

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1473

H.P. 1082 House of Representatives, May 8, 1987
Submitted by the Department of Finance pursuant to Joint
Rule 24.

Reference to the Committee on Taxation suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative CASHMAN of Old Town.

Cosponsored by Representatives JACKSON of Harrison,
ZIRNKILTON of Mount Desert and Senator TWITCHELL of Oxford.

STATE OF MAINE

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

1 AN ACT to Conform the Maine Income Tax Law to
2 the Internal Revenue Code of 1986.
3

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

6 Sec. 1. 36 MRSA §111, sub-§1-A is enacted to
7 read:

8 1-A. Code. "Code" means the United States In-
9 ternal Revenue Code of 1986 and amendments to that
10 Code as of December 31, 1986.

11 Sec. 2. 36 MRSA §4062, sub-§1, as repealed and
12 replaced by PL 1985, c. 535, §7, is repealed.

13 Sec. 3. 36 MRSA §5102, sub-§1-D is enacted to
14 read:

1 1-D. Laws of the United States. "Laws of the
2 United States" means the Code, as defined in section
3 111, subsection 1-A, and other provisions of the laws
4 of the United States relating to federal income taxes
5 as of the date specified in section 111, subsection
6 1-A.

7 **Sec. 4.** 36 MRSa §5102, sub-§11, as amended by PL
8 1985, c. 536, is further amended to read:

9 11. Other terms. Any other term used in this
10 Part has the same meaning as when used in a compara-
11 ble context in the laws of the United States relating
12 to federal income taxes, unless a different meaning
13 is clearly required. ~~Any reference in this Part to~~
14 ~~the laws of the United States shall be construed as a~~
15 ~~reference to the provisions of the United States In-~~
16 ~~ternal Revenue Code of 1954, and amendments thereto~~
17 ~~and other provisions of the laws of the United States~~
18 ~~relating to federal income taxes as of December 31,~~
19 ~~1985. This subsection shall be effective as to items~~
20 ~~of income, deductions, loss or gain accruing in tax-~~
21 ~~able years ending on or after January 1, 1985, but~~
22 ~~only to the extent that those items have been earned,~~
23 ~~received, incurred or accrued on or after that effec-~~
24 ~~tive date. Notwithstanding other provisions of this~~
25 ~~subsection, for taxable years ending in 1981 and~~
26 ~~1982, any reference in this Part to the laws of the~~
27 ~~United States shall be construed as a reference to~~
28 ~~the provisions of the United States Internal Revenue~~
29 ~~Code of 1954, and amendments thereto and other provi-~~
30 ~~sions of the laws of the United States relating to~~
31 ~~federal income taxes as of December 31, 1981 for~~
32 ~~items of income, deductions, loss or gain earned, in-~~
33 ~~curring or accrued within those taxable years. Not-~~
34 ~~withstanding other provisions of this subsection, for~~
35 ~~taxable years ending in 1983, any reference in this~~
36 ~~Part to the laws of the United States shall be con-~~
37 ~~strued as a reference to the provisions of the United~~
38 ~~States Internal Revenue Code of 1954, and amendments~~
39 ~~thereto and other provisions of the laws of the~~
40 ~~United States relating to federal income taxes as of~~
41 ~~January 31, 1983 for items of income, deductions,~~
42 ~~loss or gain earned, incurred or accrued within those~~
43 ~~taxable years. Notwithstanding other provisions of~~
44 ~~this subsection, for taxable years ending in 1984,~~
45 ~~any reference in this Part to the laws of the United~~

1 States shall be construed as a reference to the
2 United States Internal Revenue Code of 1954 and
3 amendments to that Code and other provisions of the
4 laws of the United States relating to federal income
5 taxes as of September 17, 1984, for items of income,
6 deductions, loss or gain earned, incurred or accrued
7 within those taxable years.

8 Sec. 5. 36 MRSA §5111, sub-§4, as enacted by PL
9 1985, c. 783, §20, is amended to read:

10 4. Nonresident individuals. A tax is imposed
11 upon the Maine income of every nonresident individu-
12 al. The amount of the tax shall be equal to the tax
13 computed under this section and chapter 805 as if the
14 nonresident were a resident, less applicable tax
15 credits other than that provided by section 5127,
16 ~~subsection 1~~ section 5217, and multiplied by the ra-
17 tio of his Maine adjusted gross income, as defined in
18 section 5102, subsection 1-C, paragraph B, to his en-
19 tire federal adjusted gross income, as modified by
20 section 5122.

21 Sec. 6. 36 MRSA §5122, sub-§1, ¶C, as amended by
22 PL 1981, c. 706, §34, is repealed.

23 Sec. 7. 36 MRSA §5122, sub-§2, as amended by PL
24 1985, c. 737, Pt. A, §102, is further amended to
25 read:

26 2. Subtractions. ~~For tax years beginning on or~~
27 ~~after January 17, 1977, federal~~ Federal adjusted gross
28 income shall be reduced by:

29 A. Interest or dividends on obligations of the
30 United States and its territories and possessions
31 or of any authority, commission or instrumentali-
32 ty of the United States or on a seller-sponsored
33 loan, as defined by Title 10, chapter 110, to the
34 extent includable in gross income for federal in-
35 come tax purposes, but exempt from state income
36 taxes under the laws of the United States, pro-
37 vided that the amount subtracted shall be de-
38 creased by any expenses incurred in the produc-
39 tion of the interest or dividend income to the
40 extent that these expenses, including amortizable
41 bond premiums, are deductible in determining fed-
42 eral adjusted gross income;

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

4 C. Social security benefits and tier 1 railroad
5 retirement benefits paid by the United States, to
6 the extent included in federal adjusted gross in-
7 come; and

8 D. For each of the taxable years ending in 1985
9 through 1987, 1/3 of the amount by which federal
10 adjusted gross income was increased for the tax-
11 able year ending in 1984 under subsection 1, par-
12 agraph F.

13 **Sec. 8.** 36 M RSA §5126, first ¶, as amended by PL
14 1979, c. 615, §4, is further amended to read:

15 A resident individual shall be allowed an exemp-
16 tion of \$1,000 for each exemption to which he is en-
17 titled for the taxable year for federal income tax
18 purposes, ~~except that for a taxable year ending on or~~
19 ~~after December 31, 1978 and on or before November 30,~~
20 ~~1979 the exemption shall be \$1,200 for each federal~~
21 ~~exemption; provided that a resident individual shall~~
22 ~~only be allowed a \$1,200 exemption for each federal~~
23 ~~exemption for no more than one taxable year. This~~
24 ~~section shall not take effect unless actual total~~
25 ~~General Fund revenues for the first 6 months of fis-~~
26 ~~cal year 1978-79 meet or exceed the estimates as re-~~
27 ~~vised by the Governor and approved by the legisla-~~
28 ~~ture.~~

29 **Sec. 9.** 36 M RSA §5127, as amended by PL 1985, c.
30 783, §21, is repealed.

31 **Sec. 10.** 36 M RSA §5130, as amended by PL 1985,
32 c. 691, §33, is repealed.

33 **Sec. 11.** 36 M RSA §5146, as amended by PL 1985,
34 c. 766, §2, is repealed.

35 **Sec. 12.** 36 M RSA §5165, as enacted by P&SL 1969,
36 c. 154, §F, is amended to read:

37 §5165. Credit for income tax of another state

1 A resident estate or trust shall be allowed the
2 credit provided ~~in section 5127, relating to an in-~~
3 ~~come tax imposed by another state by section 5217,~~
4 except that the limitation shall be computed by ref-
5 erence to the taxable income of the estate or trust.

6 Sec. 13. 36 MRSA §5200-A, sub-§1, ¶B, as enacted
7 by PL 1981, c. 704, §4, is amended to read:

8 B. The amount of any net operating loss in the
9 taxable year which has been carried back to pre-
10 vious taxable years pursuant to the ~~United States~~
11 ~~Internal Revenue~~ Code, Section 172;

12 Sec. 14. 36 MRSA §5200-A, sub-§1, ¶C, as enacted
13 by PL 1981, c. 704, §4, is amended to read:

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

19 Sec. 15. 36 MRSA §5200-A, sub-§1, ¶D, as amended
20 by PL 1983, c. 855, §18, is repealed.

21 Sec. 16. 36 MRSA §5200-A, sub-§1, ¶¶F and G, as
22 enacted by PL 1983, c. 855, §§19 and 20, are re-
23 pealed.

24 Sec. 17. 36 MRSA §5200-A, sub-§2, ¶B, as enacted
25 by PL 1981, c. 704, §4, is repealed and the following
26 enacted in its place:

27 B. The amount, "foreign dividend gross-up,"
28 added to income under the Code, Section 78;

29 Sec. 18. 36 MRSA §5200-A, sub-§2, ¶D, as amended
30 by PL 1983, c. 855, §21, is repealed.

31 Sec. 19. 36 MRSA §5202-B, as amended by PL 1983,
32 c. 480, Pt. A, §67, is repealed.

33 Sec. 20. 36 MRSA §5203, sub-§1, as repealed and
34 replaced by PL 1985, c. 691, §§34 and 48, is amended
35 to read:

1 1. Noncorporate. A tax is imposed, for each
2 taxable year, upon every noncorporate taxpayer re-
3 quired to file a return under this Part, equal to the
4 amount by which 3% of the excess of that taxpayer's
5 alternative minimum taxable income, as defined in the
6 ~~United-States-Internal-Revenue Code of-1954~~, Section
7 55(b), ~~as-amended~~, over that taxpayer's exemption
8 amount, as defined in the ~~United--States--Internal~~
9 ~~Revenue Code of-1954~~, Section 55(f), ~~as-amended~~, ex-
10 ceeds that taxpayer's liability for all other taxes,
11 except withholding taxes, under this Part.

12 Sec. 21. 36 MRSA §5203, sub-§2, as repealed and
13 replaced by PL 1985, c. 691, §§34 and 48, is amended
14 to read:

15 2. Corporate. A tax is imposed, for each tax-
16 able year, upon every corporate taxpayer required to
17 file a return under this Part, equal to the amount by
18 which 2.25% of the sum of that taxpayer's items of
19 tax preference, as defined in the ~~United--States--In-~~
20 ~~ternal--Revenue Code of-1954~~, Section 57, ~~as-amended~~,
21 but excluding the capital gain tax preference item in
22 the ~~United-States-Internal-Revenue Code of-1954~~, Sec-
23 tion 57 ~~7-Subsection(a)(9)(B)~~, exceeds the greater of
24 \$1,500 or that taxpayer's liability for all other
25 taxes, except withholding taxes, under this Part.

26 Sec. 22. 36 MRSA §5204, as enacted by PL 1977,
27 c. 424, §3, is amended to read:

28 §5204. Lump-sum retirement plan distributions

29 In addition to any other tax imposed by this
30 Part, a tax is hereby imposed for each taxable year
31 on every taxpayer who, in accordance with the ~~Inter-~~
32 ~~nal--Revenue Code~~, section ~~Section~~ 402(e)(I), elects
33 to compute a separate federal tax on a lump-sum dis-
34 tribution from a retirement plan at the rate of 15%
35 of the separate federal tax imposed on such distribu-
36 tion.

37 Sec. 23. 36 MRSA §5204-A, as enacted by PL 1985,
38 c. 670, is repealed and the following enacted in its
39 place:

40 §5204-A. Early distribution from qualified retire-
41 ment plans

1 The tax imposed under this Part on any individual
2 whose federal income tax for any taxable year is in-
3 creased pursuant to the Code, Section 72(t), as a
4 result of a distribution from a qualified retirement
5 plan shall be increased by an amount equal to 15% of
6 the amount by which the individual's federal income
7 tax was increased as a result of the distribution.

8 **Sec. 24.** 36 MRSA §5206-C, as enacted by PL 1983,
9 c. 842, §5, is repealed.

10 **Sec. 25.** 36 MRSA §5214-A, sub-§1, as enacted by
11 PL 1985, c. 783, §36, is amended to read:

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

24 **Sec. 26.** 36 MRSA §5215, sub-§2, ¶A, as enacted
25 by PL 1977, c. 722, is repealed and the following en-
26 acted in its place:

27 A. "Qualified federal credit" means, with re-
28 spect to any taxable year, that portion of the
29 credit allowed by the Code, Section 38 (b)(1),
30 which is directly and solely attributable to
31 qualified investment with a situs in this State.

32 **Sec. 27.** 36 MRSA §§5217 to 5219-A are enacted to
33 read:

34 §5217. Income tax paid to other taxing jurisdiction.

35 A resident individual is allowed a credit against
36 the tax otherwise due under this Part for the amount
37 of income tax imposed on him for the taxable year by
38 another state of the United States, a political sub-
39 division of any such state, the District of Columbia

1 or any political subdivision of a foreign country
2 which is analogous to a state of the United States
3 with respect to income derived from sources in that
4 taxing jurisdiction which is also subject to tax under
5 this Part. The credit, for any of the specified
6 taxing jurisdictions, shall not exceed the proportion
7 of the tax otherwise due under this Part that the
8 amount of the taxpayer's Maine adjusted gross income
9 derived from sources in that taxing jurisdiction
10 bears to his entire Maine adjusted gross income; provided
11 that, when a credit is claimed for taxes paid
12 to both a state and a political subdivision of a
13 state, the total credit allowable for those taxes
14 shall not exceed the proportion of the tax otherwise
15 due under this Part that the amount of the taxpayer's
16 Maine adjusted gross income derived from sources in
17 the other state bears to his entire Maine adjusted
18 gross income.

19 §5218. Income tax credit for child care expenses.

20 A resident individual shall be allowed a credit
21 against the tax otherwise due under this Part in the
22 amount of 16% of the federal tax credit allowable for
23 child care expenses in tax year 1986; 20% of the federal
24 tax credit allowable for child care expenses in
25 tax year 1987; and 25% of the federal tax credit allowable
26 for child care expenses thereafter. In no
27 case may this credit reduce the Maine income tax to
28 less than zero.

29 §5219. Income tax credit for installation of renewable energy systems.

31 A taxpayer who purchases and installs an active
32 solar system, a passive solar system, a photovoltaic
33 system or a wind energy system or components for any
34 of these systems in this State shall be allowed a
35 credit against the tax otherwise due under this Part
36 equal to 20% of the purchase price of the system, including
37 sales tax, or \$100, whichever is less. The
38 credit is allowable against taxes due only for the
39 year in which installation is completed and only for
40 the initial purchase of new equipment. No more than
41 one taxpayer may claim the credit for any installation.
42 In no case may this credit be claimed more
43 than once by any taxpayer and in no case may this

1 credit reduce the state income tax to less than zero.
2 This subsection shall remain in effect until January
3 1, 1989.

4 A. An "active solar system" means an assembly of
5 a collector, thermal device and transfer medium
6 which converts solar energy into thermal energy
7 and in which mechanical energy is used to accom-
8 plish the transfer of thermal energy. Active so-
9 lar systems include, but are not limited to, so-
10 lar hot water systems and solar space heating
11 panels that use a fan or pump to circulate the
12 transfer medium. Qualifying systems or compo-
13 nents do not include sunspaces or heat pumps.

14 B. A "passive solar system" means an assembly of
15 a collector, thermal device and transfer medium
16 which converts solar energy into thermal energy
17 in a controlled manner and in which no fans or
18 pumps are used to accomplish the transfer of the
19 thermal energy. Passive solar systems include,
20 but are not limited to, Trombe walls and
21 thermosiphoning air panels. Qualifying compo-
22 nents include, but are not limited to, phase
23 change materials and water storage tubes. The
24 following solar-related items do not qualify as a
25 passive solar system or component: Glazing; win-
26 dows and movable insulation; skylights; solar
27 ponds; swimming pool covers; and masonry walls
28 and floors.

29 C. "Photovoltaic system" means an array of solar
30 cells which convert sunshine directly into elec-
31 tric current. The system may include batteries
32 that store the electricity.

33 D. A "wind energy system" includes any machine
34 which converts available wind energy into elec-
35 trical output form. A wind energy system has 4
36 subsystems:

- 37 (1) A rotor;
38 (2) Power processing components;
39 (3) Tower; and

1 (4) Control components.

2 §5219-A. Retirement credit

3 A resident individual is allowed a credit against
4 the tax otherwise due under this Part equal to 20% of
5 any credit he received for the same taxable year un-
6 der the Code, Section 22, exclusive of any credit
7 entitlement of a qualified individual who has not at-
8 tained the age of 65 years before the close of that
9 taxable year. In no case may this credit reduce the
10 Maine income tax to less than zero.

11 Sec. 28. 36 MRSA §5220, first ¶, as amended by
12 PL 1985, c. 535, §19 and PL 1985, c. 783, §37, is re-
13 pealed and the following enacted in its place:

14 An income tax return or franchise tax return with
15 respect to the tax imposed by this Part shall be
16 made, on such forms as may be required by the State
17 Tax Assessor, by the following:

18 Sec. 29. 36 MRSA §5220, sub-§5, as amended by
19 PL 1985, c. 535, §20, is repealed.

20 Sec. 30. 36 MRSA §5220, sub-§6 is enacted to
21 read:

22 6. Certain taxable entities. Every taxable en-
23 tity, as defined by section 5206-B, subsection 4,
24 which is required to file a federal income tax re-
25 turn. The State Tax Assessor may, in his discretion,
26 allow 2 or more taxable entities which are members of
27 an affiliated group to file a consolidated return.

28 Sec. 31. 36 MRSA §5224-A, as repealed and re-
29 placed by PL 1985, c. 783, §41, is amended to read:

30 §5224-A. Return of part-year resident

31 If an individual changes his status as a resident
32 individual or nonresident individual during his tax-
33 able year, he shall file a nonresident return pursu-
34 ant to section 5220, subsection 2. His tax shall be
35 computed, pursuant to section 5111, subsection 4, as
36 if he were a nonresident individual, except that the
37 numerator of the apportionment ratio shall be com-

1 prised of his Maine adjusted gross income, as defined
2 in section 5102, subsection 1-C, paragraph A, for the
3 portion of the taxable year during which he was a
4 resident individual, plus his Maine adjusted gross
5 income as defined in section 5102, subsection 1-C,
6 paragraph B, for the portion of the taxable year dur-
7 ing which he was a nonresident individual. The part-
8 year resident shall also be entitled to the credit
9 provided by ~~section-5127, subsection-1~~ section 5217,
10 computed as if the individual's Maine adjusted gross
11 income for the entire year were comprised only of
12 that portion which is attributed to the portion of
13 the year during which he was a resident individual.

14 **Sec. 32. 36 MRSA §5250, sub-§1, as enacted by PL**
15 **1981, c. 371, §1, is amended to read:**

16 1. **General.** Every employer maintaining an office
17 or transacting business within this State and making
18 payment of any wages taxable under this part to a
19 resident or nonresident individual shall, if required
20 to withhold federal income tax from such wages, de-
21 duct and withhold from such wages for each payroll
22 period a tax computed in such manner as to result, so
23 far as practicable, in withholding from the
24 employee's wages during each calendar year an amount
25 substantially equivalent to the tax reasonably esti-
26 mated to be due from the employee under this part
27 with respect to the amount of such wages included in
28 his adjusted gross income during the calendar year.
29 The method of determining the amount to be withheld
30 shall be prescribed by regulations of the assessor.
31 This section shall not apply to shares of a lobster
32 boat's catch apportioned by a lobster boat operator
33 to a sternman. This section does not apply to wages
34 from which a tax is required to be deducted and with-
35 held under the ~~United-States-Internal-Revenue~~ Code,
36 Sections 1441 and 1442.

37 **Sec. 33. 36 MRSA §5255-B, as amended by PL 1985,**
38 **c. 535, §28, is further amended to read:**

39 §5255-B. Certain items of income under the United
40 States Internal Revenue Code

41 Any person maintaining an office or transacting
42 business within this State and who is required to de-

1 duct and withhold a tax on items of income under the
2 ~~United States Internal Revenue~~ Code, other than wages
3 subject to withholding as provided in section 5250,
4 shall deduct and withhold from such items to the extent
5 they constitute Maine net income a tax equal to
6 5% thereof, unless withholding pursuant to the ~~United~~
7 ~~States Internal Revenue~~ Code is based on other than
8 a flat rate amount. In that event, the State's with-
9 holding procedure should estimate taxable income
10 using the same approach to exemptions as the ~~United~~
11 ~~States Internal Revenue~~ Code and the amount of tax to
12 be withheld should be calculated in accordance with
13 withholding methods prescribed pursuant to section
14 5250.

15 **Sec. 34. Effective date.** This Act shall be ef-
16 fective for taxable years ending on or after January
17 1, 1987.

18 STATEMENT OF FACT

19 This bill is designed generally to conform the
20 Maine Income Tax Law to the United States Internal
21 Revenue Code of 1986. Pursuant to Public Law 1986,
22 chapter 4, the incremental Maine tax revenue attrib-
23 utable to enactment of the United States Internal
24 Revenue Code of 1986 will be transferred to the Tax
25 Adjustment Revenue Fund. A section-by-section analy-
26 sis of the specific provisions follows.

27 Section 1 enacts a new abbreviated definition for
28 the United States Internal Revenue Code which will
29 apply to all Maine tax laws contained in the Maine
30 Revised Statutes, Title 36.

31 Section 2 repeals a definition made superfluous
32 by section 1.

33 Section 3 creates a new definition to replace
34 language currently appearing in Title 36, section
35 5102, subsection 11.

36 Section 4 repeals language relocated by section 3
37 and several obsolete provisions.

1 Section 5 corrects reference to a provision relo-
2 cated by sections 9 and 27.

3 Section 6 repeals an obsolete provision.

4 Section 7 repeals superfluous language.

5 Section 8 repeals obsolete provisions.

6 Sections 9 and 27 relocate credit provisions to
7 chapter 822, "Tax Credits."

8 Sections 10 and 27 amend existing credit provi-
9 sions to eliminate superfluous language and relocate
10 provisions to chapter 822.

11 Section 11 repeals provisions made superfluous by
12 Title 36, section 5111, subsection 4.

13 Section 12 conforms existing provisions to real-
14 location made by sections 9 and 27.

15 Sections 13 and 14 repeal superfluous language.

16 Sections 15 and 16 repeal obsolete provisions.

17 Section 17 clarifies existing provisions and re-
18 peals superfluous language.

19 Sections 18 and 19 repeal obsolete provisions.

20 Sections 20 to 22 repeal superfluous language.

21 Section 23 amends the additional tax on early
22 distributions from individual retirement accounts to
23 include early distributions from all qualified re-
24 tirement plans.

25 Section 24 repeals an obsolete provision.

26 Section 25 repeals superfluous language.

27 Section 26 repeals superfluous and obsolete lan-
28 guage.

29 Sections 28 to 30 correct statutory conflicts.

1 Section 31 corrects a reference to a provision
2 relocated by sections 9 and 27.

3 Sections 32 and 33 repeal superfluous language.

4 Section 34 sets the effective date of the bill.

5 2163031287