

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 (New Draft of H.P. 1638, L.D. 2310)  
3 (New Title)  
4 SECOND REGULAR SESSION  
5

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6 ONE HUNDRED AND TWELFTH LEGISLATURE  
7

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8 Legislative Document

No. 2394

9  
10 H.P. 1701

House of Representatives, April 14, 1986

11 Reported by the Minority from the Committee on Taxation and printed  
12 under Joint Rule 2. Original bill sponsored by Representative Cashman of  
Old Town. Cosponsored by Representative Mayo of Thomaston and Senator  
Twitchell of Oxford.

13 EDWIN H. PERT, Clerk

14  
15 STATE OF MAINE  
16

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17 IN THE YEAR OF OUR LORD  
18 NINETEEN HUNDRED AND EIGHTY-SIX  
19

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20 AN ACT to Make Changes in the Maine Tax Laws  
21 and to Provide for Appropriations  
22 from the General Fund.  
23

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24 Emergency preamble. Whereas, Acts of the Legis-  
25 lature do not become effective until 90 days after  
26 adjournment unless enacted as emergencies; and

27 Whereas, **the** normal 90-day period may not termi-  
28 nate until **after** the beginning of the next fiscal  
29 year; and

30 Whereas, it is necessary to make these tax ad-  
31 justments as soon as possible to avoid losses in po-  
32 tential revenue; and

33 Whereas, this additional revenue is necessary to  
34 fund the proposed Maine State Budget in fiscal year  
35 1986-87; and

1           Whereas, in the judgment of the Legislature,  
2 these facts create an emergency within the meaning of  
3 the Constitution of Maine and require the following  
4 legislation as immediately necessary for the preser-  
5 vation of the public peace, health and safety; now,  
6 therefore,

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

9           Sec. 1. 36 MRSA §1752, sub-§3-A is enacted to  
10 read:

11           3-A. Food products. "Food products" except as  
12 otherwise provided, includes cereals and cereal  
13 products; milk and milk products, other than candy  
14 and confectionery, but including ice cream; oleomar-  
15 garine; meat and meat products; fish and fish  
16 products; eggs and egg products; vegetables and vege-  
17 table products; fruit and fruit products, including  
18 pure fruit juices; spices, condiments and salt; sugar  
19 and sugar products other than candy and confection-  
20 ery; coffee and coffee substitutes; and tea, cocoa  
21 and cocoa products, other than candy and confection-  
22 ery.

23           "Food products" does not include spirituous, malt or  
24 vinous liquors; soft drinks, sodas or beverages such  
25 as are ordinarily dispensed at bars or soda fountains  
26 or in connection therewith; medicines, tonics, vita-  
27 mins and preparations in liquid, powdered, granular,  
28 tablet, capsule, lozenge or pill form, sold as die-  
29 tary supplements or adjuncts, except when sold on the  
30 prescription of a physician; and water, including  
31 mineral bottled and carbonated waters and ice.

32           Sec. 2. 36 MRSA §1760, sub-§3, as amended by PL  
33 1981, c. 163, §3, is repealed **and** the following en-  
34 acted in its place:

35           3. Food products. Sales of food products except:

36           A. Meals served on or off the premises of the  
37 retailer;

1 B. Drinks or food furnished, prepared or served  
2 for consumption at tables, chairs or counters, or  
3 from trays, glasses, dishes or other tableware  
4 provided by the retailer;

5 C. Those products which ordinarily are sold by  
6 the retailer for immediate consumption on or near  
7 the location of the retailer, even though the  
8 products are sold on a "take out" or "to go" or-  
9 der and are actually packaged or wrapped and  
10 taken from the premises;

11 D. Those made from a retail location from which  
12 food ordinarily is sold for consumption without  
13 further preparation or storage, even though the  
14 products are packaged or wrapped in bulk quanti-  
15 ties; and

16 E. Sales of heated food or drinks; sandwiches;  
17 ice cream or ice milk in a cone or cup, including  
18 sundaes, sodas, frappes and the like, ice cream  
19 or ice milk novelties and popsicles.

20 Sec. 3. 36 MRSA §2511, as amended by PL 1983, c.  
21 479, §1, is repealed.

22 Sec. 4. 36 MRSA §2512, as repealed and replaced  
23 by PL 1973, c. 727, §3, is amended to read:

24 §2512. Annual returns to Superintendent of Insurance

25 Every domestic life insurance company shall in-  
26 clude in its annual return to the Superintendent of  
27 Insurance a statement of the amount of premiums and  
28 annuity considerations liable to taxation as provided  
29 in section ~~2511~~ 2513, and of the real estate held by  
30 it on the 31st day of the previous December, showing  
31 in detail the amount of all premiums including annui-  
32 ty considerations whether in cash or notes absolutely  
33 payable, received by ~~said~~ the company from residents  
34 of this State during the preceding calendar year and  
35 all dividends paid to policyholders in this State on  
36 account of ~~said~~ the premiums or annuity considera-  
37 tions as required by blanks furnished by the superin-  
38 tendent. The taxes provided by section ~~2511~~ 2513  
39 shall be paid as provided in section 2521-A, and ~~said~~  
40 this section and section 2518 shall be applicable  
41 thereto.

1           Sec. 5. 36 MRSA §2513, as amended by PL 1973, c.  
2 727, §4, is further amended to read:

3     §2513. Tax on premiums and annuity considerations

4           Every insurance company or association which does  
5 business or collects premiums or assessments includ-  
6 ing annuity considerations in the State, except those  
7 mentioned in ~~sections 2511 and section~~ 2517, includ-  
8 ing surety companies and companies engaged in the  
9 business of credit insurance or title insurance,  
10 shall, for the privilege of doing business in this  
11 State, and in addition to any other taxes imposed for  
12 such privilege pay a tax upon all gross direct premi-  
13 ums including annuity considerations, whether in cash  
14 or otherwise, on contracts written on risks located  
15 or resident in the State for insurance of life, annu-  
16 ity, fire, casualty and other risks at the rate of 2%  
17 a year.

18           Sec. 6. 36 MRSA §2514, as amended by PL 1975, c.  
19 641, is further amended to read:

20     §2514. Applicability of provisions

21           Sections ~~2511~~, 2512 and 2513 shall not apply to  
22 the taxation of any annuity consideration on any an-  
23 nuity contract issued prior to August 1, 1943. Sec-  
24 tions ~~2511~~, 2512 and 2513 shall not apply to any pre-  
25 mium from an insurance contract, which premium is re-  
26 ceived prior to October 1, 1969, or any considera-  
27 tion, regardless of when received, from any retire-  
28 ment annuity contracts issued by an insurance or an-  
29 nuity company organized and operated without profit  
30 to any private shareholder or individual exclusively  
31 for the purpose of aiding nonproprietary educational  
32 and scientific institutions pursuant to a retirement  
33 program established under section 403 (b) of the  
34 United States Internal Revenue Code. Premiums or  
35 considerations received from life insurance policies  
36 or annuity contracts issued in connection with the  
37 funding of a pension, annuity or profit-sharing plan  
38 or individual retirement account or annuity qualified  
39 or exempt under sections 401, 403, 404, 408 or 501 of  
40 the United States Internal Revenue Code as now or  
41 hereafter amended or renumbered from time to time,  
42 shall be exempt from tax.

1           Sec. 7. 36 MRSA §2515 is amended to read:

2           §2515. Amount of tax

3           In determining the amount of tax due under ~~sections 2511 and~~ section 2513, there shall be deducted  
4           by each company from the full amount of gross direct  
5           premiums, the amount of all direct return premiums  
6           thereon, and all dividends paid to policyholders on  
7           direct premiums and the tax shall be computed by said  
8           companies or their agents.  
9

10          Sec. 8. 36 MRSA §2516 is enacted to read:

11          §2516. Credit against tax

12           For tax years beginning on or after January 1,  
13           1986, there shall be allowed as a credit against the  
14           amount of tax due pursuant to sections 2511, 2517,  
15           2520 and 2523, the tax year end book value of invest-  
16           ments held for more than 9 months of the taxable year  
17           in securities, bonds or other obligations of the  
18           State or any political subdivisions of the State, in-  
19           cluding any agencies of the State. The maximum credit  
20           allowable pursuant to this section may not exceed an  
21           amount which would reduce the effective tax rate as  
22           determined by sections 2511, 2517, 2520 and 2523 be-  
23           low 1.3%.

24          Sec. 9. 36 MRSA §2523, sub-§1, as enacted by PL  
25          1983, c. 479, §3, is repealed and the following en-  
26          acted in its place:

27           1. Tax on insurance companies. Every insurance  
28           company or association which does business or col-  
29           lects premiums or assessments for workers' compensa-  
30           tion insurance in this State shall, for the privilege  
31           of doing business in this State and in addition to  
32           any other taxes imposed for that privilege, pay a tax  
33           of 2% upon all gross direct premiums written, whether  
34           in cash or in notes absolutely payable on contracts  
35           written on risks located or resident in the State for  
36           workers' compensation insurance, less return premiums  
37           thereon and less all dividends paid to policyholders.

38           The tax levied under this section is in lieu of the  
39           taxes levied under section 2513, insofar as those

1 taxes are based on workers' compensation insurance  
2 premiums.

3 Sec. 10. 36 MRSA §3636, as amended by PL 1983,  
4 c. 480, Pt. A, §53, is repealed and the following en-  
5 acted in its place:

6 §3636. Settlement required

7 The tax on all property and interests in property  
8 coming to beneficiaries from the estate of a person  
9 whose date of death is prior to July 1, 1986, shall  
10 be due on March 30, 1987, or the date specified in  
11 section 3681, whichever comes first. The tax due  
12 shall be payable by the personal representative or  
13 trustee in office or, if there is no personal repre-  
14 sentative or trustee, by the person having an inter-  
15 est in the property. The tax due in the estate shall  
16 be based on the value of the property subject to tax  
17 as of June 30, 1986, or as compromised as provided by  
18 section 3635.

19 Sec. 11. 36 MRSA c. 704 is enacted to read:

20 CHAPTER 704

21 TOBACCO PRODUCTS TAX

22 §4401. Definitions

23 As used in this chapter, unless the context oth-  
24 erwise indicates, the following terms have the fol-  
25 lowing meanings.

26 1. Business. "Business" means any trade, occu-  
27 ipation, activity or enterprise engaged in for the  
28 purpose of selling or distributing tobacco products  
29 in this State.

30 2. Distributor. "Distributor" means any person  
31 engaged in the business of producing or manufacturing  
32 tobacco products in this State for sale in this  
33 State, any person engaged in the business of selling  
34 tobacco products in this State who brings, or causes  
35 to be brought into this State any tobacco products  
36 for sale to a retailer or any person engaged in the  
37 business of selling tobacco products who ships or

1 transports tobacco products to retailers for sale in  
2 this State.

3 3. Manufacturer. "Manufacturer" means a person  
4 who manufactures and sells tobacco products.

5 4. Place of business. "Place of business" means  
6 any place where tobacco products are sold or where  
7 tobacco products are manufactured, stored, or kept  
8 for the purpose of sale or consumption, including any  
9 vessel, vehicle, airplane, train or vending machines.

10 5. Retailer. "Retailer" means any person en-  
11 gaged in the business of selling tobacco products to  
12 ultimate consumers.

13 6. Retail outlet. "Retail outlet" means a place  
14 of business from which tobacco products are sold to  
15 consumers. Vending machines shall be considered a  
16 retail outlet.

17 7. Sale. "Sale" means any transfer, exchange,  
18 barter or gift in any manner or by any means whatso-  
19 ever, for a consideration. It shall include a gift  
20 for advertising by a person engaged in the business  
21 of selling tobacco products.

22 8. Subjobber. "Subjobber" means any person oth-  
23 er than a manufacturer or distributor who buys from a  
24 distributor tobacco products upon which a tax imposed  
25 by this chapter has been paid and sells them to per-  
26 sons other than the ultimate consumers.

27 9. Tobacco products. "Tobacco products" means  
28 cigars; cheroots; stogies; periques' granulated, plug  
29 cut, crimp cut, ready rubbed, and other smoking to-  
30 bacco; snuff; snuff flour; cavendish; plug and twist  
31 tobacco; finecut and other chewing tobaccos; shorts;  
32 refuse scraps, clippings, cuttings and sweepings of  
33 tobacco; and other kinds and forms of tobacco, pre-  
34 pared in such manner as to be suitable for chewing or  
35 smoking in a pipe or otherwise, or both for chewing  
36 and smoking; but shall not include tobacco products  
37 which are subject to the tax provided by chapter 703.

38 10. Unclassified importer. "Unclassified im-  
39 porter" means any person, firm, corporation or asso-



1 ciation within this State, other than a distributor,  
2 as defined, who shall import, receive or acquire from  
3 without the State, tobacco products for use or con-  
4 sumption within the State.

5 11. Wholesale sales price. "Wholesale sales  
6 price" means the established price for which a manu-  
7 facturer sells tobacco products to a distributor, ex-  
8 clusive of any discount or other reduction.

9 §4402. Licenses

10 Every person engaging in the business of selling  
11 tobacco products as a distributor shall secure a li-  
12 cence from the tax assessor before engaging in that  
13 business. Every license application shall be made on  
14 a form prescribed by the tax assessor and shall state  
15 the name and address of the applicant, address of his  
16 principal place of business, and such other informa-  
17 tion as the tax assessor may require for the proper  
18 administration of this chapter. The application  
19 shall be accompanied by a fee of \$25, except that  
20 there shall be no fee required for distributors or  
21 unclassified importers licensed under chapter 703. A  
22 person without the State who ships or transports to-  
23 bacco products to retailers in this State shall make  
24 application as a distributor and be granted by the  
25 tax assessor a license subject to all the provisions  
26 of this chapter and agree, upon applying for a li-  
27 cence, to submit his books, accounts and records to  
28 examination by the Bureau of Taxation during reason-  
29 able business hours, and to accept service of process  
30 by mail when service is made in any proceeding in-  
31 volving enforcement of this chapter.

32 Each unclassified importer before importing, re-  
33 ceiving or acquiring tobacco products from without  
34 the State shall secure a license from the tax asses-  
35 sor. There shall be no fee for that license.

36 Each license issued shall expire on July 31st of  
37 each year unless sooner revoked by the tax assessor.  
38 The license shall be prominently displayed on the  
39 premises covered by the license and no license may be  
40 transferred to any other person.

1       The tax assessor may revoke or suspend the li-  
2 cence or licenses of any person for violation of this  
3 chapter applicable to the sale of tobacco products.  
4 No license may be revoked, canceled or suspended un-  
5 til after notice and hearing by the tax assessor.

6       §4403. Tax on tobacco products

7       A tax is imposed on all tobacco products at the  
8 rate of 25% of the wholesale sales price. The tax  
9 shall be imposed at the time the distributor or un-  
10 classified importer brings or causes to be brought  
11 into this State tobacco products that are for sale to  
12 consumers or to retailers or for use or at the time  
13 tobacco products are manufactured or fabricated in  
14 this State for sale in this State.

15       The tax imposed on tobacco products does not ap-  
16 ply to those products exported from this State or to  
17 any tobacco products which under laws of the United  
18 States may not be subject to taxation by this State.

19       §4404. Returns; payment of tax and penalty

20       Every distributor, or unclassified importer shall  
21 on or before the last day of each month render, on  
22 forms to be furnished by the tax assessor, a report  
23 together with payment of the tax due under this chap-  
24 ter to the tax assessor stating the quantity and the  
25 wholesale sale price of all tobacco products held,  
26 purchased, manufactured, brought in or caused to be  
27 brought in from without the State or shipped or  
28 transported to retailers within the State during the  
29 preceding calendar month. Every distributor or un-  
30 classified importer shall keep a complete and accu-  
31 rate record at his principal place of business to  
32 substantiate all receipts of tobacco products; this  
33 record shall be preserved for a period of 2 years in  
34 such manner as to insure permanency and accessibility  
35 for inspection.

36       Such monthly reports shall contain such further  
37 information as the tax assessor shall prescribe and  
38 shall show a credit for any tobacco products exempted  
39 as provided in section 4403. Records shall be main-  
40 tained to substantiate the exemption. Tobacco  
41 products previously taxed which are returned to a

1 manufacturer because the product has become unfit for  
2 use of consumption or unsalable may be taken as a  
3 credit on a subsequent return upon receipt of the  
4 credit notice from the original supplier.

5 If the monthly report required by this chapter is  
6 not filed, or payment is not rendered by the last day  
7 of the month the distributor or unclassified importer  
8 shall be liable to a penalty of \$1 a day for each day  
9 in arrears or 10% of the tax liability, whichever is  
10 the greater, together with interest at the rate of 1%  
11 per month or fraction thereof due on demand by the  
12 tax assessor, and recoverable in a civil action. The  
13 tax assessor may waive the penalty for cause.

14 §4405. The tax assessor may estimate liability

15 Whenever any distributor or unclassified importer  
16 shall neglect or refuse to make and file any report  
17 required by this chapter or shall file an incorrect  
18 or fraudulent report, the tax assessor shall from such  
19 information as he may obtain fix the amount of taxes,  
20 penalties and interest payable and forthwith proceed  
21 to collect the amount so fixed.

22 In any action or proceeding for collection of the  
23 tobacco products tax, any penalties and interest im-  
24 posed in connection with an assessment by the tax as-  
25 essor of the tax, penalty or interest due the State  
26 shall constitute prima facie evidence of the claim of  
27 the State. The burden of proof shall be upon the  
28 distributor or unclassified importer to show that the  
29 assessment was incorrect and contrary to law.

30 §4406. Inspection of records; civil action for tax

31 The tax assessor or his duly authorized agents  
32 shall have authority during reasonable business hours  
33 to examine the records, books, papers and any other  
34 records of the distributor, unclassified importer,  
35 retailer or subjobber to verify the truth and accura-  
36 cy of any statement, report or return and whether the  
37 tax imposed by this chapter has been fully paid.

38 The tax assessor shall have the power to recom-  
39 mend legal proceedings by the Attorney General for  
40 the purpose of ascertaining the amount due under this

1 chapter and enforcing the collection of tax, penal-  
2 ties and interest thereof.

3 §4407. Appeal procedure

4 Any person aggrieved by any action under this  
5 chapter because of license suspension or revocation  
6 or because of assessment of tax, penalty or interest  
7 may apply to the tax assessor, in writing, within 10  
8 days after notice of action is delivered or mailed,  
9 requesting a hearing and setting forth the reason why  
10 such hearing should be granted and the manner of re-  
11 lief sought. The tax assessor shall promptly consid-  
12 er such application and may grant or deny the hearing  
13 request. If the hearing is denied the applicant  
14 shall be promptly notified in writing of the reasons  
15 for the denial; if it is granted the tax assessor  
16 shall notify the applicant of the time and place  
17 fixed for such hearing. After the hearing the tax  
18 assessor may make such order as may appear just and  
19 lawful and shall furnish a copy of the order to the  
20 applicant. The tax assessor may, by notice in writ-  
21 ing, at any time, order a hearing and require the  
22 taxpayer or any other individual whom the tax asses-  
23 or believes to be in possession of information con-  
24 cerning the manufacture, importation or sale of to-  
25 bacco products which have escaped taxation to appear  
26 before the tax assessor with any books, accounts, pa-  
27 pers or other documents for examination relative  
28 thereto.

29 Any person aggrieved because of any action or de-  
30 cision of the tax assessor under this chapter may ap-  
31 peal therefrom within 20 days to the Superior Court.  
32 No less than 14 days before the review by the court  
33 the appellant shall serve upon the tax assessor or  
34 his duly authorized agent a copy of the petition  
35 stating the reason for the appeal and notifying the  
36 tax assessor when the appeal is to be heard. Pending  
37 judgment of the court the decision of the tax asses-  
38 or shall remain in full force and effect.

39 §4408. Penalties; civil action for tax

40 Any person who shall willfully make any false or  
41 fraudulent report or return required by this chapter,  
42 or who shall make any false statement in any claim or

1 invoices presented to the tax assessor or who shall  
2 knowingly present to the tax assessor any claim or  
3 invoice containing any false statements, or who shall  
4 with intent to defraud, evade or violate any provi-  
5 sions of this chapter, or any rules duly made under  
6 this chapter, or who shall engage in the State in  
7 business as a distributor, without being the holder  
8 of a valid license to engage in that business commits  
9 a civil violation for which a fine not exceeding  
10 \$2,000 may be assessed, payable to the State. When-  
11 ever any person fails to pay any tax, interest or  
12 penalty due under this chapter within 15 days of de-  
13 mand, the Attorney General shall enforce payment  
14 thereof in a court of appropriate jurisdiction. In  
15 any civil action, records of the quantity of tobacco  
16 products held, purchased, manufactured, brought in or  
17 caused to be brought in from without the State or  
18 shipped or transported to retailers within this State  
19 for the period covered by the tax assessor's audit  
20 shall be prima facie evidence of such quantities  
21 sold, distributed or used during the period covered  
22 by the audit on which the tax with interest from the  
23 date when it was due, shall be computed and collected  
24 and for which amount, with costs, judgment shall be  
25 rendered.

26 §4409. Claims

27 The claims of the State for the sums due under  
28 this chapter shall be preferred and priority claims  
29 in the event of assignment, receivership or bankrupt-  
30 cy.

31 Sec. 12. 36 MRSA §4641-B, last ¶, as enacted by  
32 PL 1985, c. 381, §2, is repealed and the following  
33 enacted its place:

34 The State Tax Assessor shall pay all net receipts  
35 to the Treasurer of State. The Treasurer of State  
36 shall transfer \$2,500,000 in fiscal year 1985-86 and  
37 \$2,100,000 in fiscal year 1986-87 and succeeding  
38 years to the Maine State Housing Authority which  
39 shall deposit the funds in the Housing Opportunities  
40 for Maine Fund created in Title 30, section 4733. The  
41 remainder shall be deposited in the General Fund.

42 Sec. 13. 36 MRSA §5102, sub-§1-C is enacted to  
43 read:

1 1-C. Maine adjusted gross income. "Maine ad-  
2 justed gross income" has the following meanings.

3 A. "Maine adjusted gross income" means, for a  
4 resident individual, the federal adjusted gross  
5 income of that individual, as modified by section  
6 5122.

7 B. "Maine adjusted gross income" means, for a  
8 nonresident individual, that part of his federal  
9 adjusted gross income derived from sources within  
10 this State, as determined under section 5142.

11 Sec. 14. 36 MRSA §5102, sub-§6, as amended by PL  
12 1983, c. 842, §1, is further amended to read:

13 6. Corporation. "Corporation" means any business  
14 entity subject to income taxation as a corporation  
15 under the laws of the United States, excepting corpo-  
16 rations subject to tax under sections ~~2511~~ 2512 to  
17 2522 and section 5206.

18 Sec. 15. 36 MRSA §5111, first ¶, as repealed and  
19 replaced by PL 1985, c. 535, §14, is amended to read:

20 For tax years beginning on or after January 1,  
21 1985, a tax is imposed for each taxable year on the  
22 entire taxable income of every resident individual of  
23 this State ~~and on the taxable income of every nonres-~~  
24 ~~ident individual which is derived from sources within~~  
25 ~~this State.~~ The amount of the tax shall be determined  
26 in accordance with the following tables.

27 Sec. 16. 36 MRSA §5111, sub-§4 is enacted to  
28 read:

29 4. Nonresident individuals. A tax is imposed  
30 upon the Maine income of every nonresident individu-  
31 al. The amount of the tax shall be equal to the tax  
32 computed under this section and chapter 805 as if the  
33 nonresident were a resident, less applicable tax  
34 credits other than that provided by section 5127,  
35 subsection 1, and multiplied by the ratio of his  
36 Maine adjusted gross income, as defined in section  
37 5102, subsection 1-C, paragraph B, to his entire fed-  
38 eral adjusted gross income, as modified by section  
39 5122.

1           Sec. 17. 36 MRSA §5127, sub-§1, as repealed and  
2 replaced by PL 1983, c. 571, §22, is amended to read:

3           1. Income tax paid to other taxing jurisdiction.  
4 A resident individual is allowed a credit against the  
5 tax otherwise due under this Part for the amount of  
6 income tax imposed on him for the taxable year by an-  
7 other state of the United States, a political subdivi-  
8 sion thereof, the District of Columbia or any po-  
9 litical subdivision of a foreign country which is  
10 analogous to a state of the United States with re-  
11 spect to income derived from sources therein which is  
12 also subject to tax under this Part. The credit, for  
13 any of the specified taxing jurisdictions, shall not  
14 exceed the proportion of the tax otherwise due under  
15 this Part that the amount of the taxpayer's Maine ad-  
16 justed gross income derived from sources in that tax-  
17 ing jurisdiction bears to his entire Maine adjusted  
18 gross income ~~as modified by this Part~~; provided that,  
19 when a credit is claimed for taxes paid to both a  
20 state and a political subdivision thereof, the total  
21 credit allowable for those taxes shall not exceed the  
22 proportion of the tax otherwise due under this Part  
23 that the amount of the taxpayer's Maine adjusted  
24 gross income derived from sources in ~~that~~ the other  
25 state bears to his entire Maine adjusted gross income  
26 ~~as modified by this Part~~.

27           Sec. 18. 36 MRSA §5140, as enacted by P&SL 1969,  
28 c. 154, §F, is repealed.

29           Sec. 19. 36 MRSA §5141, as enacted by P&SL 1969,  
30 c. 154, §F, is repealed.

31           Sec. 20. 36 MRSA §5143-A, as amended by PL 1983,  
32 c. 3, §4, is repealed.

33           Sec. 21. 36 MRSA §5144-A, as enacted by PL 1979,  
34 c. 711, Pt. H, §4, is repealed.

35           Sec. 22. 36 MRSA §5145, as amended by PL 1979,  
36 c. 711, Pt. H, §5, is repealed.

37           Sec. 23. 36 ~~MRSA~~ §5146, as enacted by PL 1977,  
38 c. 424, §2, is ~~repealed~~.

1           Sec. 24. 36 MRSA §5160, as enacted by P&SL 1969,  
2 c. 154, §F, is repealed and the following enacted in  
3 its place:

4           §5160. Imposition of tax

5           The tax is imposed, at the rates provided by sec-  
6 tion 5111 for resident individuals, upon the taxable  
7 income of estates and trust. The tax shall be paid by  
8 the fiduciary.

9           Sec. 25. 36 MRSA §5161, as enacted by P&SL 1969,  
10 c. 154, §F, is repealed.

11          Sec. 26. 36 MRSA §5166, as enacted by P&SL 1969,  
12 c. 154, §F, is repealed.

13          Sec. 27. 36 MRSA §5177, as enacted by P&SL 1969,  
14 c. 154, §F, is repealed.

15          Sec. 28. 36 MRSA §5192, sub-§2, as enacted by  
16 P&SL 1969, c. 154, §F, is amended to read:

17           2. Itemized deductions. If a nonresident partner  
18 of any partnership ~~elects~~ to itemize his deductions  
19 in determining his ~~taxable income in~~ tax liability to  
20 this State, there shall be attributed to him his dis-  
21 tributive share of partnership items of deduction  
22 from federal adjusted gross income ~~which are deduct-~~  
23 ~~ible by him under section 5144.~~

24          Sec. 29. 36 MRSA §5200, as repealed and replaced  
25 by PL 1983, c. 477, Pt. F, Subpt. 3, §1, is amended  
26 to read:

27           §5200. Imposition and rate of tax

28           A tax is imposed upon the Maine net income of  
29 taxable corporations for each taxable year at the  
30 following rates:

31	If the Maine net income is:	The tax is:
32	Not over \$25,000	3.5% of Maine net income
33	\$25,000 but not over \$75,000	\$875 plus 7.93% of
34		excess over \$25,000



1 \$75,000 but not over \$250,000 \$4,840 plus 8-33% 9.4%  
2 of  
3 excess over \$75,000  
4 \$250,000 or more \$19,417 plus 8-93% 10.8% of  
5 excess over \$250,000

6 Sec. 30. 36 MRSA §5214-A is enacted to read:

7 §5214-A. Credit to beneficiary for accumulation dis-  
8 tribution

9 1. General. A beneficiary of a trust whose ad-  
10 justed gross income includes all or part of an accu-  
11 mulation distribution by such trust, as defined in  
12 the United States Internal Revenue Code, Section 665,  
13 or its equivalent, shall be allowed a credit against  
14 the tax otherwise due under this Part for all or a  
15 proportionate part of any tax paid by the trust under  
16 this Part for any preceding taxable year which would  
17 not have been payable if the trust had in fact made  
18 distribution to its beneficiaries at the times and in  
19 the amounts specified in the United States Internal  
20 Revenue Code, Section 666, or its equivalent.

21 2. Limitation on credit. The credit under this  
22 section shall not reduce the tax otherwise due from  
23 the beneficiary under this Part to an amount less  
24 than would have been due if the accumulation distri-  
25 bution or his part of the accumulation distribution  
26 were excluded from his adjusted gross income.

27 Sec. 31. 36 MRSA §5220, first ¶, as enacted by  
28 P&SL 1969, c. 154, §7, is amended to read:

29 An income tax return with respect to the tax im-  
30 posed by this Part shall be made, on such forms as  
31 may be required by the State Tax Assessor, by the  
32 following:

33 Sec. 32. 36 MRSA §5220, sub-§2, as amended by PL  
34 1979, c. 711, Pt. H, §6, is further amended to read:

35 2. Nonresident individuals. Every nonresident  
36 individual who has ~~taxable~~ income for the year from  
37 sources within this State: ;

1 A. Who has adjusted gross income from sources in  
2 this State of more than \$1,000 if single and  
3 \$2,000 if married; or

4 B. Who having attained the age of 65 before the  
5 close of his taxable year has adjusted gross in-  
6 come from sources within this State of more than  
7 \$2,000 if single and more than \$3,000 if married  
8 and his spouse has not yet attained the age of 65  
9 and more than \$4,000 if both have attained the  
10 age of 65 before the close of the taxable year;

11 Sec. 33. 36 MRSA §5221, sub-§1, ¶C, as enacted  
12 by P&SL 1969, c. 154, §F, is amended to read:

13 C. ~~¶~~ Except as provided in subsection 2, if the  
14 federal income tax liabilities of husband and  
15 wife, ~~other than a husband and wife described in~~  
16 ~~subsection 2,~~ are determined on a joint federal  
17 return, they shall file a joint return under this  
18 Part and their tax liabilities shall be joint and  
19 several.

20 Sec. 34. 36 MRSA §5221, sub-§2, as enacted by  
21 P&SL 1969, c. 154, §F, is repealed and the following  
22 enacted in its place:

23 2. Nonresidents. If both husband and wife are  
24 nonresidents and one has no Maine-source income, the  
25 spouse having Maine-source income shall file a sepa-  
26 rate Maine nonresident income tax return, as a single  
27 individual, in which event his tax liability shall be  
28 separate; but they may elect to determine their joint  
29 taxable income as nonresidents, in which case their  
30 liabilities shall be joint and several.

31 If either husband or wife is a resident and the other  
32 is a nonresident, they shall file separate Maine in-  
33 come tax returns as single individuals, in which  
34 event their tax liabilities shall be separate; but  
35 they may elect to determine their joint taxable in-  
36 come as if both were residents and, in that case,  
37 their liabilities shall be joint and several.

38 Sec. 35. 36 MRSA §5224-A, as enacted by PL 1979,  
39 c. 711, Pt. H, §8, is repealed and the following en-  
40 acted in its place:

1 §5224-A. Return of part-year resident

2 If an individual changes his status as a resident  
3 individual or nonresident individual during his tax-  
4 able year, he shall file a nonresident return pursu-  
5 ant to section 5220, subsection 2. His tax shall be  
6 computed, pursuant to section 5111, subsection 4, as  
7 if he were a nonresident individual, except that the  
8 numerator of the apportionment ratio shall be com-  
9 prised of his Maine adjusted gross income, as defined  
10 in section 5102, subsection 1-C, paragraph A, for the  
11 portion of the taxable year during which he was a  
12 resident individual, plus his Maine adjusted gross  
13 income as defined in section 5102, subsection 1-C,  
14 paragraph B, for the portion of the taxable year dur-  
15 ing which he was a nonresident individual. The part-  
16 year resident shall also be entitled to the credit  
17 provided by section 5127, subsection 1, computed as  
18 if the individual's Maine adjusted gross income for  
19 the entire year were comprised only of that portion  
20 which is attributed to the portion of the year during  
21 which he was a resident individual.

22 Sec. 36. Appropriation. The following funds are  
23 appropriated from the General Fund to carry out the  
24 purposes of this Act.

25		<u>1986-87</u>
26	<u>FINANCE AUTHORITY OF MAINE</u>	
27	Industrial Stability	
28	Fund	
29	All Other	\$(900,000)
30	<u>FINANCE AND ADMINISTRATION,</u>	
31	<u>DEPARTMENT OF</u>	
32	Bureau of Taxation	
33	Positions	(5)
34	Personal Services	\$181,200
35	All Other	45,500
36	Capital Expenditures	45,500
37	Total	<u>\$272,200</u>

1 Provides funding for  
2 one director, one  
3 certified public ac-  
4 countant, one com-  
5 puter systems ana-  
6 lyst and one comput-  
7 er programmer ana-  
8 lyst for tax en-  
9 forcement and one  
10 Clerk IV for admin-  
11 istration of tobacco  
12 products tax.

13 CORRECTIONS, DEPARTMENT OF

14 Fuel - Corrections  
15 All Other \$(123,800)

16 DEFENSE AND VETERANS' SER-  
17 VICES, DEPARTMENT OF

18 Military Training and  
19 Operations  
20 All Other \$(67,250)

21 FINANCE AND ADMINISTRATION,  
22 DEPARTMENT OF

23 Buildings and Grounds  
24 Operations  
25 All Other \$(156,500)

26 MENTAL HEALTH AND MENTAL  
27 RETARDATION, DEPARTMENT OF

28 Fuel for Institutions -  
29 Mental Health and Mental  
30 Retardation  
31 All Other \$(152,450)

1 Deappropriates funds  
 2 no longer necessary  
 3 because of the drop  
 4 in petroleum prices  
 5 and the decrease in  
 6 usage because of en-  
 7 ergy conservation  
 8 throughout State  
 9 Government.

10  
 11 TOTAL APPROPRIATION \$(1,127,800)

12 **Sec. 37. Application.** Sections 13 and 15 to 28  
 13 and 30 and 34 shall apply to tax years beginning or  
 14 or after January 1, 1986.

15 **Sec. 38. Deallocation.** The following funds are  
 16 deallocated from the Housing Opportunities for Maine  
 17 Fund.

18 1985-86

19 MAINE STATE HOUSING AUTHORITY  
 20 Unallocated \$(900,000)

21 **Emergency clause.** In view of the emergency cited  
 22 in the preamble, sections 1 and 2 of this Act shall  
 23 take effect June 1, 1986. The remainder of this Act  
 24 shall take effect when approved.

25 FISCAL NOTE

<u>SECTIONS</u>	<u>TOPIC</u>	<u>G.F.</u>	<u>L.G.F.</u>	
27 1,2	(Certain food products)	\$650,000	35,000	
28 3 to 14	(Insurance)	1,300,000		
29 10	(Inheritance tax)	500,000		
30 11	(Tobacco products)	450,000		
31 13 and 15 to 28				
32 and 30 to 34	(Non-resident income tax)	3,320,000	180,000	
33 36	(Enforcement)	1,250,000	67,000	
34 29	(Corporate Income Tax)	4,745,000	255,000	
35 12	(Cap on Home Fund)	2,000,000	2,900,000	

36 STATEMENT OF FACT

1           This new draft does the following:

2           1. It expands the sales tax to apply to sales of  
3 certain food products.

4           2. It equalize the insurance premium tax on do-  
5 mestic insurers, with a credit for investments in  
6 state or local securities.

7           3. It establishes an excise tax on tobacco  
8 products other than cigarettes.

9           4. It changes the basis for the calculation of  
10 income tax on non-residents.

11          5. It facilitates the settlement of inheritance  
12 taxes.

13          6. It makes appropriations for increased tax en-  
14 forcement.

15          7. It makes deappropriations for fuel savings  
16 and the Industrial Stability Fund.

17          8. It caps the HOME Fund at \$2,300,000 in fiscal  
18 year 1985-86 and \$2,100,000 in later years.

19          9. It increases the corporate income tax from  
20 8.33% to 9.4% on income from \$75,000 to \$250,000 and  
21 from 8.93% to 10.08% on income exceeding \$250,000.

22

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