

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1536

S.P. 512

In Senate, May 13, 1987

Submitted by the Department of Finance pursuant to Joint Rule 24.

Reference to the Committee on Taxation suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator SEWALL of Lincoln.

Cosponsored by Representative SEAVEY of Kennebunkport, Senator DOW of Kennebec, Representative NADEAU of Saco.

STATE OF MAINE

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

AN ACT Providing for Administrative Changes
in Maine Tax Laws.

1
2
3

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

6 Sec. 1. 4 MRSA §807-A, 4th ¶, as enacted by PL
7 1985, c. 598, §2, is amended to read:

8 This section is repealed on April 1, ~~1988~~ 1989.

9 Sec. 2. 36 MRSA §176, sub-§7, as enacted by PL
10 1985, c. 691, §5, is amended to read:

11 7. Actions permitted. Any person, other than
12 the taxpayer whose delinquency occasioned the levy,
13 who claims that property in which he has a preexist-
14 ing perfected or otherwise valid security interest on

1 or lien was wrongfully made the subject of a physical
2 seizure or notice of levy pursuant to subsection 3,
3 paragraph B, subparagraphs (1) and (2) may bring a
4 civil action against the State Tax Assessor in Super-
5 ior Court. Any recovery in such an action shall be
6 limited to the value of the property levied upon and
7 shall in no case exceed the proceeds of any sale of
8 the property conducted in accordance with the provi-
9 sions of subsection 6. Except as provided in this
10 subsection, no suit for the purpose of restraining
11 the collection of taxes pursuant to this section may
12 be maintained in any court of this State by any per-
13 son.

14 Sec. 3. 36 MRSA §177, sub-§1, as enacted by PL
15 1985, c. 691, §5, is amended to read:

16 1. Generally. All sales and use taxes collected
17 by any person ~~from purchasers~~ pursuant to Part 3, all
18 taxes collected by any person ~~from purchasers~~ under
19 color of Part 3, which have not been properly re-
20 turned ~~and credit or credited~~ to the purchasers from
21 whom they were collected, all taxes collected by any
22 person pursuant to chapter 451 or 459, and all taxes
23 collected by any person pursuant to chapter 827 shall
24 constitute a special fund in trust for the State Tax
25 Assessor. The liability for the taxes shall be en-
26 forceable by assessment and collection, in the manner
27 prescribed in ~~Parts 3, 5 and 8~~ of this Part, against
28 the person and against any officer, director, member,
29 agent or employee of that person who, in that capaci-
30 ty, is responsible for the control or management of
31 the funds or finances of that person or is responsi-
32 ble for the payment of that person's taxes. ~~The term~~
33 ~~"purchasers," as used in this subsection, includes~~
34 ~~persons who have paid rental charges for living quar-~~
35 ~~ters in any hotel, rooming house, tourist or trailer~~
36 ~~camp.~~

37 Sec. 4. 36 MRSA §177, sub-§3, as enacted by PL
38 1985, c. 691, §5, is amended to read:

39 3. Notice to segregate. Whenever the State Tax
40 Assessor finds that the payment of the trust funds
41 established under subsection 1 will be jeopardized by
42 delay, neglect or misappropriation or whenever any

1 person fails to make payment of taxes or file reports
2 as required by Part 3, or by chapter 451, 459 or 827,
3 the State Tax Assessor may direct that person to seg-
4 regate the trust funds from and not to ~~comingle-then~~
5 ~~commingle~~ them with any other funds or assets of that
6 person. Within 5 days after the mailing of notice
7 of that segregation requirement, all taxes which
8 thereafter are collected shall be paid ~~over-an~~ on ac-
9 count to the State Tax Assessor until the taxes are
10 due. The State Tax Assessor shall establish in the
11 segregation notice the manner in which the taxes are
12 to be paid to him. The segregation requirement shall
13 remain in effect until a notice of cancellation is
14 given by the State Tax Assessor.

15 Sec. 5. 36 MRSA §177, sub-§4, as enacted by PL
16 1985, c. 691, §5, is amended to read:

17 4. Revocation for nonsegregation. Upon the ex-
18 piration of the 5-day period designated in subsection
19 3, if any person who is a "retailer" under Part 3 or
20 a fuel supplier, distributor or importer subject to
21 Part 5 fails to make the required payments on account
22 to the State Tax Assessor, the State Tax Assessor may
23 revoke any registration certificate which has been
24 issued ~~on~~ to that person. The revocation shall be
25 reviewable in accordance with section 151.

26 Sec. 6. 36 MRSA §191, sub-§2, ¶J, as amended by
27 PL 1985, c. 764, §4, is further amended to read:

28 J. The disclosure to a state agency seeking set-
29 off of a liquidated debt against a tax refund
30 pursuant to section 5276-A of information neces-
31 sary to effectuate the intent of that section;
32 and

33 Sec. 7. 36 MRSA §191, sub-§2, ¶K, as enacted by
34 PL 1985, c. 764, §5, is amended to read:

35 K. The disclosure by a municipal assessor, or by
36 the State Tax Assessor with regard to the unorga-
37 nized territory, of information contained on the
38 declaration of value form required by section
39 4641-B, to a person who has filed an application
40 for abatement pursuant to section 841. Informa-
41 tion which may be disclosed is limited to infor-

1 mation which is relevant to the determination of
2 just value of the property for which the form was
3 filed; and

4 Sec. 8. 36 MRSA §191, sub-§2, ¶L is enacted to
5 read:

6 L. The disclosure by employees of the Bureau of
7 Taxation, in connection with their official du-
8 ties relating to any examination, collection ac-
9 tivity, civil or criminal tax investigation or
10 any other offense under this Title, of return in-
11 formation to the limited extent that disclosure
12 is necessary in obtaining information, which is
13 not otherwise available, with respect to the cor-
14 rect determination of tax, liability for tax or
15 the amount to be collected or with respect to the
16 enforcement of this Title.

17 Sec. 9. 36 MRSA §305, sub-§1, as amended by PL
18 1985, c. 650, §7, is further amended to read:

19 1. Just value. Certify to the Secretary of State
20 before the ~~first day of February in the year--of--the~~
21 ~~regular-session-of-the-Legislature~~ the equalized just
22 value of all real and personal property in each mun-
23 icipality and unorganized place which is subject to
24 taxation under the laws of this State, except cap-
25 tured assessed value located within a tax increment
26 financing district, for purposes of calculating state
27 aid for education under Title 20-A, effective for
28 districts designated after December 31, 1986, only
29 75% of the captured assessed value within a tax in-
30 crement financing district is excepted from a
31 municipality's equalized just valuation. Such equal-
32 ized just value shall be uniformly assessed in each
33 municipality and unorganized place and shall be based
34 on 100% of the current market value. It shall sepa-
35 rately show for each municipality and unorganized
36 place the actual or estimated value of all real es-
37 tate which is exempt from property taxation by law or
38 is the captured value within a tax increment financ-
39 ing district. The valuation as filed shall remain in
40 effect until the next valuation is filed and shall be
41 the basis for the computation and apportionment of
42 the state and county taxes;

1 **Sec. 10.** 36 MRSA §581-A, as enacted by PL 1973,
2 c. 308, §13, is amended to read:

3 §581-A. Sale of a portion of a parcel of forest land

4 Sale of a portion of a parcel of forest land sub-
5 ject to taxation under this subchapter shall not af-
6 fect the taxation under this subchapter of the re-
7 sulting parcels, unless they are any is less than 10
8 forested acres in area. Each resulting parcel shall
9 be taxed to the owners under this subchapter until
10 such parcel is withdrawn from taxation under this
11 subchapter, in which case the penalties provided for
12 in sections 579 and 581 shall apply only to the owner
13 of such parcel. If a parcel resulting from such sale
14 is less than 10 forested acres in area, such parcel
15 shall be considered as withdrawn from taxation under
16 this subchapter as a result of such sale.

17 **Sec. 11.** 36 MRSA §610-A, as reenacted by PL
18 1983, c. 632, Pt. B, §4, is repealed.

19 **Sec. 12.** 36 MRSA §613, as enacted by PL 1983, c.
20 866, Pt. B, sub-§§2 and 3, is repealed.

21 **Sec. 13.** 36 MRSA §708-A, as enacted by PL 1973,
22 c. 620, §18, is repealed.

23 **Sec. 14.** 36 MRSA §1484, sub-§3, ¶C, as amended
24 by PL 1983, c. 828, §3, is further amended to read:

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

28 (1) If it is a corporation or partnership
29 other than one described in subparagraph
30 (2), the excise tax shall be paid to the
31 place in which the registered or main office
32 of that organization is located, except that
33 if the organization has an additional perma-
34 nent place, or places, of business where mo-
35 tor vehicles are customarily kept, the tax
36 on these vehicles shall be paid to the place
37 where such permanent place of business is
38 located. The temporary location of an office
39 and the stationing of vehicles in connection

1 with a construction project of less than 24
2 months duration is not considered to consti-
3 tute a permanent place of business. In the
4 case of a foreign corporation or partnership
5 not maintaining a place of business within
6 the State, the excise tax shall be paid to
7 the State.

8 (2) In the case of corporations described
9 in Title 35, section 2301, any excise taxes
10 owed shall be paid to the place in which the
11 registered or main office of that organiza-
12 tion is located.

13 (3) If a municipality, ~~county~~ or motor ve-
14 hicle owner feels the excise tax has been
15 improperly levied under the authority of
16 this paragraph, the owner, ~~county~~ or munici-
17 pality may request within 3 years from the
18 date of an excise tax levy a determination
19 of this question by the State Tax Assessor.
20 The State Tax Assessor's determination is
21 limited to the same 3-year period and shall
22 be binding on all parties. Any party may
23 seek review of the determination in accord-
24 ance with the Maine Rules of Civil Proce-
25 dure, Rule 80-B 80-C. Upon notification by
26 the State Tax Assessor of a determination
27 made under this section, any municipality
28 which has incorrectly accepted excise tax
29 money, within 30 days of that determination,
30 shall return the money, together with inter-
31 est at the maximum rate determined by the
32 Treasurer of State, pursuant to section 505,
33 to the municipality named in the determina-
34 tion as the proper place of payment.

35 Sec. 15. 36 MRS A §1752, sub-§§1-B, 1-C and 1-D
36 are enacted to read:

37 1-B. Automobile. "Automobile," for purposes of
38 subsection 17-A, paragraph B, means a self-propelled
39 4-wheel motor vehicle designed primarily to carry
40 passengers and not designed to run on tracks.

41 1-C. Business. "Business" includes any activity
42 engaged in by any person or caused to be engaged in

1 by him with the object of gain, benefit or advantage,
2 either direct or indirect.

3 1-D. Casual sale. "Casual sale" means an iso-
4 lated transaction in which tangible personal property
5 or a taxable service is sold other than in the ordi-
6 nary course of repeated and successive transactions
7 of like character by the person making the sale. "Ca-
8 sual sales" include transactions by a civic, reli-
9 gious or fraternal organization which is not a regis-
10 tered retailer at a bazaar, fair, rummage sale, pic-
11 nic or similar event, but, if any such organization
12 makes such transactions during more than 8 days dur-
13 ing a calendar year, all such transactions during the
14 calendar year constitute retail sales. The sale by a
15 registered retailer of tangible personal property
16 which that retailer has used in the course of his
17 business is not a "casual sale" if that property is
18 of like character to that sold in the ordinary course
19 of repeated and successive transactions. "Casual
20 sale" does not include any transaction in which tan-
21 gible personal property is sold by a representative
22 for the owner's account when that representative is a
23 registered retailer and the registered retailer shall
24 have the same duties respecting any such transaction
25 as if he had sold on his own account.

26 Sec. 16. 36 MRSA §1752, sub-§2 is repealed.

27 Sec. 17. 36 MRSA §1752, sub-§2-C, as enacted by
28 PL 1985, c. 783, §1, is repealed and the following
29 enacted in its place:

30 2-C. Fabrication services. "Fabrication ser-
31 VICES" means the production of tangible personal
32 property for a consideration for a person who fur-
33 nishes, either directly or indirectly, the materials
34 used in that production. "Fabrication services" does
35 not include the production of tangible personal prop-
36 erty if a sale to the consumer of the tangible per-
37 sonal property so produced would be exempt or other-
38 wise not subject to tax under this Part or if the
39 services are purchased by an exempt entity.

40 Sec. 18. 36 MRSA §1752, sub-§9-A, as enacted by
41 PL 1977, c. 477, §7, is repealed and the following
42 enacted in its place:

1 9-A. Primarily. "Primarily," when used in rela-
2 tion to production, means more than 50% of the time.

3 Sec. 19. 36 MRSA §1752, sub-§9-B, as amended by
4 PL 1979, c. 541, Pt. A, §220, is repealed and the
5 following enacted in its place:

6 9-B. Production. "Production" means an operation
7 or integrated series of operations engaged in as a
8 business or segment of a business which transforms or
9 converts personal property by physical, chemical or
10 other means into a different form, composition or
11 character from that in which it originally existed.

12 "Production" generally includes manufacturing, pro-
13 cessing, assembling and fabricating operations but
14 excludes, without limitation, biological processes,
15 wood harvesting operations, the severance of sand,
16 gravel, oil, gas or other natural resources produced
17 or severed from the soil or water or activities such
18 as cooking or preparing drinks, meals, food or food
19 products by a retailer for retail sale.

20 Sec. 20. 36 MRSA §1752, sub-§9-C, as reallocated
21 by PL 1977, c. 696, §273, is repealed.

22 Sec. 21. 36 MRSA §1752, sub-§10, as amended by
23 PL 1977, c. 198, §2, is repealed and the following
24 enacted in its place:

25 10. Retailer. "Retailer" means any person who
26 makes retail sales or who is required to register by
27 section 1754 or is registered under section 1756.

28 Sec. 22. 36 MRSA §1752, sub-§11, as amended by
29 PL 1985, c. 691, §8, is repealed and the following
30 enacted in its place:

31 11. Retail sale. "Retail sale" means any sale of
32 tangible personal property, in the ordinary course of
33 business, for consumption or use, or for any purpose
34 other than for resale, except resale as a casual
35 sale, in the form of tangible personal property. "Re-
36 tail sale" also means any sale of a taxable service
37 in the ordinary course of business for any purpose
38 other than for resale, except resale as a casual
39 sale. "Retail sale" includes conditional sales, in-

1 stallment lease sales and any other transfer of tan-
2 gible personal property when the title is retained as
3 security for the payment of the purchase price and is
4 intended to be transferred later. "Retail sale" in-
5 cludes sale of products for internal human consump-
6 tion to a person for resale through coin-operated
7 vending machines when sold to a retailer whose gross
8 receipts from the retail sale of tangible personal
9 property derived through sales from vending machines
10 are more than 50% of his gross receipts, which tax
11 shall be paid by the retailer to the State. "Retail
12 sale" does not include any sale by an executor or ad-
13 ministrator in the settlement of an estate, unless
14 the sale is made through a retailer, or unless the
15 sale is made in the continuation or operation of a
16 business; nor does the term include any other casual
17 sale. "Retail sale" does not include the sale of tan-
18 gible personal property which becomes an ingredient
19 or component part of, or which is consumed or de-
20 stroyed or loses its identity directly and primarily
21 in the production of, tangible personal property for
22 later sale or lease, other than lease for use in this
23 State, but shall include fuel and electricity but
24 shall not include electricity separately metered and
25 consumed in any electrolytic process for the manufac-
26 ture of tangible personal property for later sale,
27 nor any fuel oil or coal, the by-products from the
28 burning of which become an ingredient or component
29 part of tangible personal property for later sale.
30 Tangible personal property is "consumed or destroyed"
31 or "loses its identity" in that production, if it has
32 a normal physical life expectancy of less than one
33 year as a usable item in the use to which it is ap-
34 plied. "Retail sale" does not include the sale, to a
35 person engaged in the business of renting automom-
36 biles, of automobiles, or integral parts of automom-
37 biles or accessories to automobiles, for rental or
38 for use in an automobile rented, on a short-term ba-
39 sis. "Retail sale" does not include the sale of con-
40 tainers, boxes, crates, bags, cores, twines, tapes,
41 bindings, wrappings, labels and other packing, pack-
42 aging and shipping materials when sold to persons for
43 use in packing, packaging or shipping tangible per-
44 sonal property sold by them or upon which they have
45 performed the service of cleaning, pressing, dyeing,
46 washing, repairing or reconditioning in their regular
47 course of business and which are transferred to the

1 possession of the purchaser of such tangible personal
2 property. "Retail sale" does not include the provi-
3 sion of meals or lodging to employees at their place
4 of employment when the value of those meals or that
5 lodging is allowed as a credit toward the wages of
6 those employees.

7 Sec. 23. 36 MRSA §1752, sub-§13-A is enacted to
8 read:

9 13-A. Sale at retail. "Sale at retail" means re-
10 tail sale.

11 Sec. 24. 36 MRSA §1752, sub-§14, as amended by
12 PL 1983, c. 828, §4, is repealed and the following
13 enacted in its place:

14 14. Sale price. "Sale price" means the total
15 amount of a retail sale valued in money, whether re-
16 ceived in money or otherwise.

17 A. "Sale price" includes:

18 (1) Services which are a part of a retail
19 sale; and

20 (2) All receipts, cash, credits and proper-
21 ty of any kind or nature and any amount for
22 which credit is allowed by the seller to the
23 purchaser, without any deduction from the
24 purchaser on account of the cost of the
25 property sold, the cost of the materials
26 used, labor or service cost, interest paid,
27 losses or any other expenses.

28 B. "Sale price" does not include:

29 (1) Discounts allowed and taken on sales;

30 (2) Allowances in cash or by credit made
31 upon the return of merchandise or with re-
32 spect to fabrication services pursuant to
33 warranty;

34 (3) The price of property returned or fab-
35 rication services rejected by customers,
36 when the full price is refunded either in
37 cash or by credit;

1 (4) The price received for labor or ser-
2 VICES used in installing or applying or re-
3 pairing the property sold or fabricated, if
4 separately charged or stated;

5 (5) Any amount charged or collected, in
6 lieu of a gratuity or tip, as a specifically
7 stated service charge, when that amount is
8 to be disbursed by a hotel, motel, restau-
9 rant or other eating establishment to its
10 employees as wages;

11 (6) The amount of any tax imposed by the
12 United States upon or with respect to retail
13 sales, whether imposed upon the retailer or
14 the consumer, except any manufacturers', im-
15 porters', alcohol or tobacco excise tax; or

16 (7) The cost of transportation from the
17 retailer's place of business or other point
18 from which shipment is made directly to the
19 purchaser, provided that those charges are
20 separately stated and the transportation oc-
21 currs by means of common carrier, contract
22 carrier or the United States mail.

23 Sec. 25. 36 MRSA §1752, sub-§17-A is enacted to
24 read:

25 17-A. Taxable service. "Taxable service" means:

26 A. Rental of living quarters in any hotel, room-
27 ing house, tourist or trailer camp;

28 B. Rental, for a period of less than one year,
29 on an automobile, as defined in subsection 1-B;

30 C. Telephone or telegraph service, as defined in
31 subsection 18-A;

32 D. Extended cable television service, as defined
33 in subsection 2-B;

34 E. Fabrication services, as defined in subsec-
35 tion 2-C; and

1 F. Custom computer programming, including, but
2 not limited to, modification of a standard pro-
3 gram.

4 Sec. 26. 36 MRSA §1753 is repealed and the fol-
5 lowing enacted in its place:

6 §1753. Tax is a levy on consumer

7 The liability for, or the incidence of, the tax
8 imposed by this Part is declared to be a levy on the
9 consumer. The retailer shall add the amount of the
10 tax to the sale price and may state the amount of the
11 tax separately from the sale price of tangible per-
12 sonal property or taxable services on price display
13 signs, sales or delivery slips, bills and statements
14 which advertise or indicate the sale price of that
15 property or those services.

16 Sec. 27. 36 MRSA §1754, sub-§1 is amended to
17 read:

18 1. Maintains place of business. Every seller of
19 tangible personal property or taxable services,
20 whether or not at retail, maintaining who maintains
21 within this State any office, place of manufacture,
22 place of distribution, sales or sample room or place,
23 warehouse or storage place or other place of busi-
24 ness.

25 Sec. 28. 36 MRSA §1754, sub-§2 is amended to
26 read:

27 2. Makes sales or solicits orders. Every seller
28 of tangible personal property or taxable services who
29 does not maintaining maintain such a place but who
30 makes retail sales within this State or who solicits
31 orders by means of salesmen within the State for re-
32 tail sales for use, storage or other consumption
33 within the State.

34 Sec. 29. 36 MRSA §1754, sub-§3 if amended to
35 read:

36 3. Consignee or agent. Every consignee or agent
37 who makes retail sales in the State of tangible per-
38 sonal property or taxable services on behalf of a

1 principal who is without the State if the principal
2 is not the holder of a valid registration certifi-
3 cate.

4 Sec. 30. 36 MRSA §1754, sub-§4 is amended to
5 read:

6 4. Sales for use within State. Every agent, rep-
7 resentative, salesman, entrepreneur, solicitor, dis-
8 tributor or independent selling agent, when such per-
9 son receives compensation by reason of sales of tan-
10 gible personal property or taxable services made out-
11 side the State by his principal for use, storage or
12 other consumption in the State, and every salesman
13 within the State of any seller subject to subsection
14 2, if said principal is not the holder of a valid
15 registration certificate.

16 Sec. 31. 36 MRSA §1754, sub-§6, as enacted by PL
17 1965, c. 362, §5, is repealed.

18 Sec. 32. 36 MRSA §1754, sub-§7, as enacted by PL
19 1977, c. 198, §5, is repealed.

20 Sec. 33. 36 MRSA §1754, sub-§8, as enacted by PL
21 1979, c. 268, is repealed and the following enacted
22 in its place:

23 8. Other presence in State. Every seller of tan-
24 gible personal property or fabrication services who
25 maintains a continuing presence of a nonsoliciting
26 employee within the State or who makes regular or
27 frequent delivery in this State, by means of its own
28 employees or agents, of that property or of tangible
29 personal property on which fabrication services have
30 been performed.

31 Sec. 34. 36 MRSA §1754, sub-§9, as enacted by PL
32 1983, c. 859, Pt. M, §§3 and 13, is repealed.

33 Sec. 35. 36 MRSA §1756, as amended by PL 1971,
34 c. 20, is further amended to read:

35 §1756. Voluntary registration

36 Every seller of tangible personal property or
37 taxable services, not required by section 1754 to

1 register, may register upon such terms as the State
2 Tax Assessor may prescribe. Upon registration, he
3 shall have the rights and duties of a person required
4 to be registered and shall be subject to the same
5 penalties, except that his liability may be limited
6 to tax actually collected. The person so registered
7 may at any time surrender his registration certifi-
8 cate and request that the same be canceled. Upon re-
9 ceipt of such certificate and request, the State Tax
10 Assessor shall grant the same, if it appears to the
11 State Tax Assessor that the registrant has satisfied
12 all liability to the State and that he is not re-
13 quired by law to register. Upon surrender of his
14 certificate, the registered person shall cease to
15 collect sales or use taxes upon sales taking place on
16 and after the date of such surrender.

17 Sec. 36. 36 MRSA §1760, sub-§25, as amended by
18 PL 1985, c. 691, §13, is further amended to read:

19 25. Boats sold to nonresidents. Sales in this
20 State to nonresidents of yachts and other pleasure
21 boats and commercial vessels and boats actually reg-
22 istered for numbering, enrolled or documented under
23 federal or foreign law in the appropriate
24 customhouses or registry offices for location thereof
25 or home ports therefor outside the State, when such
26 craft are either delivered outside the State or de-
27 livered in the State to be sailed or transported out-
28 side the State immediately upon delivery by the sell-
29 er; and any sales to nonresidents, under contracts
30 for the construction of any such craft to be so de-
31 livered, of materials to be incorporated therein; and
32 any sales to nonresidents for the repair, alteration,
33 refitting, reconstruction, overhaul or restoration of
34 any such craft to be so delivered, of materials to be
35 incorporated therein. If a craft ~~so--registered~~ is
36 present in the State for more than 30 days during the
37 12-month period following its date of purchase or is
38 registered for a location in Maine or documented with
39 a home port in the State Maine, within 12 months of
40 the date of purchase, the person seeking registration
41 purchaser shall be liable for the use tax on the ba-
42 sis of the original purchase price.

43 Sec. 37. 36 MRSA §1760, sub-§40, as reallocated
44 by PL 1979, c. 663, §221, is repealed and the follow-
45 ing enacted in its place:

1 40. Mobile and modular homes. Sales of mobile or
2 modular homes includes:

3 A. Used mobile and modular homes; and

4 B. New mobile and modular homes. Exemption is
5 limited to all costs, other than materials, in-
6 cluded in the sale price, but not to exceed 50%
7 of the sale price.

8 Sec. 38. 36 MRSA §1811, first ¶, as amended by
9 PL 1985, c. 783, §5, is repealed and the following
10 enacted in its place:

11 A tax is imposed at the rate of 5% on the value
12 of all tangible personal property, on telephone and
13 telegraph service, on extended cable television ser-
14 vice, on fabrication services and on custom computer
15 programming sold at retail in this State and at the
16 rate of 7% on the value of all other taxable services
17 sold at retail in this State. Value shall be measured
18 by the sale price, except as otherwise provided.

19 Sec. 39. 36 MRSA §1861, as repealed and replaced
20 by Pl 1985, c. 783, §7, is amended to read:

21 §1861. Imposition

22 A tax is imposed, at the respective rate provided
23 in section 1811, on the storage, use or other con-
24 sumption in this State of purchases, tangible person-
25 al property or a service the sale of which, if the
26 sale--occurred-or it had occurred in this State, with
27 would be subject to tax under section 1764 or 1811. A
28 tax-is-imposed-at-the-rate-provided-in--section--1811
29 on-the-sale-price-on-these-purchases. Every person so
30 storing, using or otherwise consuming is liable for
31 the tax until he has paid the tax or has taken a re-
32 ceipt from his seller, as duly authorized by the
33 State Tax Assessor, showing that the seller has col-
34 lected the sales or use tax, in which case the seller
35 shall be liable for it. Retailers registered under
36 section 1754 or 1756 shall collect the tax and make
37 remittance to the State Tax Assessor. The amount of
38 the tax payable by the purchaser shall be that pro-
39 vided in the case of sales taxes by section 1812.
40 When tangible personal property purchased for resale

1 is withdrawn from inventory by the retailer for his
2 own use, use tax liability accrues at the date of
3 withdrawal.

4 **Sec. 40.** 36 MRSA §1955-A, as amended by PL 1979,
5 c. 541, Pt. A, §223, is further amended to read:

6 §1955-A. Failure to pay tax on vehicles

7 If, after notice of deficiency assessment and dem-
8 and for payment, any amount required to be paid with
9 respect to any vehicle is not paid as demanded within
10 the 12-day period prescribed in section 1959, or such
11 extension thereof as the State Tax Assessor may al-
12 low, the State Tax Assessor may, in addition to pro-
13 ceeding to enforce collection pursuant to chapters
14 211 to 225, immediately notify the Secretary of State
15 who shall proceed in accordance with Title 29, sec-
16 tion 55-B, to mail the required 5-day notice and to
17 suspend any registration certificate and plates is-
18 sued for the vehicle in respect to which the tax re-
19 mains unpaid upon the expiration of the 5-day period
20 provided therein.

21 **Sec. 41.** 36 MRSA §2724, sub-§2, as enacted by PL
22 1985, c. 514, §2, is amended to read:

23 2. Commercial forest land. "Commercial forest
24 land" means land which is classified or which is eli-
25 gible for classification as forest land pursuant to
26 the Maine Tree Growth Tax Law, chapter 105, subchap-
27 ter II-A, except that "commercial forest land" does
28 not include land described in section 573, subsection
29 3, paragraph B, C or D when all commercial harvesting
30 of forest products is prohibited. In determining
31 whether land not classified under the Maine Tree
32 Growth Tax Law is eligible for classification under
33 that law, all facts and circumstances shall be con-
34 sidered, including whether the landowner is engaged
35 in the forest products business and the land is being
36 used in that business or there is a forest management
37 plan for commercial use of the land or a particular
38 parcel of land has been harvested for commercial pur-
39 poses within the preceding 5 years.

40 **Sec. 42.** 36 MRSA §3851 is repealed.

1 Sec. 43. 36 MRSA §3852, as amended by PL 1983,
2 c. 480, Pt. A, §58, is repealed.

3 Sec. 44. 36 MRSA §4404, last ¶, as enacted by PL
4 1985, c. 783, §16, is repealed.

5 Sec. 45. 36 MRSA §§4405 to 4409, as enacted by
6 PL 1985, c. 783, §16, are repealed.

7 Sec. 46. 36 MRSA §5124-A, first ¶, as repealed
8 and replaced by PL 1985, c. 535, §15, is amended to
9 read:

10 The For tax years beginning on or after January
11 1, 1985, the standard deduction of a resident indi-
12 vidual or of a resident husband and wife who file a
13 joint return or of a resident married person who
14 files a separate return shall be as follows:

15 Sec. 47. 36 MRSA §5124-A, sub-§3, as repealed
16 and replaced by PL 1985, c. 535, §15, is amended to
17 read:

18 3. Married person; separate return. A married
19 person filing a separate return, the higher of a low-
20 income allowance of \$1,000 \$1,100 or 16% of Maine ad-
21 justed gross income up to a maximum deduction of
22 \$1,400, except that if either spouse used the low-
23 income allowance, both must use it.

24 Sec. 48. 36 MRSA §5127, sub-§1, as amended by PL
25 1985, c. 783, §21, is further amended to read:

26 1. Income tax paid to other taxing jurisdiction.
27 A resident individual is allowed a credit against the
28 tax ~~otherwise-due~~ imposed under this Part for the
29 amount of income tax imposed on him for the taxable
30 year by another state of the United States, a politi-
31 cal subdivision thereof, the District of Columbia or
32 any political subdivision of a foreign country which
33 is analogous to a state of the United States with re-
34 spect to income derived from sources therein which is
35 also subject to tax under this Part. The credit, for
36 any of the specified taxing jurisdictions, shall not
37 exceed the proportion of the tax ~~otherwise--due~~

1 imposed under this Part that the amount of the
2 taxpayer's Maine adjusted gross income derived from
3 sources in that taxing jurisdiction bears to his en-
4 tire Maine adjusted gross income; provided that, when
5 a credit is claimed for taxes paid to both a state
6 and a political subdivision thereof, the total credit
7 allowable for those taxes shall not exceed the pro-
8 portion of the tax ~~otherwise-due~~ imposed under this
9 Part that the amount of the taxpayer's Maine adjusted
10 gross income derived from sources in the other state
11 bears to his entire Maine adjusted gross income.

12 **Sec. 49. 36 MRSA §5206-B, sub-§2, as repealed**
13 **and replaced by PL 1985, c. 783, §35, is amended to**
14 **read:**

15 **2. Maine assets.** "Maine assets" means, for any
16 taxable year, a taxable entity's total end of year
17 assets as required to be reported on United States
18 Internal Revenue Service Form 1120, Schedule L, ex-
19 cept for tangible personal property and real property
20 located outside the State. The term includes, in the
21 case of a unitary business, the tangible personal
22 property and real property located in the State of
23 any member of the affiliated group which is not sub-
24 ject for the taxable year to taxation under Part 8.
25 This property in the possession of a taxable entity
26 at year-end and located in the State is to be re-
27 ported as a Maine asset by the possessor taxable en-
28 tity.

29 **Sec. 50. 36 MRSA §5255-B, as amended by PL 1985,**
30 **c. 535, §28, is further amended to read:**

31 **§5255-B. Certain items of income under the United**
32 **States Internal Revenue Code**

33 Any person maintaining an office or transacting
34 business within this State and who is required to de-
35 duct and withhold a tax on items of income under the
36 United States Internal Revenue Code, other than wages
37 subject to withholding as provided in section 5250,
38 shall deduct and withhold from such items to the ex-
39 tent they constitute Maine-net income which is not
40 excluded from taxation under Maine law, a tax equal
41 to 5% thereof, unless withholding pursuant to the
42 United States Internal Revenue Code is based on other

1 Section 10 clarifies a section of the Maine Tree
2 Growth Tax Law by specifying that sale of a portion
3 of a parcel of classified forest land shall not re-
4 sult in loss of its classification under the law un-
5 less a resulting parcel is less than 10 forest land
6 acres.

7 Section 11 repeals the requirement that the State
8 Tax Assessor annually develop a list of values for
9 watercraft which were formerly taxed as personal
10 property. Since watercraft are now subject to an ex-
11 cise tax and exempt from property tax, this provision
12 is unnecessary.

13 Section 12 repeals the requirement that requires
14 watercraft to display a decal provided owners have
15 paid all personal property taxes on the watercraft.
16 Since watercraft are now subject to an excise tax and
17 exempt from property tax, this provision is unneces-
18 sary.

19 Section 13 repeals a requirement relative to the
20 chief assessor of primary assessing areas to commit
21 taxes by June 30th annually. This requirement does
22 not apply to 487 municipalities which are not primary
23 assessing areas and thus, is inequitable.

24 Section 14 deletes the reference to counties,
25 since they no longer collect excise taxes and adds a
26 provision to the existing excise tax law. Thus, in
27 cases where the State Tax Assessor must resolve a
28 dispute between municipalities concerning proper ex-
29 cise tax situs, any municipality which has improperly
30 received excise tax money would be required to pay it
31 over to the appropriate municipality with interest
32 and corrects the review reference to the Maine Rules
33 of Civil Procedure, Rule 80-C, which is a review of
34 final agency action rather than Rule 80-B, which is a
35 review of governmental action. The determination pro-
36 vided would, in fact, constitute final agency action.
37 Also, this section adds a 3-year limitation for a re-
38 view by the State Tax Assessor. The 3-year period is
39 similar to that provided for supplemental personal
40 property taxes.

41 Section 15 replaces current definition of "rental
42 of automobile on a short-term basis," which actually

1 defines a type of vehicle. The durational aspect of
2 the short-term rental tax appears in section 25 of
3 the bill. Section 16 of the bill reallocates an ex-
4 isting provision of law to maintain the alphabetical
5 order of sales and use tax definitions. Section 16 of
6 the bill also establishes a separate definition of
7 the "casual sale" provisions which now appear in the
8 definition of "retail sale" and makes clear that all
9 sales by a civic, religious or fraternal organiza-
10 tion, including those made during the first 8 days,
11 will be taxable retail sales if the organization ex-
12 ceeds the 8-day period during which its sales at
13 fairs, etc., are considered to be nontaxable casual
14 sales.

15 Section 17 of the bill amends the definition of
16 "fabrication services" to conform to the definition
17 of "production," which currently appears in Title 36,
18 section 1752, subsection 9, paragraph B and to remove
19 custom computer programming, which is defined sepa-
20 rately by section 25 of the bill, as a taxable ser-
21 vice.

22 Section 18 of the bill clarifies the definition
23 of "primarily" by removing language which appears
24 elsewhere in the production machinery exemption re-
25 quirements.

26 Section 19 of the bill clarifies the definition
27 of "production" by removing unnecessary language.

28 Section 20 of the bill repeals the definition of
29 "rental of automobile on a short-term basis," which
30 is replaced by sections 15, 16, 17 and 25 of the
31 bill.

32 Section 21 of the bill eliminates specific tax-
33 able services, which are included within the defini-
34 tion of "retail sales," from the definition of "re-
35 tailer."

36 Section 22 of the bill amends the definition of
37 "retail sale" to remove references to "sale at re-
38 tail" added as a definitional cross reference by sec-
39 tion 23 of the bill, to replace individual taxable
40 services with a general reference to "taxable ser-
41 vices," defined by section 25 of the bill, to remov:

1 details of the definition of "casual sale," defined
2 by section 15 of the bill, and to exclude certain
3 meals and lodging currently located in the definition
4 of "sale price."

5 Section 23 of the bill establishes "sale at re-
6 tail" as a separate definition.

7 Section 24 of the bill conforms the current defi-
8 nition of "sale price" to fabrication services tax
9 and reorganizes the definition for easier reference.

10 Section 25 of the bill establishes a definition
11 of "taxable service" as a general reference to vari-
12 ous individual taxable services which currently are
13 taxable and to clarify legislative intent that all
14 custom computer programming services, whether per-
15 formed on tangible personal property owned by the
16 customer or by the vendor of the service, is taxable.

17 Section 26 of the bill conforms Title 36, section
18 1753 to the taxation of services.

19 Sections 27 to 30 of the bill establish registra-
20 tion requirements for providers of taxable services.

21 Sections 31, 32 and 34 of the bill eliminate pro-
22 visions which are made superfluous by the introduc-
23 tion of taxable services into Title 36, section 1754
24 provisions.

25 Section 33 establishes a registration requirement
26 for certain providers of fabrication services.

27 Section 35 of the bill conforms Title 36, section
28 1756 to the taxation of services.

29 Section 36 clarifies the circumstances under
30 which a nonresident purchaser of a watercraft can
31 subsequently become liable for the Maine use tax.

32 Section 37 clarifies the sales tax exemption ap-
33 plying to mobile and modular homes.

34 Section 38 of the bill amends Title 36, section
35 1811 to conform to the definition of "taxable ser-
36 vice" by section 25 of the bill and to remove unnec-
37 essary language, Title 36, sections 189 and 1952.

1 Section 39 of the bill clarifies Title 36, sec-
2 tion 1861.

3 Section 40 removes the word "deficiency" from a
4 provision of sales tax law. The concept of deficiency
5 assessment was replaced some time ago with the term
6 "assessment." This was inadvertently overlooked at
7 that time.

8 Section 41 clarifies the definition of "commer-
9 cial forest land" within the Commercial Forestry Ex-
10 cise Tax Law. All land classified under the Maine
11 Tree Growth Tax Law would be included as commercial
12 forest land unless commercial harvesting of forest
13 products is prohibited.

14 Sections 42 and 43 remove reporting requirements
15 for inheritance tax purposes by banks and registers
16 of probate. With the repeal of the inheritance tax
17 for deaths occurring on or after July 1, 1986, these
18 reports are no longer necessary.

19 Sections 44 and 45 repeal several administrative
20 provisions of the tobacco products tax which are in
21 conflict with uniform administrative provisions con-
22 tained in Title 36.

23 Sections 46 and 47 clarify income tax law with
24 regard to the effective date of standard deduction
25 provisions. These sections also correct an error in
26 the amount of the standard deduction for a married
27 person filing a separate return. The low-income al-
28 lowance should read \$1,100, rather than \$1,000.

29 Section 48 clarifies income tax law with respect
30 to the credit for taxes paid to another jurisdiction.

31 Section 49 amends the definition of "Maine as-
32 sets" within the franchise tax law. It provides that
33 real property located outside the State be excluded
34 from Maine assets just like tangible personal prop-
35 erty. It also provides that property of an affiliated
36 group member in the possession of another group mem-
37 ber and located in the State will not escape taxa-
38 tion.

1 Section 50 clarifies a provision of the income
2 tax withholding law. The term "Maine net income"
3 which has no definition for individuals is replaced
4 with the term "income which is not excluded from tax-
5 ation under Maine law."

6

2620050487