

MAINE STATE LEGISLATURE

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L.D. 1220

(Filing No. H-470)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 861, L.D. 1220, Bill, "AN ACT Providing for Administrative Changes in Maine Tax Law."

Amend the Bill by striking out everything after the enacting clause and inserting in its place the following:

Sec. 1. 36 MRSA §111, sub-§3, as enacted by PL 1979, c. 378, §2, is amended to read:

3. Person. "Person" means an individual, firm, partnership, association, society, club, corporation, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit, taxable entity, the State or Federal Government or any political subdivision or agency of either government.

Sec. 2. 36 MRSA §187, sub-§1, as enacted by PL 1977, c. 679, §1, is repealed.

Sec. 3. 36 MRSA §576, 5th ¶, as amended by PL 1985, c. 99, is further amended to read:

The State Tax Assessor shall hold one or more public hearings, upon the foregoing matters to be determined, shall provide for a transcript thereof, and shall issue a rule or rules stating those determinations on or before April 15, 1985, and on or before October 1st each year thereafter. Other provisions of this Title notwithstanding, the rules promulgated pursuant to this section for tax year 1985 on or before April 15, 1985, shall be effective with regard to tax year 1985 and be transmitted and certified to municipalities before May 1, 1985.

Sec. 4. 36 MRSA §841-B, as amended by PL 1983,

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1 c. 812, §271 and c. 855, §4, is repealed and the fol-
2 lowing enacted in its place:

3 §841-B. Land Classification Appeals Board; purpose,
4 composition

5 The Land Classification Appeals Board, as estab-
6 lished by Title 5, section 12004, subsection 2, is
7 established to hear appeals from decisions of municip-
8 al tax assessors, chief assessors and the State Tax
9 Assessor acting as assessor of the unorganized terri-
10 tory relating to the Maine Tree Growth Tax Law or the
11 Farm and Open Space Tax Law. The board shall be com-
12 posed of 4 voting members: The Commissioner of Con-
13 servation or his designee; the Commissioner of Agri-
14 culture, Food and Rural Resources or his designee;
15 and 2 members, serving 4-year terms to be appointed
16 by the Governor. One of these members shall be a mu-
17 nicipal officer and one shall be a forest landowner.
18 The initial appointment of the municipal officer
19 shall be for a 2-year period. In the event of the
20 death or resignation of such an appointee, the Gover-
21 nor shall make an appointment to the appeals board
22 for the unexpired term. The Commissioner of Finance
23 and Administration or his designee shall serve in an
24 advisory capacity as a nonvoting member and as chair-
25 man of the board. In the case of a tie vote, the Com-
26 missioner of Finance and Administration or his desig-
27 nee shall vote to break the tie. The landowner member
28 and the municipal officer shall be compensated ac-
29 cording to Title 5, chapter 379. All other members
30 shall be compensated by the agency they represent for
31 actual expenses incurred in the performance of their
32 duties under this section.

33 Sec. 5. 36 MRSA §1760, sub-§46, as enacted by PL
34 1983, c. 854 and c. 855, §7, is repealed and the fol-
35 lowing enacted in its place:

36 46. Residential facilities for medical patients
37 and their families. Incorporated nonprofit organiza-
38 tions providing temporary residential accommodations

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1 to pediatric patients suffering from critical illness
2 or disease, such as cancer, or who are accident vic-
3 tims, and adult patients with cancer, or the families
4 of the patients.

5 Sec. 6. 36 MRSA §1760, sub-§49 is enacted to
6 read:

7 49. Community action agencies. Sales to communi-
8 ty action agencies designated in accordance with Ti-
9 tle 5, section 3519, except sales, storage or use for
10 activities which are mainly commercial enterprises.

11 Sec. 7. 36 MRSA §1762 is amended to read:

12 §1762. Sale of business; purchaser liable for tax

13 If any ~~retailer~~ person liable for any tax or in-
14 terest levied shall sell out his business or stock of
15 goods, or shall quit the business, he shall make a
16 final return and payment within 15 days after the
17 date of selling or quitting business. His successor,
18 successors or assignees, if any, shall withhold suf-
19 ficient of the purchase money to cover the amount of
20 such taxes and interest due and unpaid, until such
21 time as the former owner shall produce a receipt from
22 the State Tax Assessor showing that they have been
23 paid or a certificate stating that no taxes or inter-
24 est are due. If a purchaser of a business or stock of
25 goods shall fail to withhold purchase money, he shall
26 be personally liable for the payment of the taxes and
27 interest accrued and unpaid on account of the opera-
28 tion of the business by any former owner, owners or
29 assignors.

30 Sec. 8. 36 MRSA §2855, sub-§1, as enacted by PL
31 1981, c. 711, §10, is amended to read:

32 1. The code. The "code" means the United States
33 Internal Revenue Code of 1954, as amended, as of ~~De-~~
34 ~~cember 31, 1981~~ the date applicable to Part 8, and
35 the implementing regulations thereof.

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1 Sec. 9. 36 MRSA §3235, as amended by PL 1983, c.
2 817, §9, is further amended to read:

3 §3235. Tax a debt; recovery; preference

4 The taxes, interest and penalties imposed by
5 chapters 7, 451, 453, 459 and ~~463~~ 463-A, from the
6 time the same shall be due, shall be personal debt of
7 the supplier, distributor, importer, motor carrier or
8 user to the State, recoverable in any court of compe-
9 tent jurisdiction in a civil action in the name of
10 the State, and shall have preference in any distribu-
11 tion of the assets of the taxpayer, whether in bank-
12 ruptcy, insolvency or otherwise. The proceeds of any
13 judgment obtained shall be paid to the State Tax As-
14 sessor.

15 Sec. 10. 36 MRSA §3236, first ¶, as amended by
16 PL 1983, c. 817, §10, is further amended to read:

17 If any amount required to be paid to the State,
18 under chapter 451, 453, 459 or ~~463~~ 463-A, is not paid
19 when due, and no further review of the assessment is
20 available under section 151, the State Tax Assessor
21 may, within 3 years after administrative and judicial
22 review has been exhausted, notify the person who ac-
23 cording to the records of the State Tax Assessor is
24 liable, specifying the amount required to be paid and
25 interest and penalty due, and demanding payment with-
26 in 12 days after the sending of that notice. The no-
27 tice shall be given, as required by section 111, sub-
28 section 2, and shall warn the person that if he does
29 not make payment as demanded, the State Tax Assessor
30 may proceed to have the amount due collected by war-
31 rant as provided or may certify the amount due to the
32 Attorney General for collection and, in addition, in
33 the case of an amount due in respect to any vehicle,
34 that if he does not make payment as demanded, suspen-
35 sion of the registration certificate and plates is-
36 sued for that vehicle may result.

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1 Sec. 11. 36 MRSA §3238, as amended by PL 1983,
2 c. 817, §11, is further amended to read:

3 §3238. Lien of tax

4 If any amount required to be paid to the State,
5 under chapter 7, 451, 453, 459 or ~~463~~ 463-A, is not
6 paid when due, the State Tax Assessor may file in the
7 office of the registry of deeds of the county where
8 that property is located, with respect to real prop-
9 erty or fixtures and in the office in which a securi-
10 ty or financing statement or notice with respect to
11 personal property would be filed, a notice of lien
12 specifying the amount of tax, interest, penalty and
13 costs due, the name and last known address of the
14 person liable for the amount and the fact that the
15 State Tax Assessor has complied with all the provi-
16 sions of chapter 7, 451, 453, 459 or ~~463~~ 463-A in the
17 assessment of the tax. From the time of filing, the
18 amount set forth in the certificate constitutes a
19 lien upon all property of the person liable in the
20 county then owned by him or thereafter acquired by
21 him in the period before the expiration of the lien.
22 In the case of any prior mortgage on any real or per-
23 sonal property so written as to secure a present debt
24 and also future advances by the mortgage to the mort-
25 gagor, the lien provided in this section, when notice
26 of it has been filed in the proper office, shall be
27 subject to the prior mortgage, unless the State Tax
28 Assessor also notifies the mortgagee of the recording
29 of the lien in writing, in which case any indebted-
30 ness thereafter created from the mortgagor to the
31 mortgagee shall be junior to the lien provided in
32 this section. The lien provided in this section has
33 the same force, effect and priority as a judgment
34 lien and shall continue for 5 years from the date of
35 filing unless sooner released or otherwise dis-
36 charged. The lien may, within the 5-year period or
37 within 5 years from the date of the last extension of
38 the lien in the manner provided in this section, be
39 extended by filing for record in the appropriate of-
40 fice a notice of extension of lien and from the time

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1 of that filing, the lien shall be extended for 5
2 years unless sooner released or otherwise discharged.

3 Sec. 12. 36 MRSA §4062, sub-§1, as enacted by PL
4 1981, c. 451, §7, is repealed and the following en-
5 acted in its place:

6 1. Code. "Code" means the United States Internal
7 Revenue Code of 1954, as amended, as of the date ap-
8 plicable with regard to Part 8.

9 Sec. 13. 36 MRSA §4063, sub-§1, as enacted by PL
10 1981, c. 451, §7, is amended to read:

11 1. Amount. A tax is imposed upon the transfer of
12 the estate of every person who, at the time of death,
13 was a resident of this State. The amount of this tax
14 is a sum equal to the amount by which the credit for
15 state death taxes allowable to a decedent's estate
16 under the Code, Section 2011 as amended as of Decem-
17 ber 31, 1980, in this chapter sometimes referred to
18 as the "credit," exceeds the lesser of:

19 A. The aggregate amount of all constitutionally
20 valid estate, inheritance, legacy and succession
21 taxes actually paid to the several states of the
22 United States, other than this State, in respect
23 of any property owned by that decedent or subject
24 to those taxes as a part of or in connection with
25 his estate; or

26 B. An amount equal to such proportion of such
27 allowable credit as the value of properties tax-
28 able by other states bears to the value of the
29 entire federal gross estate wherever situated.

30 Sec. 14. 36 MRSA §4365, first ¶, as amended by
31 PL 1983, c. 859, Pt. M, §§8 and 13, is further
32 amended to read:

33 A tax is imposed on all cigarettes held in this
34 State by any person for sale, the tax to be at the

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1 rate of 14 mills for each cigarette and the payment
2 thereof to be evidenced by the affixing of stamps to
3 the packages containing the cigarettes. If a federal
4 program similar to that provided in Title 22, section
5 3185, becomes effective, this tax is reduced by one
6 mill for each cigarette. The Governor shall determine
7 by proclamation when the federal program has become
8 effective. ~~Any cigarette on which a tax has been~~
9 ~~paid, such payment being evidenced by the affixing of~~
10 ~~such stamp, shall not be subject to a further tax un-~~
11 ~~der this chapter.~~ Nothing contained in this chapter
12 shall be construed to impose a tax on any transac-
13 tion, the taxation of which by this State is prohib-
14 ited by the Constitution of the United States.

15 Sec. 15. 36 MRSA §4365-A is enacted to read:

16 §4365-A. Rate of tax after September 30, 1985

17 Cigarettes which have been stamped at the rate of
18 10 mills for each cigarette which are held for resale
19 by any person after September 30, 1985, shall be sub-
20 ject to tax at the rate of 14 mills for each ciga-
21 rette.

22 Any person holding cigarettes for resale shall be
23 liable for the difference between the 14 mills for
24 each cigarette tax rate and the 10 mills for each
25 cigarette tax rate in effect prior to October 1,
26 1985. Stamps evidencing payment of the tax imposed by
27 this section shall be affixed to all packages of cig-
28 arettes held as of October 1, 1985, for resale, ex-
29 cept that cigarettes held in vending machines as of
30 October 1, 1985, need not be so stamped.

31 Notwithstanding any other provision of this chap-
32 ter, it is presumed that all cigarette vending ma-
33 chines are filled to capacity on October 1, 1985, and
34 the tax imposed by this section shall be reported on
35 that basis. A credit against this inventory tax shall
36 be allowed for cigarettes stamped at the 14-mill rate
37 placed in vending machines before October 1, 1985.

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1 Payment of the tax imposed by this section shall
2 be made to the State Tax Assessor before November 15,
3 1985, and it shall be accompanied by forms prescribed
4 by the State Tax Assessor.

5 Sec. 16. 36 MRSA §4368 is amended to read:

6 §4368. Stamps affixed by licensed dealers

7 Each distributor shall affix, or cause to be af-
8 fixed, in such manner as the State Tax Assessor may
9 specify in regulations issued pursuant to this chap-
10 ter, to each individual package of cigarettes sold or
11 distributed by him, stamps of the proper denomina-
12 tions, as required by ~~section 4365~~ this chapter. Such
13 stamps may be affixed by a distributor at any time
14 before the cigarettes are transferred out of his pos-
15 session.

16 Sec. 17. 36 MRSA §4369, as amended by PL 1983,
17 c. 828, §16, is further amended to read:

18 §4369. Stamps affixed by licensed dealers

19 Each dealer shall, within 72 hours after coming
20 into possession of any cigarettes not bearing proper
21 stamps evidencing payment of the tax imposed by this
22 chapter, and before selling such cigarettes, affix or
23 cause to be affixed, in such manner as the State Tax
24 Assessor may specify in regulations issued pursuant
25 to this chapter, to each individual package of ciga-
26 rettes, stamps of the proper denomination as required
27 by ~~section 4365~~ this chapter.

28 Sec. 18. 36 MRSA §4641-D, first ¶, as repealed
29 and replaced by PL 1977, c. 318, §2, is amended to
30 read:

31 Any deed, except as provided in this section,
32 shall, when offered for recording, be accompanied by
33 a statement or declaration prepared in duplicate and

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1 signed, subject to the penalties of perjury, by the
2 parties to the transaction or their authorized repre-
3 sentatives, declaring the consideration for the prop-
4 erty thereby transferred and indicating the taxpayer
5 identification numbers of the grantor and grantee.
6 The exceptions to the foregoing are the following:

7 Sec. 19. 36 MRSA §5111, as amended by PL 1982,
8 I.B. 2, §1 and PL 1983, c. 3, §1 and as repealed and
9 replaced by PL 1983, c. 571, §18, is repealed and the
10 following enacted in its place:

11 §5111. Imposition and rate of tax

12 For tax years beginning on or after January 1,
13 1984, a tax is imposed for each taxable year on the
14 entire taxable income of every resident individual of
15 this State and on the taxable income of every nonres-
16 ident individual which is derived from sources within
17 this State. The amount of the tax shall be determined
18 in accordance with the following tables.

19 1. For single individuals and married persons
20 filing separate returns:

<u>If the taxable income is:</u>	<u>The tax is:</u>
22 <u>Not over \$2,000</u>	<u>1% of the taxable income</u>
23 <u>\$ 2,000 but not over</u>	<u>\$ 20 + 2 % of excess</u>
24 <u>\$4,200</u>	<u>over \$ 2,000</u>
25 <u>\$ 4,200 but not over</u>	<u>\$ 64 + 3 % of excess</u>
26 <u>\$6,200</u>	<u>over \$ 4,200</u>
27 <u>\$ 6,200 but not over</u>	<u>\$ 124 + 6 % of excess</u>
28 <u>\$8,300</u>	<u>over \$ 6,200</u>
29 <u>\$ 8,300 but not over</u>	<u>\$ 250 + 7 % of excess</u>
30 <u>\$10,400</u>	<u>over \$ 8,300</u>
31 <u>\$10,400 but not over</u>	<u>\$ 397 + 8 % of excess</u>
32 <u>\$15,600</u>	<u>over \$10,400</u>
33 <u>\$15,600 but not over</u>	<u>\$ 813 + 9.2% of excess</u>
34 <u>\$25,000</u>	<u>over \$15,600</u>
35 <u>\$25,000 or more</u>	<u>\$1,678 + 10 % of excess</u>
36	<u>over \$25,000</u>

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1 2. For unmarried or legally separated individuals
 2 who qualify as heads of household:

3	<u>If the taxable income is:</u>	<u>The tax is:</u>
4	Not over \$3,200	1% of the taxable income
5	\$ 3,200 but not over	\$ 32 + 2 % of excess
6	\$ 6,200	over \$ 3,200
7	\$ 6,200 but not over	\$ 92 + 3 % of excess
8	\$ 9,400	over \$ 6,200
9	\$ 9,400 but not over	\$ 188 + 6 % of excess
10	\$12,500	over \$ 9,400
11	\$12,500 but not over	\$ 374 + 7 % of excess
12	\$15,600	over \$12,500
13	\$15,600 but not over	\$ 591 + 8 % of excess
14	\$23,400	over \$15,600
15	\$23,400 but not over	\$1,215 + 9.2% of excess
16	\$37,500	over \$23,400
17	\$37,500 or more	\$2,512 + 10 % of excess
18		over \$37,500

19 3. For the joint income of married individuals
 20 and widows or widowers permitted to file a joint re-
 21 turn:

22	<u>If the taxable income is:</u>	<u>The tax is:</u>
23	Not over \$4,200	1% of the taxable income
24	\$ 4,200 but not over	\$ 42 + 2 % of excess
25	\$ 8,300	over \$ 4,200
26	\$ 8,300 but not over	\$ 124 + 3 % of excess
27	\$12,500	over \$ 8,300
28	\$12,500 but not over	\$ 250 + 6 % of excess
29	\$16,700	over \$12,500
30	\$16,700 but not over	\$ 502 + 7 % of excess
31	\$20,800	over \$16,700
32	\$20,800 but not over	\$ 789 + 8 % of excess
33	\$31,300	over \$20,800
34	\$31,300 but not over	\$1,629 + 9.2% of excess
35	\$50,000	over \$31,300
36	\$50,000 or more	\$3,349 + 10 % of excess
37		over \$50,000

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1 The nominal dollar amounts of this section are
2 subject to annual adjustment under section 5403.

3 Sec. 20. 36 MRSA §5124-A, as amended by 1983
4 I.B. 2, §2 and PL 1983, c. 3, §2, is repealed and the
5 following enacted in its place:

6 §5124-A. Standard deduction; resident

7 The standard deduction of a resident individual
8 or of a resident husband and wife who file a joint
9 return or of a resident married person who files a
10 separate return shall be as follows:

11 1. Single persons. Single persons, the higher of
12 a low-income allowance of \$1,700 or 16% of Maine ad-
13 justed gross income up to a maximum deduction of
14 \$2,500;

15 2. Married persons; joint returns. Married per-
16 sons filing joint returns or a surviving spouse, the
17 higher of a low-income allowance of \$2,100 or 16% of
18 Maine adjusted gross income up to a maximum deduction
19 of \$3,000; and

20 3. Married person; separate return. A married
21 person filing a separate return, the higher of a low-
22 income allowance of \$1,100 or 16% of Maine adjusted
23 gross income up to a maximum deduction of \$1,400, ex-
24 cept that if either spouse used the low-income allow-
25 ance, both must use it.

26 The nominal dollar amounts of this section are
27 subject to annual adjustment under section 5403.

28 Sec. 21. 36 MRSA §5215, sub-§2, ¶D, as enacted
29 by PL 1977, c. 722, is amended to read:

30 D. "Successor-taxpayer" means any taxpayer which
31 has acquired within 4 years of its taxable year
32 end ~~in~~ 1978 the organization, trade or business,
33 or 50% or more of the assets thereof, of another

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1 taxpayer which, at the time of the acquisition,
2 was an employing unit.

3 Sec. 22. 36 MRSA §5215, sub-§3, ¶B, as enacted
4 by PL 1977, c. 722, is amended to read:

5 B. With a new jobs credit base which increases
6 by at least ~~\$1,200,000~~ \$1,400,000 for the taxable
7 year of the qualified federal credit and is at-
8 tributable to the operation of property consid-
9 ered to be a qualified investment. The ~~\$1,200,000~~
10 \$1,400,000 is to be adjusted proportionally for
11 any change in Title 26, section 1043, subsection
12 2 wages from ~~\$6,000~~ \$7,000.

13 Sec. 23. 36 MRSA §5215, sub-§7, as enacted by PL
14 1981, c. 364, §69, is amended to read:

15 7. Legislative findings. The Legislature finds
16 the encouragement of the growth of major industry in
17 the State to be in the public interest and for the
18 promotion of the general welfare of the people of the
19 State; and that the use of investment tax credits to
20 encourage industry to make substantial capital in-
21 vestments in the State is necessary to promote the
22 purpose of the Legislature of encouraging the growth
23 of industry; and that the Legislature further finds
24 that the selecting of limits of \$5,000,000 in quali-
25 fied investment in the State and an increase of a new
26 job credit base of ~~\$1,200,000~~ \$1,400,000 for a tax-
27 able year are reasonable qualifying criteria for the
28 application of an investment tax credit and will best
29 promote substantial capital investment in the State.

30 Sec. 24. 36 MRSA §5220, first ¶, as enacted by
31 P&SL 1969, c. 154, §F, §1, is amended to read:

32 An income tax return or franchise tax return with
33 respect to the tax imposed by this Part shall be made
34 by the following:

35 Sec. 25. 36 MRSA §5220, sub-§5, as repealed and

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1 replaced by PL 1983, c. 571, §24, is amended to read:

2 5. Certain taxable corporations and taxable en-
3 tities. Every taxable corporation or taxable entity
4 which is required to file a federal income tax re-
5 turn. A taxable corporation which is a member of
6 an affiliated group and which is engaged in a unitary
7 business with one or more other members of that af-
8 filiated group shall file a combined report, contain-
9 ing such information as the State Tax Assessor may
10 designate by rule, for each such unitary business.
11 Neither the income nor the property, payroll and
12 sales of a member corporation which is not required
13 to file a federal income tax return shall be included
14 in the combined report. The State Tax Assessor may,
15 in his discretion, allow 2 or more taxable corpora-
16 tions or taxable entities which are members of an af-
17 filiated group to file a consolidated return.

18 Sec. 26. 36 MRSA §5222, sub-§5, as enacted by
19 P&SL 1969, c. 154, §F, is amended to read:

20 5. Corporations and taxable entities. The income
21 tax return of a taxable corporation or a taxable
22 entity shall be made and filed by an officer thereof
23 of the corporation or entity.

24 Sec. 27. 36 MRSA §5227, as enacted by P&SL 1969,
25 c. 154, §F, is amended to read:

26 §5227. Time and place for filing returns and paying
27 tax

28 The income tax return or franchise tax return re-
29 quired by this Part shall be filed on or before the
30 date a federal income tax return (without regard to
31 extension) is due to be filed. A taxpayer required to
32 make and file a return under this Part shall, without
33 assessment, notice or demand, pay any tax due thereon
34 to the assessor on or before the date fixed for fil-
35 ing such return (determined without regard to any ex-
36 tension of time for filing the return). The assessor

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1 shall prescribe by regulation the place for filing
2 any return, declaration, statement or other document
3 required pursuant to this Part and for the payment of
4 any tax.

5 Sec. 28. 36 MRSA §5228, sub-§1, as amended by PL
6 1979, c. 615, §6, is further amended to read:

7 1. Requirement of declaration, individual, cor-
8 porations and taxable entities. Every resident and
9 nonresident individual shall make a declaration of
10 his estimated tax for the taxable year, in such form
11 as the assessor may prescribe if his adjusted gross
12 income, in the case of a nonresident from sources
13 within this State, other than from wages on which tax
14 is withheld under this Part, can reasonably be ex-
15 pected to exceed \$2,000 plus the sum of the personal
16 exemptions to which he is entitled.

17 Notwithstanding this subsection, no declaration is
18 required of an individual if the estimated tax as de-
19 fined in subsection 2 can reasonably be expected to
20 be less than the amount of the estimated tax for
21 which no declaration of estimated tax is required to
22 be filed under the Internal Revenue Code of 1954,
23 section 6015, as amended.

24 For all taxable corporations or taxable entities
25 whose taxable year ends on or after January 1, 1976,
26 a declaration of its estimated tax for the taxable
27 year must be filed by the corporation if its Maine
28 taxable income is expected to exceed \$800 for that
29 taxable year.

30 Sec. 29. 36 MRSA §5251, as amended by PL 1981,
31 c. 371, §2, is further amended to read:

32 §5251. Information statement

33 Every ~~employer~~ person required to deduct and
34 withhold tax under this Part, or who would have been
35 required so to deduct and withhold tax if an employee

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1 had claimed no more than one withholding exemption,
2 shall furnish to each such person in respect to the
3 items of income subject to withholding paid by such
4 ~~employer~~ person to such person during the calendar
5 year on or before February 15th of the succeeding
6 year, or, in the case of an employee who is termi-
7 nated before the close of such calendar year, within
8 30 days from the date on which the last payment of
9 wages is made, a written statement as prescribed by
10 the assessor showing the amount of wages paid by the
11 employer to the employee, or in the case of withhold-
12 ing pursuant to section 5255-B the total items of in-
13 come which were subject to withholding, the amount
14 deducted and withheld as tax, and such other informa-
15 tion as the assessor shall prescribe.

16 Sec. 30. 36 MRSA §5253, as amended by PL 1981,
17 c. 364, §§71 and 72, is further amended to read:

18 §5253. Employer's return and payment of tax withheld

19 1. General. Every ~~employer~~ person required to
20 deduct and withhold tax under this part shall, for
21 each calendar quarter, on or before the last day of
22 the month following the close of such calendar quar-
23 ter, file a withholding return as prescribed by the
24 assessor and pay over to the assessor or to a deposi-
25 tary designated by the assessor, the taxes so re-
26 quired to be deducted and withheld. The State Tax
27 Assessor may, by rule, require or permit the filing
28 of returns and paying over of taxes withheld on other
29 than a quarterly basis.

30 2. Deposit in trust for assessor. Whenever any
31 ~~employer~~ person fails to collect, truthfully account
32 for, pay over the tax, or make returns of the tax as
33 required by this section, the assessor may serve a
34 notice requiring such ~~employer~~ person to collect the
35 taxes which became collectible after service of such
36 notice, to deposit such taxes in a bank approved by
37 the assessor, in a separate account, in trust for and
38 payable to the assessor, and to keep the amount of

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1 such tax in such account until paid over to the as-
2 sessor. Such notice shall remain in effect until a
3 notice of cancellation is served by the assessor.

4 Sec. 31. 36 MRSA §5254, as amended by PL 1981,
5 c. 371, §4, is further amended to read:

6 §5254. Liability for withheld taxes

7 Every ~~employer~~ person required to deduct and
8 withhold tax under this Part is hereby made liable
9 for such tax. For purposes of assessment and collec-
10 tion, any amount required to be withheld and paid
11 over to the assessor, and any additions to tax, pen-
12 alties and interest with respect thereto, shall be
13 considered the tax of ~~the employer~~ that person. Any
14 amount of tax actually deducted and withheld under
15 this Part shall be held to be a special fund in trust
16 for the assessor. No person ~~shall~~ may have any right
17 of action against an ~~employer~~ a person in respect to
18 any money deducted and withheld and paid over to the
19 assessor in compliance or in intended compliance with
20 this Part.

21 Sec. 32. 36 MRSA §5255, as enacted by P&SL 1969,
22 c. 154, §F, is amended to read:

23 §5255. Failure to withhold

24 If an ~~employer~~ a person fails to deduct and with-
25 hold tax as required, and thereafter the tax against
26 which such tax may be credited is paid, the tax so
27 required to be deducted and withheld shall not be
28 collected from the ~~employer~~ person, but the ~~employer~~
29 person shall not be relieved from liability for any
30 additions to tax penalties or interest otherwise ap-
31 plicable in respect to such failure to deduct and
32 withhold.

33 Sec. 33. 36 MRSA §5255-A, first ¶, as enacted by
34 PL 1971, c. 61, §10, is amended to read:

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1 The Tax Assessor may, by filing a complaint, ap-
2 ply for an injunction from doing business of any
3 ~~employer person~~ required to deduct and withhold tax
4 under this Part whenever any such ~~employer person~~
5 fails to deduct and withhold tax under this Part; or
6 truthfully account for, or pay over, or make returns
7 of the tax as required by section 5253. The existence
8 of other civil or criminal remedies shall be no de-
9 fense to this proceeding.

10 Sec. 34. 36 MRSA §5255-B, as enacted by PL 1981,
11 c. 371, §5, is amended to read:

12 §5255-B. Certain items of income under the United
13 States Internal Revenue Code

14 Any ~~employer person~~ maintaining an office or
15 transacting business within this State and who is re-
16 quired to deduct and withhold a tax on items of in-
17 come under the United States Internal Revenue Code,
18 Sections 1441 and 1442, other than wages subject to
19 withholding as provided in section 5250, shall deduct
20 and withhold from such items to the extent they con-
21 stitute Maine net income a tax equal to 5% thereof,
22 unless withholding pursuant to the United States In-
23 ternal Revenue Code is based on other than a flat
24 rate amount. In that event, the State's withholding
25 procedure should estimate taxable income using the
26 same approach to exemptions as the United States In-
27 ternal Revenue Code and the amount of tax to be with-
28 held should be calculated in accordance with with-
29 holding methods prescribed pursuant to section 5250.

30 Sec. 35. Department of Finance and Administra-
31 tion; issuance of rule. The Department of Finance
32 and Administration shall promulgate a rule, pursuant
33 to the provisions of the Maine Revised Statutes, Ti-
34 tle 5, chapter 375, requiring the collection of a
35 sales tax on meals provided in the wild by persons
36 licensed as outfitters or guides by the Department of
37 Inland Fisheries and Wildlife. The term "in the
38 wild" means at a place other than a base camp, res-

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1 taurant or campground while on a trip or other expedi-
2 tion and shall include the provision of a meal at a
3 primitive campsite. The rules shall not require as-
4 sessment or collection of a sales tax on the consump-
5 tion of game species. The rule shall establish the
6 value of a meal at its cost to the outfitter or
7 guide, providing that the meal is provided as part of
8 a total service purchased by the customer and that
9 the price of the service does not vary if the meal is
10 not consumed. The rule shall specify means for as-
11 sessment and collection of the sales tax which recog-
12 nize the unconventional manner of providing meals to
13 customers by guides and outfitters in the wild.

14 STATEMENT OF FACT

15 Section 1 includes taxable entities as defined in
16 the recently enacted bank franchise tax law in the
17 definition of person to insure applicability of the
18 uniform administrative provisions.

19 Section 2 repeals the penalty for failure to file
20 state income tax returns. This changes Maine law to
21 conform to federal tax law which does not impose a
22 penalty for persons who file their tax return late
23 and who are owed a refund. Persons who file late and
24 owe a tax would still be subject to a penalty for
25 failure to pay the tax when due.

26 Section 3 clarifies the applicability of tree
27 growth values for 1985.

28 Section 4 remedies a problem created by repeal of
29 the Forest Land Valuation Advisory Council. Both the
30 landowner member and the municipal officer of the
31 Forest Land Valuation Advisory Council also served as
32 members of the Land Classification Appeals Board.

33 Sections 5 and 6 correct a conflict between sub-
34 stantially different provisions enacted by the Public
35 Laws of 1983, which all had the same subsection num-
36 ber.

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1 Section 6 also addresses a recent change in the
2 activities of community action agencies. Community
3 action agencies are expanding their services to in-
4 clude commercial contracting services. This amendment
5 limits their sales tax exemption to purchases which
6 are intended for use in noncommercial activities.

7 Section 7 protects the State from loss of sales
8 tax revenue when a taxpayer, other than a retailer,
9 ceases business.

10 Section 8 updates a reference to the Internal
11 Revenue Code in the mining excise tax.

12 Sections 9, 10 and 11 correct a reference to
13 chapter 463 which was repealed and replaced by chap-
14 ter 463-A.

15 Sections 12 and 13 update references to the In-
16 ternal Revenue Code in the estate tax.

17 Section 14 clarifies that all cigarettes sold on
18 or after October 1, 1985, are subject to the sched-
19 uled increase effective on that date, including those
20 held in inventory by retailers and distributors.

21 Section 15 provides that real estate transfer tax
22 declaration of value forms shall contain taxpayer
23 identification numbers.

24 Sections 16 and 17 update the income tax tables
25 and standard deduction to account for the effects of
26 indexing.

27 Sections 18, 19 and 20 update requirements of the
28 jobs and investment tax credit.

29 Sections 21 to 25 insure that taxable entities as
30 defined in the bank franchise tax are subject to the
31 same requirements for filing, combined reporting and
32 estimate tax paying as are other corporations.

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1 Sections 26 to 34 increase the scope of the state
2 income tax withholding system to approximate the fed-
3 eral withholding system. Presently, the State's with-
4 holding is limited to wages and certain payments to
5 nonresident aliens.

6 Federal withholding has been expanded to encom-
7 pass taxable payments from pensions, annuities and
8 certain deferred income, backup withholding on cer-
9 tain interest and dividend payments and certain gam-
10 bling winnings. This amendment subjects these items
11 to the state withholding also.

12 If the item of income is subject to flat rate
13 federal withholding, it would be subject to a 5%
14 state withholding. Similarly, if federal withholding
15 on the item of income is based on an estimate of tax-
16 able income, the state approach is based on estimated
17 taxable income.

18 Withholding only applies to items of income which
19 are subject to the state income tax.

20 Section 35 requires the Department of Finance and
21 Administration to issue a rule relating to the sales
22 tax as applied to meals served in the wild by li-
23 censed guides or outfitters.

24

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