offered for sale for more than 15 months  
from the date that the aircraft is first offered for  
sale without registration required under section 52.

1       Sec. 2. 36 MRSA §584, as amended by PL 1975, c.  
2       771, §§400 and 401, is repealed.

3       Sec. 3. 36 MRSA §1484, sub-§3, ¶C, as amended by  
4       PL 1979, c. 732, §§26 and 31, is further amended to  
5       read:

6       C. If the motor vehicle is owned by a corpora-  
7       tion or a partnership, the excise tax shall be  
8       paid in the following manner.

9               (1) If it is a corporation or partnership  
10              other than one described in subparagraph  
11              (2), the excise tax shall be paid to the  
12              ~~municipality~~ place in which the registered  
13              or main office of that organization is lo-  
14              cated, except that if the organization has  
15              an additional permanent place, or places, of  
16              business where motor vehicles are customari-  
17              ly kept, the tax on these vehicles shall be  
18              paid to the ~~municipality~~ place where such  
19              permanent place of business is located. The  
20              temporary location of an office and the  
21              stationing of vehicles in connection with a  
22              construction project of less than 24 months  
23              duration is not considered to constitute a  
24              permanent place of business. In the case of  
25              a foreign corporation or partnership not  
26              maintaining a place of business within the  
27              State, the excise tax shall be paid to the  
28              State.

29              (2) In the case of corporations described  
30              in Title 35, section 2301, any excise taxes  
31              owed shall be paid to the ~~municipality~~ place  
32              in which the registered or main office of  
33              that organization is located.

34              (3) If a municipality, county or motor ve-  
35              hicle owner feels the excise tax has been  
36              improperly levied under the authority of  
37              this paragraph, the owner, county or munici-  
38              pality may request a determination of this  
39              question by the State Tax Assessor. The  
40              State Tax Assessor's determination shall be  
41              binding on all parties. Any party may seek  
42              review of the determination in accordance

1 with the Maine Rules of Civil Procedure,  
2 Rule 80-B.

3 Sec. 4. 36 MRSA §1752, sub-§14, as amended by PL  
4 1971, c. 479, is further amended to read:

5 14. Sale price. "Sale price" means the total  
6 amount of the sale or lease or rental price, as the  
7 case may be, of a retail sale, including any services  
8 that are a part of such sale, valued in money, whether  
9 received in money or otherwise, including all re-  
10 cepts, cash, credits and property of any kind or na-  
11 ture, and any amount for which credit is allowed by  
12 the seller to the purchaser, without any deduction  
13 therefrom on account of the cost of the property  
14 sold, the cost of the materials used, labor or ser-  
15 vice cost, interest paid, losses or any other ex-  
16 penses whatsoever. Discounts allowed and taken on  
17 sales shall not be included. "Sale price" shall not  
18 include allowances in cash or by credit made upon the  
19 return of merchandise pursuant to warranty, or the  
20 price of property returned by customers when the full  
21 price thereof is refunded either in cash or by cred-  
22 it, nor shall "sale price" include the price received  
23 for labor or services used in installing or applying  
24 or repairing the property sold, if separately charged  
25 or stated nor shall "sale price" include an amount  
26 charged or collected, in lieu of a gratuity or tip,  
27 as a specifically stated service charge, when said  
28 amount is to be disbursed by a hotel, motel, restau-  
29 rant or other eating establishment to its employees  
30 as wages, nor shall a sales tax be charged or col-  
31 lected on the value in money of meals and all lodging  
32 provided to employees at their place of employment  
33 when the amount of said value in money is allowed as  
34 a credit towards the wages of said employees. "Sale  
35 price" shall not include the amount of any tax im-  
36 posed by the United States upon or with respect to  
37 retail sales, including sales of telephone or tele-  
38 graph service, whether imposed upon the retailer or  
39 the consumer, excepting any manufacturers' ~~or~~, im-  
40 porters', alcohol or tobacco excise tax; and shall  
41 not include the cost of transportation from the  
42 retailer's place of business or other point from  
43 which shipment is made directly to the purchaser pro-  
44 vided such charges are separately stated and provided  
45 such transportation occurs by means of common carri-  
46 er, contract carrier or the United States mails.

1       Sec. 5. 36 MRSA §1760, sub-§28, as amended by PL  
2 1981, c. 493, §2, is repealed and the following en-  
3 acted in its place:

4       28. Community mental health facilities and com-  
5 munity mental retardation facilities. Sales to mental  
6 health facilities or mental retardation facilities  
7 which are:

8       A. Contractors under or receiving support under  
9 the Federal Community Mental Health Centers Act  
10 or its successors; or

11       B. Receiving support from the Department of Men-  
12 tal Health and Mental Retardation pursuant to Ti-  
13 tle 34-B, section 1206, 3604 or 5433.

14       Sec. 6. 36 MRSA §1760, sub-§43, as enacted by PL  
15 1983, c. 560, §§3 and 6, is amended to read:

16       43. Nursery schools and day-care centers. Sales  
17 to licensed, incorporated nonprofit nursery schools  
18 and day-care centers.

19       Sec. 7. 36 MRSA §3202, sub-§9, as enacted by PL  
20 1983, c. 94, Pt. D, §§6 and 9, is amended to read:

21       9. User. "User" means any person who is the reg-  
22 istered owner of a motor vehicle who uses and con-  
23 sumes special fuel within this State in an internal  
24 combustion engine for the generation of power to  
25 propel vehicles of any kind or character, except in  
26 noncommercial vehicles having a fuel tank capacity of  
27 30 gallons or less which are owned by nonresidents of  
28 this State and are not required to be registered in  
29 this State, and except in noncommercial vehicles hav-  
30 ing a fuel tank capacity of 30 gallons or less owned  
31 by residents of this State who purchase only special  
32 fuel upon which the tax imposed by section 3203 has  
33 been paid by the user.

34       If the registered owner of a motor vehicle which uses  
35 and consumes special fuel within this State fails to  
36 secure a user's license, or report or pay the tax  
37 due, any person who operates or causes to be operated  
38 that vehicle in this State shall be deemed to be a  
39 "user" and shall be required to be licensed, report  
40 and pay the tax due.

1       Sec. 8. 36 MRSA §3203, as enacted by PL 1983, c.  
2       94, Pt. D, §§6 and 9, is amended to read:

3       §3203. Tax levied

4       An excise tax is levied and imposed upon all sup-  
5       pliers of special fuel sold or used in this State on  
6       each gallon of distillates at the rate prescribed in  
7       section 2903 and on each gallon of low-energy fuel at  
8       the rate prescribed in section 2903, less 1¢, except  
9       sales of special fuel made to the State or any polit-  
10      ical subdivision thereof; such special fuel sold or  
11      used in such form and under such circumstances as  
12      shall preclude the collection of this tax by reasons  
13      of the laws of the United States; sold only for ex-  
14      portation from this State; brought into the State in  
15      a noncommercial vehicle having a standard fuel tank  
16      capacity of 30 gallons or less owned by a nonresi-  
17      dent; delivered into a tank used solely for heating  
18      or cooking purposes, sold for resale to a licensed  
19      supplier; and sold to a person for the generation of  
20      power for resale or manufacturing. Where special fu-  
21      el is delivered by a supplier on a consignment basis  
22      to a consumer or to a retail outlet, whether the re-  
23      tail outlet is wholly owned by the supplier or not,  
24      it shall be considered to have been "sold" within the  
25      meaning of the Special Fuel Tax Act. All taxes col-  
26      lected under this section shall be credited to the  
27      Highway Fund. Where kerosene is delivered into a  
28      separate tank for retail sale, the excise tax is not  
29      to be collected by the supplier, rather licensed us-  
30      ers shall remit the tax in accordance with section  
31      3207.

32       Sec. 9. 36 MRSA §3209, first ¶, as enacted by PL  
33       1983, c. 94, Pt. D, §§6 and 9, is amended to read:

34       Every licensed supplier shall file on or before  
35       the last day of each month a report with the State  
36       Tax Assessor stating the gallons of special fuel re-  
37       ceived, taxable gallons sold, exempt gallons sold,  
38       taxable gallons used and exempt gallons used in this  
39       State by him during the preceding calendar month, on  
40       forms to be furnished by the State Tax Assessor. The  
41       report shall contain any further information perti-  
42       nent thereto as the State Tax Assessor shall pre-

1 scribe. The State Tax Assessor may make such other  
2 rules regarding the enforcement of the special fuel  
3 tax as he may deem necessary, including provision for  
4 a certificate of exemption for certain purchases of  
5 special fuels for nonhighway use. At the time of  
6 filing his report, each supplier shall pay to the  
7 State Tax Assessor a tax as prescribed in sections  
8 2903 and 3203 upon each gallon reported as a taxable  
9 sale or as taxable gallons used.

10 Sec. 10. 36 MRSA §3218, first ¶, as enacted by  
11 PL 1983, c. 94, Pt. D, §§6 and 9, is amended to read:

12 Any person, association of persons, firm or cor-  
13 poration who shall buy and use an internal combustion  
14 engine fuel, as defined in this chapter, for the pur-  
15 pose of operating or propelling motor boats, tractors  
16 used for agricultural purposes not operating on pub-  
17 lic ways, or in such vehicles as run only on rails or  
18 tracks, in stationary engines, in the mechanical or  
19 industrial arts, for registered vehicles operating  
20 off the highways of this State, or for any other  
21 ~~commercial~~ use except in registered motor vehicles  
22 operated on the highways of this State, and who shall  
23 have paid any tax on internal combustion engine fuel  
24 levied or directed to be paid as provided by this  
25 chapter, either directly by the collection of the tax  
26 by the vendor from the consumer, or indirectly by  
27 adding the amount of that tax to the price of that  
28 fuel and paid by that consumer, shall be reimbursed  
29 and repaid, less 1¢, upon presenting to the State Tax  
30 Assessor a sworn statement accompanied by the origi-  
31 nal invoices or other evidence as the State Tax As-  
32 sessor may require showing those purchases, which  
33 statement shall show the total amount of the fuel so  
34 purchased and used by that consumer other than in  
35 registered motor vehicles operated on the highways of  
36 this State, and in the operation of aircraft. Appli-  
37 cations for refunds shall be filed with the State Tax  
38 Assessor within 15 months from the date of purchase.

39 Sec. 11. 36 MRSA §3742, as amended by PL 1983,  
40 c. 480, Pt. A, §56, is repealed.

41 Sec. 12. 36 MRSA §4361, as amended by PL 1979,  
42 c. 378, §29, is further amended to read:

1     §4361. Definitions

2           Whenever used in this chapter, unless the context  
3 shall otherwise require, the following words and  
4 phrases shall have the following meanings-.

5           1. Dealer. "Dealer" ~~shall mean~~ means any person  
6 other than a distributor, who is engaged in this  
7 State in the business of selling cigarettes.

8           1-A. Cigarette. "Cigarette" means a cigarette,  
9 as defined in the United States Internal Revenue  
10 Code of 1954, Chapter 52-A, as amended.

11          2. Distributor. "Distributor" ~~shall mean~~ means  
12 any person engaged in this State in the business of  
13 producing or manufacturing cigarettes or importing  
14 into the State cigarettes at least 75% of which are  
15 purchased directly from the manufacturers thereof.

16          3- ~~Licensed dealer.~~ "Licensed dealer" shall  
17 mean a dealer licensed under this chapter.

18          4. Licensed distributor. "Licensed distributor"  
19 ~~shall mean~~ means a distributor licensed under this  
20 chapter.

21          4-A. Licensed wholesale dealer. "Licensed  
22 wholesaler dealer" means a sub-jobber licensed under  
23 this chapter.

24          5. Person. "Person" ~~shall mean~~ means any indi-  
25 vidual, firm, fiduciary, partnership, corporation,  
26 trust or association, however formed.

27          6. Sale or sell. "Sale" or "sell" ~~shall include~~  
28 includes or apply to gifts, exchanges and barter.

29          7. Sub-jobber. "Sub-jobber" ~~shall mean~~ means a  
30 wholesale dealer who does not qualify as a distribu-  
31 tor.

32          9. Unclassified importer. "Unclassified import-  
33 er" ~~shall mean~~ means any person, firm, corporation or  
34 association within the State, other than a licensed  
35 distributor, sub-jobber or licensed wholesale dealer  
36 who shall import, receive or acquire from without the



1 State, cigarettes for use or consumption within the  
2 State.

3 Sec. 13. 36 MRSA §4362, as amended by PL 1979,  
4 c. 508, §1, is further amended to read:

5 §4362. Licenses

6 Each person engaging in the business of selling  
7 cigarettes in this State, including any distributor  
8 or dealer, excepting a dealer who exclusively sells  
9 at retail or through a vending machine, shall secure  
10 a license from the State Tax Assessor before engaging  
11 in such business. A separate application and license  
12 shall be required for each wholesale outlet. Such  
13 license shall be issued on forms prescribed by the  
14 State Tax Assessor, and shall contain the name and  
15 address of the applicant, the address of the place of  
16 business and such other information as the State Tax  
17 Assessor may require for the proper administration of  
18 this chapter. Each application for a wholesale outlet  
19 license shall be accompanied by a fee of \$25. Each  
20 application for a sub-jobber's license, to be known  
21 as a "wholesale dealer's license," shall be accompa-  
22 nied by a fee of \$10. Each license so issued shall  
23 be prominently displayed on the premises covered by  
24 the license. Each unclassified importer shall, be-  
25 fore importing, receiving or acquiring cigarettes  
26 from without the State, secure a license from the  
27 State Tax Assessor. There shall be no charge for a  
28 license issued to an unclassified importer. Any per-  
29 son who shall sell, offer for sale or possess with  
30 intent to sell any cigarettes, without a license as  
31 provided in this section, commits a civil violation  
32 for which a forfeiture not to exceed \$25 may be ad-  
33 judged for the first violation and a forfeiture of  
34 not less than \$25 nor more than \$200 shall be ad-  
35 judged for each subsequent violation. Any unclassi-  
36 fied importer who shall import, receive or acquire  
37 from without the State cigarettes for use or consump-  
38 tion within the State without a license as provided  
39 in this section commits a civil violation for which a  
40 forfeiture not to exceed \$25 may be adjudged for the  
41 first violation and a forfeiture of not less than \$25  
42 nor more than \$200 shall be adjudged for each subse-  
43 quent violation.

1           Sec. 14. 36 MRSA §4364 is amended by read:

2           §4364. -- revocation

3           The State Tax Assessor may revoke or suspend the  
4 license of any ~~dealer sub-jobber~~, unclassified im-  
5 porter or distributor for failure to comply with any  
6 provisions of this chapter, or if the person licensed  
7 has ceased to act in the capacity for which the li-  
8 cense was issued. Any person aggrieved by such revo-  
9 cation or suspension may apply to the State Tax As-  
10 essor for a hearing as provided in section ~~4377~~, and  
11 ~~may further appeal to the courts as provided in sec-~~  
12 ~~tion 4378~~ 151.

13           Sec. 15. 36 MRSA §4366, as amended by PL 1981,  
14 c. 364, §47, is further amended to read:

15           §4366. Stamps provided by State Tax Assessor

16           The State Tax Assessor shall secure stamps, of  
17 such design and denomination as he shall prescribe,  
18 suitable to be affixed to packages of cigarettes as  
19 evidence of the payment of the tax imposed by this  
20 chapter. To licensed distributors he shall sell such  
21 cigarette stamps at a discount of 2 1/2% of their  
22 face value. To ~~licensed~~ dealers he shall sell all  
23 stamps at face value. The face value of the stamps  
24 when affixed shall be considered as part of the cost  
25 of the merchandise. The State Tax Assessor may, in  
26 his discretion, permit a licensed distributor or  
27 ~~licensed~~ dealer to pay for such stamps within 30 days  
28 after the date of purchase, provided a bond satisfac-  
29 tory to the State Tax Assessor in an amount not less  
30 than the sale price of such stamps shall have been  
31 filed with the State Tax Assessor conditioned upon  
32 payment for such stamps. He shall keep accurate  
33 records of all stamps sold to each distributor and  
34 dealer.

35           Sec. 16. 36 MRSA §4369, as amended by PL 1979,  
36 c. 508, §3, is further amended to read:

37           §4369. Stamps affixed by licensed dealers

38           Each ~~licensed~~ dealer shall, within 72 hours after  
39 coming into possession of any cigarettes not bearing

1 proper stamps evidencing payment of the tax imposed  
2 by this chapter, and before selling such cigarettes,  
3 affix or cause to be affixed, in such manner as the  
4 State Tax Assessor may specify in regulations issued  
5 pursuant to this chapter, to each individual package  
6 of cigarettes, stamps of the proper denomination as  
7 required by section 4365.

8 Sec. 17. 36 MRSA §4370, as amended by PL 1979,  
9 c. 508, §4, is further amended to read:

10 §4370. Sale of unstamped cigarettes prohibited

11 No distributor ~~shall~~ may sell, and no other per-  
12 son ~~shall~~ may sell, offer for sale, display for sale  
13 or possess with intent to sell, any cigarettes which  
14 do not bear stamps evidencing the payment of the tax  
15 imposed by this chapter, provided a ~~licensed~~ dealer  
16 may keep on hand unstamped cigarettes for a period  
17 not exceeding 72 hours, and provided a distributor  
18 may sell to another distributor, subject to regula-  
19 tions prescribed by the State Tax Assessor, ciga-  
20 rettes stamped with the indicia of another state.  
21 Any unstamped cigarettes in the possession of a  
22 ~~licensed~~ dealer shall be presumed to have been held  
23 by him for more than 72 hours unless proof be shown  
24 to the contrary. Any person violating any provision  
25 of this section shall be guilty of a Class E crime,  
26 provided that no imprisonment penalty ~~shall~~ may be  
27 imposed for a first offense.

28 Sec. 18. 36 MRSA §4371 is amended to read:

29 §4371. Possession of unstamped cigarettes; prima fa-  
30 cie evidence

31 The possession by any person, other than a li-  
32 censed distributor or ~~licensed~~ dealer of cigarettes  
33 which do not bear stamps, shall be prima facie evi-  
34 dence that the cigarettes have been imported and that  
35 they are intended for use or consumption within the  
36 State.

37 Sec. 19. 36 MRSA §4372, first ¶, as amended by  
38 PL 1975, c. 31, §§1 and 2, is further amended to  
39 read:

1 Any cigarettes found at any place in this State  
2 without stamps affixed thereto as required by this  
3 chapter, unless such cigarettes shall be in the pos-  
4 session of a licensed distributor, or unless they  
5 shall be in course of transit from without this State  
6 and consigned to a licensed distributor or ~~licensed~~  
7 dealer, or unless they shall have been received by a  
8 ~~licensed~~ dealer within 72 hours, or unless they shall  
9 have been imported, received or acquired within 24  
10 hours by a licensed unclassified importer who has not-  
11 tified the State Tax Assessor as provided in section  
12 4365, are declared to be contraband goods and are  
13 subject to forfeiture to the State. Sheriffs, deputy  
14 sheriffs, police officers and duly authorized agents  
15 of the ~~said~~ State Tax Assessor shall have the power  
16 to seize the same with or without process. In case  
17 such cigarettes are seized without a warrant, they  
18 shall be kept in some safe place for a reasonable  
19 time until a warrant can be procured. When such ciga-  
20 rettes are seized as provided, the officer or agent  
21 seizing them shall immediately file with the judge  
22 before whom such warrant is returnable, a libel  
23 against such cigarettes setting forth the seizure and  
24 describing the cigarettes, their packaging and the  
25 place of seizure in sufficient manner to reasonably  
26 identify them, and that they were kept or intended  
27 for unlawful sale or use in violation of law and pray  
28 for a decree of forfeiture thereof. Such judge shall  
29 fix a time for the hearing of such libel and shall  
30 issue his monition and notice of the same to all per-  
31 sons interested, citing them to appear at the time  
32 and place appointed to show cause why such cigarettes  
33 and their packaging should not be declared forfeited,  
34 by causing true and attested copies of ~~said~~ the libel  
35 and monition to be posted in 2 public and conspicuous  
36 places in the town or place where such cigarettes  
37 were seized, 10 days at least before ~~said~~ the libel  
38 is returnable. In lieu of forfeiture proceedings, ti-  
39 tle to such seized, unstamped cigarettes may be  
40 transferred to the State of Maine by the owner there-  
41 of. If title to and ownership in such cigarettes is  
42 transferred to the State, a receipt for the ciga-  
43 rettes shall be given to the former owner by the  
44 State Tax Assessor or his authorized agent.

45 Sec. 20. 36 MRSA §4373, as amended by PL 1979,  
46 c. 615, §1, is further amended to read:

1     §4373. Forfeiture proceedings

2         If no claimant appears, such judge shall, on  
3 proof of notice, declare the same to be forfeited to  
4 the State. If any person appears and claims such cig-  
5 arettes, or any part thereof, as having a right to  
6 the possession thereof at the time when the same were  
7 seized, he shall file with the judge such claim in  
8 writing, stating specifically the right so claimed,  
9 the foundation thereof, the items so claimed, the  
10 time and place of the seizure and the name of the of-  
11 ficer or duly authorized agent of the ~~said~~ State Tax  
12 Assessor by whom the same were seized, and in it de-  
13 clare that they were not so kept or deposited for un-  
14 lawful sale and use as alleged in ~~said~~ the libel and  
15 monition, and state his business and place of resi-  
16 dence and shall sign and make oath to the same before  
17 ~~said~~ the judge. If any person so makes claim, he  
18 shall be admitted as a party to the process; and the  
19 judge shall proceed to determine the truth of the al-  
20 legations in ~~said~~ the claim and libel, and may hear  
21 any pertinent evidence offered by the libelant or  
22 claimant. If the judge is, upon hearing, satisfied  
23 that ~~said~~ the cigarettes were not so kept or depos-  
24 ited for unlawful sale or use, and that the claimant  
25 is entitled to the custody of any part thereof, he  
26 shall give him an order in writing, directed to the  
27 officer or duly authorized agent of the ~~said~~ State  
28 Tax Assessor having the same in custody, commanding  
29 him to deliver to ~~said~~ the claimant the cigarettes to  
30 which he is so found to be entitled, within 48 hours  
31 after demand. If the judge finds the claimant enti-  
32 tled to no part of ~~said~~ the cigarettes, he shall  
33 render judgment against him for the libelant for  
34 costs, to be taxed as in civil cases before such  
35 judge, and issue execution thereon, and shall declare  
36 ~~said~~ the cigarettes forfeited to the State. The  
37 claimants may appeal and shall recognize with sure-  
38 ties as on appeals in civil actions from a judge.  
39 All cigarettes declared forfeited to the State, or  
40 title to which has been transferred to the State in  
41 lieu of forfeiture proceedings, shall be sold by the  
42 State Purchasing Agent, and the funds derived from  
43 such sales shall be paid into the State Treasury. In  
44 the case of cigarettes seized from any ~~licensed~~ deal-  
45 er because of insufficient stamps, the owner from  
46 whom they are seized shall be reimbursed within 30

1 days of forfeiture for the face value of any Maine  
2 cigarette tax stamps affixed to the packages, pro-  
3 vided the face value of such stamps exceeds \$1. The  
4 Treasurer of State shall provide, out of money col-  
5 lected under this chapter, the funds necessary for  
6 such reimbursement.

7       Sec. 21. 36 MRSA §4380 is amended to read:

8       §4380. Use of metering machines

9       The State Tax Assessor, if he shall determine  
10 that it is practicable to stamp by impression pack-  
11 ages of cigarettes by means of a metering machine,  
12 may, in lieu of selling stamps under section 4366,  
13 authorize any licensed distributor or ~~licensed~~ dealer  
14 to use any metering machine approved by him, such ma-  
15 chine to be sealed by the State Tax Assessor before  
16 being used in accordance with regulations prescribed  
17 by him. Any licensed distributor or ~~licensed~~ dealer  
18 authorized by the State Tax Assessor to affix stamps  
19 to packages by means of a metering machine shall file  
20 with the State Tax Assessor a bond issued by a surety  
21 company licensed to do business in this State, in  
22 such amount as the State Tax Assessor may fix, condi-  
23 tioned upon the payment of the tax upon cigarettes so  
24 stamped. The bond shall be in full force and effect  
25 for a period of one year and a day after the expira-  
26 tion of the bond, unless a certificate be issued by  
27 the State Tax Assessor to the effect that all taxes  
28 due to the State have been paid. In the discretion of  
29 the State Tax Assessor, cash may be accepted in lieu  
30 of a surety bond, such cash to be paid over by the  
31 State Tax Assessor to the Treasurer of State, who may  
32 deposit or hold the same subject to further order of  
33 the State Tax Assessor. The State Tax Assessor shall  
34 cause each metering machine approved by him to be  
35 read and inspected at least once a month and shall  
36 determine as of the time of each inspection the  
37 amount of tax due from the distributor or dealer  
38 using such machine after allowing for the discount,  
39 if any, provided for in section 4366, which tax shall  
40 be due and payable upon demand of the State Tax As-  
41 essor or his duly authorized agent.

42       Sec. 22. 36 MRSA §5122, sub-§2, ¶A, as amended  
43 by PL 1983, c. 519, §25, is further amended to read:

1       A. Interest or dividends on obligations of the  
2       United States and its territories and possessions  
3       or of any authority, commission or instrumentali-  
4       ty of the United States or on a seller-sponsored  
5       loan, as defined by Title 10, section 974 983,  
6       subsection 16 to the extent includible in gross  
7       income for federal income tax purposes but exempt  
8       from state income taxes under the laws of the  
9       United States, provided that the amount sub-  
10      tracted shall be decreased by any expenses in-  
11      curred in the production of the interest or divi-  
12      dend income to the extent that these expenses,  
13      including amortizable bond premiums, are deduct-  
14      ible in determining federal adjusted gross in-  
15      come; and

16                               STATEMENT OF FACT

17       The new draft incorporates all of the provisions  
18      of the original bill. In addition, the new draft:

19       1. Clarifies the registration requirement for  
20      aircraft offered for sale and used by aircraft bro-  
21      kers;

22       2. Repeals the Forest Land Valuation Advisory  
23      Council which was minimally active during the initial  
24      years of the Tree Growth Tax Law and which has not  
25      met with the State Tax Assessor in the last 2 year;

26       3. Makes changes necessary to accommodate motor  
27      vehicle excise tax practices in the unorganized ter-  
28      ritory;

29       4. Clarifies application of the sales tax to ex-  
30      cise taxes on alcohol and tobacco products;

31       5. Clarifies a sales tax exemption and updates  
32      an obsolete reference to Title 34;

33       6. Resolves a conflict regarding the estate tax  
34      due date;

1           7. Incorporates revisions to the Cigarette Tax,  
2 chapter 703, necessary to remove obsolete references  
3 to licensed dealers and to correct the procedure for  
4 a revocation hearing;

5           8. Corrects a reference to Title 10.

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