

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 496, L.D. 699)
2 (New Title)
3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE
6

7 Legislative Document

No. 2240

9 H.P. 1595

House of Representatives, March 21, 1986

10 Reported by Representative Cashman from the Committee on Taxation
11 and printed under Joint Rule 2. Original bill sponsored by Representative
12 Higgins of Portland. Cosponsored by Senator Twitchell of Oxford and
Representative Daggett of Manchester.

EDWIN H. PERT, Clerk

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-SIX
18

19 AN ACT to Modernize the Telephone Excise Tax.
20

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

23 Sec. 1. 36 MRSA c. 363, as amended, is repealed.

24 Sec. 2. 36 MRSA c. 364 is enacted to read:

25 CHAPTER 364

26 TELECOMMUNICATIONS SERVICE

27 §2691. Persons taxable

28 Every person providing telecommunications service
29 shall pay to the State Tax Assessor an annual excise
30 tax for the privilege of conducting a telecommunica-
31 tions business in this State.

1 §2692. Amount of tax

2 The amount of the annual excise tax on persons
3 providing telecommunications service is as follows:
4 When the total gross operating revenues of a person
5 from the provision of telecommunications service
6 which originates or terminates in this State and is
7 charged to a telephone number, account or customer in
8 this State or which originates and terminates in this
9 State during the calendar year preceding the year in
10 which the tax is assessed on the person exceed \$1,000
11 and do not exceed \$5,000, the tax is 1 1/4% of the
12 total gross operating revenues; when the total gross
13 operating revenues exceed \$5,000 and do not exceed
14 \$10,000, the tax is 1 1/2% of the total gross operat-
15 ing revenues; when the total gross operating revenues
16 exceed \$10,000 and do not exceed \$20,000, the tax is
17 1 3/4% of the total gross operating revenues; when
18 the total gross operating revenues exceed \$20,000 and
19 do not exceed \$40,000, the tax is 2% of the total
20 gross operating revenues; and so on, increasing the
21 rate of tax 1/4 of 1% for each additional \$20,000 or
22 fractional part of \$20,000, of the total gross operat-
23 ing revenues, provided that the rate may in no
24 event exceed 7% of the total gross operating reve-
25 nues.

26 §2693. Returns

27 Every person providing telecommunications service
28 shall annually, on or before the last day of January,
29 return to the State Tax Assessor, signed by the per-
30 son responsible for the fiscal affairs of the
31 provider, a statement of its total gross operating
32 revenues from the provision of telecommunications
33 service within the State during the preceding year
34 ending December 31st, together with payment of tax in
35 accordance with section 2692. A final reconciliation
36 return shall be filed on or before March 31st cover-
37 ing the prior calendar year. The tax shall be a lien
38 on the property of the provider and on its franchise,
39 and upon the property used by it in providing tele-
40 communications service. This lien takes precedence
41 over all other liens.

42 §2694. Definitions

1 As used in this chapter, unless the context oth-
2 erwise indicates, the following terms have the fol-
3 lowing meanings.

4 1. Gross operating revenues. "Gross operating
5 revenues" means the total revenues derived from the
6 provision of telecommunications service. "Gross op-
7 erating revenues" does not include:

8 A. Any amounts received by a person for the pro-
9 vision of facilities, services or network access
10 utilized by another person in its provision of
11 telecommunications service; or

12 B. Any amounts attributable to international
13 telecommunications service by means of satellite
14 and an earth station located in this State.

15 2. Telecommunication service. "Telecommunica-
16 tions service" means the transmission of any inter-
17 active 2-way electromagnetic communications, includ-
18 ing voice, image, data and information. Transmission
19 of electromagnetic communications includes the use of
20 any media such as wires, cables, including 5 optical
21 cables and television cables, microwaves, radio
22 waves, light waves or any combination of those or
23 similar media. "Telecommunications services" in-
24 cludes telegraph service. "Telecommunications ser-
25 vice" does not include value added nonvoice services
26 in which computer processing applications are used to
27 act on the form, content, code and protocol of the
28 information to be transmitted unless those services
29 are provided under tariff approved by the Public
30 Utilities Commission.

31 §2695. Books open to assessors

32 The State Tax Assessor or his duly authorized
33 agent shall have access to the books of any person
34 providing telecommunications service in this State to
35 ascertain if the required returns are correctly made.
36 Any person refusing or neglecting to make the returns
37 required by law or to exhibit to the State Tax Asses-
38 sor, or to his duly authorized agent, books for the
39 purpose set out in this section or making returns
40 which the president, clerk, treasurer or other person
41 certifying those returns knows to be false is subject

1 to a civil penalty of not less than \$1,000 nor more
2 than \$10,000 payable to the State to be recovered in
3 a civil action in any county into which the telecom-
4 munication service extends.

5 §2696. Limited property tax

6 The land, buildings and microwave towers or simi-
7 lar towers owned by persons providing telecommunica-
8 tions service shall be taxed as real property in the
9 municipality or unorganized territory in which they
10 are situated.

11 The excise tax imposed by this chapter shall be
12 in lieu of property taxes upon all other property
13 used in the provision of telecommunications service
14 which is subject to the tax imposed by this chapter,
15 including the poles, wires, conduits, cables, booths,
16 central office equipment and other machinery and
17 equipment involved in providing telecommunications
18 service.

19 Sec. 3. Application. This Act shall apply to
20 the tax years beginning on or after January 1, 1986.

21 FISCAL NOTE

22 This new draft will result in an increase in rev-
23 enues to the General Fund of \$2,600,000 because of
24 the change in the method of apportionment of long
25 distance revenues and the expansion of the definition
26 of persons subject to the tax. Enactment of the de-
27 duction for access charges remedies an unintended
28 windfall to the State with the result that the State
29 will not receive \$5,600,000 of unanticipated and
30 unbudgeted revenue.

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STATEMENT OF FACT

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The purpose of this new draft is to provide equal treatment for all persons providing telecommunications service by expanding the gross receipts tax on telephone companies to include all persons providing telecommunications service.

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The new draft exempts persons providing telecommunications service by means of a satellite and earth station located in this State. It includes telegraph services under the definition of telecommunications, thereby making telegraph services subject to the same maximum tax rate as applies to other telecommunications services. The new draft also provides that access charges and revenues derived from the provision of telecommunications service to another such provider for resale will be deducted by the person receiving them.

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