

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2089

H.P. 1535 House of Representatives, January 19, 1988  
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 ZIRNKILTON of Mt. Desert.  
Cosponsored by Senators TWITCHELL of Oxford and SEWALL of  
Lincoln.

STATE OF MAINE

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

1 AN ACT Providing for Administrative Changes in  
2 the Tax Laws.  
3

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

6 Sec. 1. 36 MRSA §176, sub-§1, ¶E, as enacted by  
7 PL 1985, c. 691, §5, is amended to read:

1 E. "Tax" means a sales, use, or income or  
2 illegal drugs tax imposed under this Title,  
3 together with interest and penalties.

4 Sec. 2. 36 MRSa §177, sub-§2, as enacted by PL  
5 1985, c. 691, §5, is amended to read:

6 2. Responsible individual. Each person required  
7 to collect taxes which are designated by subsection 1  
8 as trust funds shall inform the State Tax Assessor, at  
9 the time an audit of that person's trust fund  
10 obligation is performed by the State Tax Assessor, of  
11 the name and position of the individual who generally  
12 is responsible for the control or management of that  
13 person's funds or finances and, if different, the  
14 individual who is specifically responsible for the  
15 collection and paying over of those trust funds.  
16 Any deficiency assessments of taxes which are  
17 designated by subsection 1 as trust funds shall be  
18 made jointly in the names of the person required to  
19 collect the taxes and of the designated responsible  
20 individual.

21 Sec. 3. 36 MRSa §177, sub-§5 is enacted to read:

22 5. Stay of running of period of limitation. The  
23 running of the period of limitations for assessment or  
24 collection of trust fund taxes against a responsible  
25 officer, director, member, agent or employee of a  
26 person who has collected those taxes shall be stayed  
27 for the period of time, plus 120 days, during which an  
28 assessment against that person is subject to  
29 administrative or judicial review or remains  
30 outstanding because that person is the subject of  
31 bankruptcy proceedings under the United States Code,  
32 Title 11.

33 Sec. 4. 36 MRSa §183 is enacted to read:

34 §183. Criminal offenses; statute of limitations

35 Notwithstanding Title 17-A, section 8, prosecution  
36 of any crime defined in this Title must be commenced  
37 within 6 years after it has been committed.

1       Sec. 5. 36 MRSA §186, as amended by PL 1985, c.  
2       333, §§1 and 3, is further amended to read:

3       §186. Interest

4       Any person who fails to pay any tax imposed under  
5       this Title, except taxes imposed pursuant to chapter  
6       105, on or before the last date prescribed for payment  
7       shall be liable for interest on the tax, calculated  
8       from that date. The State Tax Assessor shall  
9       establish annually, by regulation rule,  
10      establish the rate of interest which shall not exceed  
11      the highest conventional rate of interest charged for  
12      commercial unsecured loans by Maine banking  
13      institutions on the first business day of October  
14      preceding the calendar year as determined by the  
15      Treasurer of State under section 505, subsection 4.  
16      For purposes of this section, the last date prescribed  
17      for payment of tax shall be determined without regard  
18      to any extension of time permitted for filing a  
19      return. A tax which is upheld on administrative or  
20      judicial review shall bear interest from the date on  
21      which payment would have been due in the absence of  
22      review. Any tax, interest or penalty imposed by this  
23      Title which has been erroneously refunded and which is  
24      recoverable by the State Tax Assessor shall bear  
25      interest at the above rate from the date of payment of  
26      the refund. Interest shall accrue automatically,  
27      without being assessed by the State Tax Assessor, and  
28      shall be recoverable by the State Tax Assessor in the  
29      same manner as if it were a tax assessed under this  
30      Title. If the failure to pay a tax when required is  
31      explained to the satisfaction of the State Tax  
32      Assessor, he may abate or waive the payment of all or  
33      any part of that interest.

34      Except as otherwise provided in this Title, and  
35      except for taxes imposed pursuant to chapter 105,  
36      interest, at the rate determined by the State Tax  
37      Assessor for underpayments pursuant to this section,  
38      shall be paid from the date of overpayment upon any  
39      overpayment of tax, interest or penalty on  
40      overpayments of tax from the date the return listing  
41      the overpayment was filed, or the payment was made,  
42      whichever is later.

43      Sec. 6. 36 MRSA 187-A is enacted to read:

1 §187-A. Preparer penalty

2 If any part of any understatement of liability  
3 with respect to any return or claim for refund is due  
4 to a willful attempt in any manner to understate the  
5 liability for a tax by a person who prepares those  
6 returns or claims for compensation, or whose employees  
7 do so, that person shall pay a penalty of \$500 with  
8 respect to each return or claim.

9 Sec. 7. 36 MRSA §581-A, as amended by PL 1987,  
10 c. 497, §11, is further amended to read:

11 §581-A. Sale of portion of parcel of forest land

12 Sale of a portion of a parcel of forest land  
13 subject to taxation under this subchapter shall not  
14 affect the taxation under this subchapter of the  
15 resulting parcels, unless any is less than 10 forested  
16 acres in area. Each resulting parcel shall be taxed  
17 to the owners under this subchapter until such the  
18 parcel is withdrawn from taxation under this  
19 subchapter, in which case the penalties provided for  
20 in sections 579 and 581 shall apply only to the owner  
21 of such that parcel. If a parcel resulting from  
22 such that sale is less than 10 forested acres in  
23 area, such the parcel shall be considered as  
24 withdrawn from taxation under this subchapter as a  
25 result of such the sale and the penalty assessed  
26 against the grantee.

27 Sec. 8. 36 MRSA §611, 3rd ¶, is amended to read:

28 The assessors shall assess a tax upon any such  
29 property and such tax shall be due and payable 30  
30 days from the date of assessment in accordance with  
31 other property assessed for the same tax year, except  
32 that, if the tax is paid within 2 months of  
33 assessment, interest from the due date of taxes for  
34 the tax year involved does not apply.

35 Sec. 9. 36 MRSA §654, sub-§1, ¶E, as amended by  
36 PL 1983, c. 777, §2, is repealed and the following  
37 enacted in its place:

1       E. The residential real estate up to the just  
2       value of \$4,000 of inhabitants of Maine who are  
3       legally blind as determined by the Department of  
4       Human Services; and

5       Sec. 10. 36 MRSA §1331, as amended by PL 1981,  
6       c. 706, §17, is further amended by adding at the end a  
7       new paragraph to read:

8       Interest shall accrue on supplemental assessments  
9       from October 1st of the year to which the property tax  
10       applies, except that the taxpayer has a 2-month period  
11       from the assessment of the supplemental tax during  
12       which interest will be automatically waived if the tax  
13       is paid.

14       Sec. 11. 36 MRSA §1814, sub-§3, as enacted by  
15       PL 1977, c. 316, §1, is amended to read:

16       3. Refund. Any such amount which has been paid  
17       by or collected from a retailer shall be refunded by  
18       the State Tax Assessor to the retailer in accordance  
19       with section 2011 only upon submission of proof to the  
20       satisfaction of the State Tax Assessor that the amount  
21       has been returned or credited to the person or persons  
22       from whom it was originally collected. In such cases,  
23       interest shall be paid by the State Tax Assessor only  
24       upon proof that interest was included in the repayment  
25       by the retailer to that person or persons.

26       Sec. 12. 36 MRSA §1862, as amended by PL 1985,  
27       c. 783, §8, is further amended to read:

28       §1862. Taxes paid in other jurisdictions

29       The use tax provisions of chapters 211 to 225  
30       shall not apply in with respect to the use, storage  
31       or consumption in this State of purchases ~~at retail~~  
32       ~~sale~~ outside the State where the purchaser has paid a  
33       sales or use tax equal to or greater than the amount  
34       imposed by chapters 211 to 225 in another taxing  
35       jurisdiction, the proof of payment of the tax to be  
36       according to rules made by the State Tax Assessor. If  
37       the amount of tax paid in another taxing jurisdiction

1 is not equal to or greater than the amount of tax  
2 imposed by chapters 211 to 225, then the purchaser  
3 shall pay to the State Tax Assessor an amount  
4 sufficient to make the tax paid in the other taxing  
5 jurisdiction and in this State equal to the amount  
6 imposed by chapters 211 to 225.

7       **Sec. 13. 36 MRSA §2011, first ¶, as amended by**  
8       **PL 1985, c. 691, §24, is further amended to read:**

9       If the State Tax Assessor determines, upon written  
10 application by a taxpayer or during the course of an  
11 audit, that any tax has been paid more than once or  
12 has been erroneously or illegally collected or  
13 computed, he shall certify to the State Controller the  
14 amount collected in excess of that legally due, from  
15 whom it was collected or by whom paid, and that amount  
16 shall be credited by the State Tax Assessor on any  
17 taxes then due from the taxpayer and the balance  
18 refunded to the taxpayer or his successor,  
19 administrators, executors or assigns, but no such  
20 credit or refund may be allowed unless a written  
21 petition therefor, stating the grounds upon which  
22 refund is claimed, is filed with the State Tax  
23 Assessor or the overpayment is discovered on audit  
24 within 3 years of the date of overpayment. Interest,  
25 at the rate determined pursuant to section 186, shall  
26 be paid from the date of overpayment on any balance  
27 refunded pursuant to this chapter, except that no  
28 interest may be paid with respect to the refunds  
29 provided by section 2013 the return listing the  
30 overpayment was filed, or the payment was made,  
31 whichever is later, on any balance refunded pursuant  
32 to this chapter, except that no interest may be paid  
33 with respect to the refunds provided by section 2013  
34 and, in cases of excessive or erroneous collections  
35 specified in section 1814, interest shall be paid in  
36 accordance with section 1814, subsection 3. At the  
37 election of the State Tax Assessor, unless the  
38 taxpayer specifically requests a cash refund, the  
39 refund may be credited to the taxpayer's sales and use  
40 tax account, but, in the case of a credit, no further  
41 interest may accrue from the date of that election.  
42 Nothing shall authorize the taxpayer, or anyone acting  
43 in his behalf, to apply for a refund of any amount

1 assessed when administrative and judicial review under  
2 section 151 has been completed.

3 Sec. 14. 36 MRSA §2903-B, as enacted by PL  
4 1973, c. 613, §22, is amended to read:

5 §2903-B. Finding of fact

6 The Legislature hereby makes a finding of fact  
7 that the percentage relationship of "gasoline tax"  
8 paid by that segment of the nonhighway gasoline user,  
9 the snowmobile user, is not less than .5% of the total  
10 "gasoline tax" revenue, but certainly is more than the  
11 .5% referred to. Based on this legislative "finding  
12 of fact" there is set aside .5% of the total excise  
13 tax on internal combustion engine fuel sold or used  
14 within the State, but not including internal  
15 combustion fuel sold for use in the propulsion of  
16 aircraft from. From this .5% allocation, 10% shall  
17 be paid to the Treasurer of State to be made available  
18 to the Department of Inland Fisheries and Game  
19 Wildlife; this money to be expended for the purpose  
20 set forth in Title 12, section 1972 7824. The  
21 remaining 90% of the .5% shall be credited to the  
22 Snowmobile Trail Fund of the Bureau of Parks and  
23 Recreation, established under Title 12, chapter  
24 3047, section 1972 7824. The State Tax Assessor  
25 shall certify to the State Controller on or before  
26 by the 15th day of each month the amounts to be  
27 credited under this section as of the close of the  
28 State Controller's records for the previous month.

29 Sec. 15. 36 MRSA §2904, as amended by PL 1973,  
30 c. 585, §11, is further amended to read:

31 §2904. Distributors' certificates

32 Every distributor of internal combustion engine  
33 fuel in the State, except distributors described in  
34 section 2907, shall file an application for a  
35 certificate with the State Tax Assessor on forms  
36 prescribed and furnished by him, which shall contain  
37 the name under which such the distributor is  
38 transacting business within the State, the place or  
39 places of business, and location of distributing



1 stations, and agencies of the distributor, the names  
2 and addresses of the several persons constituting the  
3 firm or partnership, and, if a corporation, its  
4 corporate name and the names and addresses of its  
5 principal officers and agents within the State. No  
6 such distributor ~~shall~~ may sell or distribute any  
7 such internal combustion engine fuel until ~~such~~ the  
8 certificate is furnished by the State Tax Assessor and  
9 displayed as required by this section. One copy of  
10 each ~~such~~ certificate, certified by the State Tax  
11 Assessor, shall be displayed in each place of business  
12 of ~~such~~ the distributor. The State Tax Assessor,  
13 having reasonable cause to believe that the  
14 distributor has ceased to do business or that he has  
15 violated any of the provisions of this chapter or of  
16 the rules and regulations made ~~thereunder~~ under  
17 this chapter, may on reasonable notice to ~~the~~  
18 distributor suspend the distributor's certificate  
19 until satisfied to the contrary. In such a case, the  
20 distributor shall not act as a distributor until his  
21 certificate is restored by the State Tax Assessor  
22 either of his own initiative or at the request of the  
23 distributor and upon the State Tax Assessor being  
24 satisfied that cause for suspension no longer exists  
25 or upon order of court. In case of such a suspension,  
26 all certificates shall at once be surrendered to the  
27 State Tax Assessor upon his request. Notices shall be  
28 sufficient if sent by mail, addressed to the  
29 distributor at the address designated in the  
30 certificate and appeals may be taken in the same  
31 manner as provided in ~~Title 32, section 753,~~ for  
32 appeals from decisions of the Bank Superintendent  
33 section 151. This section shall apply to importers  
34 and to exporters.

35 Sec. 16. 36 MRSA §3217, as amended by PL 1985,  
36 c. 127, §1, is further amended to read:

37 §3217. Additional violations

38 Any user, or any agent or employee of any user,  
39 who shall consume any fuel in a registered motor  
40 vehicle within the State, when that user is not the  
41 holder of an uncanceled license as required by this  
42 chapter, or when that user has failed to file any

1 report or pay tax, penalty or interest as required by  
2 this chapter and chapter 7, commits a Class E crime.  
3 Each day or part thereof during which any person shall  
4 consume any fuel in a registered motor vehicle within  
5 the State, when that user is not the holder of an  
6 uncanceled license as required by this chapter, or  
7 when that user has failed to file any report or pay  
8 tax, interest or penalty as required by this chapter  
9 and chapter 7, shall constitute a separate violation  
10 within the meaning of this section. The state  
11 police officer assigned to the Bureau of Taxation  
12 pursuant to section 2972 shall also assist in the  
13 enforcement-of-this-chapter.

14 Sec. 17. 36 MRSA §3223 is enacted to read:

15 §3223. Enforcement

16 There shall be assigned to the Bureau of Taxation  
17 an officer of the State to assist in the enforcement  
18 of this chapter.

19 Sec. 18. 36 MRSA §3404, first ¶, as amended by  
20 PL 1979, c. 540, §45, is further amended to read:

21 Property subject to taxes as aforesaid, in  
22 whatever form of investment it may happen to be, shall  
23 be charged with a lien for all taxes and interest  
24 thereon which are or may become due on such that  
25 property; but said the lien shall not attach to  
26 any real or personal property after the same has  
27 been sold or disposed of for value by the personal  
28 representative or trustee. The lien charged by  
29 chapters 551 to 567 upon any real estate or separate  
30 parcel thereof of real estate may be discharged by  
31 the payment of all taxes and interest due and to  
32 become due upon said the real estate or separate  
33 parcel and the cost of recording the certificate  
34 mentioned. Upon payment thereof, the State Tax  
35 Assessor shall cause a certificate showing such  
36 that payment to be recorded in the registry of deeds  
37 in each county where said the real estate is  
38 located.

39 Sec. 19. 36 MRSA §4072, as enacted by PL 1981,

1 c. 451, §7, is amended to read:

2 §4072. Lien for taxes

3 All property subject to taxes under this chapter,  
4 in whatever form of investment it may happen to be, is  
5 charged with a lien for all taxes, interest and  
6 penalties which are or may become due on that  
7 property. The lien does not attach to any ~~real~~ or  
8 personal property after the property has been sold or  
9 disposed of for value by the personal representative  
10 or trustee. Upon payment of those taxes, interest and  
11 penalties due under this chapter, or upon  
12 determination that no tax is due, the State Tax  
13 Assessor shall upon request execute a discharge of the  
14 tax lien for recording in the appropriate registry or  
15 registries of deeds.

16 Sec. 20. 36 MRSA §§4421 to 4432, as enacted by  
17 PL 1987, c. 343, §9, are repealed.

18 Sec. 21. 36 MRSA §§4433 to 4438 are enacted to  
19 read:

20 §4433. Definitions

21 As used in this chapter, unless the context  
22 otherwise indicates, the following terms have the  
23 following meanings.

24 1. Dealer. "Dealer" means a person who, in  
25 violation of state law, trafficks in scheduled drugs  
26 weighing more than 7 grams or amounting to 10 or more  
27 dosage units, or a person who trafficks in or  
28 furnishes more than 42 1/2 grams of marijuana.

29 2. Dosage unit. "Dosage unit" has the same  
30 meaning as that provided in Title 17-A, chapter 45.

31 3. Furnish. "Furnish" has the same meaning as  
32 that provided in Title 17-A, chapter 45.

33 4. Marijuana. "Marijuana" has the same meaning  
34 as that provided in Title 17-A, chapter 45.

1        5. Scheduled drug. "Scheduled drug" has the same  
2 meaning as that provided in Title 17-A, chapter 45.

3        6. Traffick. "Traffick" has the same meaning as  
4 that provided in Title 17-A, chapter 45.

5        §4434. No immunity

6        Nothing in this chapter may in any manner provide  
7 immunity for a dealer from criminal prosecution under  
8 state law.

9        §4435. Pharmaceuticals

10       Nothing in this chapter requires persons  
11 registered under Title 32, chapter 41, or otherwise  
12 lawfully in possession of marijuana or a scheduled  
13 drug, to pay the tax required under this chapter.

14       §4436. Tax

15       An excise tax is imposed by this section on any  
16 dealer convicted of trafficking in or furnishing a  
17 scheduled drug or marijuana under Title 17-A, chapter  
18 45. The tax shall be imposed at the following rates:

19       A. On each gram or portion of a gram of  
20 marijuana, \$3.50;

21       B. On each gram of scheduled drug or portion of a  
22 gram, \$200; or

23       C. On each 50 dosage units of a scheduled drug  
24 that is not sold by weight or portion of those  
25 dosage units, \$2,000.

26       §4437. Reports

27       1. Filing of report. Any law enforcement agency  
28 which seizes or confiscates marijuana or scheduled  
29 drugs shall file a report with the State Tax Assessor  
30 on a form prescribed by the State Tax Assessor. The  
31 report shall include the dealer's name, address,  
32 social security number, an inventory of the contraband  
33 and other information required by the State Tax

1 Assessor. The report shall be filed within 30 days of  
2 the seizure or confiscation of the property.

3 2. Report of conviction. Any district attorney's  
4 office which prosecutes a dealer for trafficking in or  
5 furnishing marijuana or scheduled drugs, with respect  
6 to all or part of those scheduled drugs or marijuana  
7 referred to in subsection 1, shall report, upon  
8 conviction of the dealer, the conviction to the State  
9 Tax Assessor within 30 days of the conviction. The  
10 report shall contain such information as may be  
11 required by the State Tax Assessor.

12 §4438. Burden of proof

13 The tax and penalties assessed by the State Tax  
14 Assessor are presumed to be valid and correctly  
15 determined and assessed. The burden is upon the  
16 taxpayer to show their incorrectness or invalidity.

17 Sec. 22. 36 MRSA §5122, sub-§2, ¶C, as repealed  
18 and replaced by PL 1985, c. 506, Pt. A, §78, is  
19 amended to read:

20 C. Social security benefits and tier 1  
21 railroad retirement benefits paid by the United  
22 States, to the extent included in federal adjusted  
23 gross income; and

24 Sec. 23. 36 MRSA §5126, last ¶, as enacted by  
25 PL 1987, c. 504, §12, is amended to read:

26 For tax years beginning in 1987, or thereafter  
27 thereafter, an additional personal exemption is  
28 allowable to each individual who, pursuant to the  
29 United States Internal Revenue Code, Section 63(f),  
30 would, if claiming a standard deduction for the tax  
31 year, be entitled to the additional amount provided in  
32 either the first paragraph or the higher amount  
33 provided in 2nd the 3rd paragraph. An additional  
34 personal exemption is also allowable to each  
35 individual who, pursuant to the United States  
36 Internal Revenue Code, Section 63(f), would, if  
37 claiming a standard deduction for the tax year, be  
38 entitled to the additional amount provided in either

1 the 2nd paragraph or the higher amount provided in the  
2 3rd paragraph. For a tax year in which the taxpayer  
3 does not make a joint return with his spouse and if  
4 the spouse for the calendar year in which the taxable  
5 year of the taxpayer begins has no gross income and is  
6 not the dependent of another taxpayer, the taxpayer is  
7 entitled to claim any additional personal exemptions  
8 allowable to the spouse as provided by this section.

9 Sec. 24. 36 MRSA §5204, as amended by PL 1987,  
10 c. 504, §27, is further amended to read:

11 §5204. Lump-sum retirement plan distributions

12 In addition to any other tax imposed by this Part,  
13 a tax is hereby imposed for each taxable year on every  
14 taxpayer who, in accordance with the Code, Section  
15 402(e)(1), elects to compute a separate federal  
16 tax on a lump-sum distribution from a retirement plan  
17 at the rate of 15% of the separate federal tax imposed  
18 on such the distribution.

19 Sec. 25. 36 MRSA §5215, sub-§2, ¶A, as repealed  
20 and replaced by PL 1987, c. 504, §31, is amended to  
21 read:

22 A. "Qualified federal credit" means, with respect  
23 to any taxable year, that portion of the credit  
24 allowed by the Code of 1954, as of December 31,  
25 1985, Section 38 (b)(1), which is directly and  
26 solely attributable to qualified investment with a  
27 situs in this State.

28 Sec. 26. 36 MRSA §5218, as enacted by PL 1987,  
29 c. 504, §32, is amended to read:

30 §5218. Income tax credit for child care expenses

31 A resident individual shall be allowed a credit  
32 against the tax otherwise due under this Part in the  
33 amount of 16% of the federal tax credit allowable  
34 for child care expenses in tax year 1986; 20% of the  
35 federal tax credit allowable for child and dependent  
36 care expenses in tax year 1987; and 25% of the federal  
37 tax credit allowable for child and dependent care  
38 expenses thereafter. In no case may this credit

1 reduce the Maine income tax to less than zero.

2 Sec. 27. 36 MRSA §5243, as amended by PL 1979,  
3 c. 541, Pt. A, §242, is further amended to read:

4 §5243. Report of change in federal taxable income

5 If the amount of a taxpayer's federal taxable  
6 income reported on his federal income tax return for  
7 any taxable year is changed or corrected by the United  
8 States Internal Revenue Service or other competent  
9 authority, or as the result of a renegotiation of a  
10 contract or subcontract with the United States, the  
11 taxpayer shall report such a change or correction in  
12 federal taxable income within 90 days after the final  
13 determination of such the change, correction or  
14 renegotiation, or as otherwise required by the  
15 assessor, and shall concede the accuracy of such  
16 that determination or state wherein it is erroneous  
17 and shall file an amended Maine return reflecting the  
18 adjustments affecting Maine taxable income. Any  
19 taxpayer filing an amended federal income tax return  
20 shall also file within 90 days thereafter an amended  
21 return under this Part, and shall give such  
22 information as the assessor may require. The assessor  
23 may by regulation rule prescribe such exceptions to  
24 the requirements of this section as he deems  
25 appropriate.

26 Sec. 28. 36 MRSA §6162-A, sub-§1, as enacted by  
27 PL 1987, c. 528, §2, is amended to read:

28 1. Age. For fiscal year 1987-88, individuals  
29 Individuals qualify under this program if they meet  
30 the age requirements for an elderly household under  
31 chapter 901 and its successors.

32 STATEMENT OF FACT

33 Section 1 would enable the Bureau of Taxation to  
34 attach wages, salary and property of an individual who  
35 owes illegal drugs tax.

36 Sections 2, 3 and 4 eliminate the requirement that

1 assessment be made jointly in the names of the person  
2 and the responsible individual and extends the statute  
3 of limitations for proceeding against a responsible  
4 individual and criminal offenses. Criminal  
5 prosecutions must be commenced within 6 years after  
6 the crime. This corresponds with Internal Revenue  
7 Service procedures and is necessary due to the time  
8 required to identify, investigate and prosecute tax  
9 evaders. Since court orders are issued for the  
10 payment of amounts owed to the State, there will be an  
11 increased ability to collect taxes due to the greater  
12 number of years that would be open to criminal  
13 investigation and prosecution.

14 Section 5 allows the State Tax Assessor to  
15 determine the calendar year interest rate based on the  
16 preceding October's prevailing rates. Current law  
17 makes it impossible to set the annual rate until after  
18 January 1, and this does not permit orderly accounting  
19 and timely interest rate information to taxpayers.

20 Sections 5, 11 and 13 redefine what is meant by  
21 the date of overpayment of a tax and make it clear  
22 that the State will only pay interest to a retailer  
23 when the retailer has included interest in the refund  
24 of tax to the consumer.

25 Section 6 creates a tax preparer penalty for  
26 commercial preparers who intentionally understate tax  
27 liability of their clients.

28 Section 7 settles long-standing confusion over  
29 which party is responsible for the tree growth penalty  
30 on sales of parcels of less than 10 acres. Towns do  
31 not have effective recourse against a seller unwilling  
32 to pay the penalty. The municipal lien is enforced  
33 against the buyer's interest in the property.

34 Sections 8 and 10 are intended to provide a clear  
35 and logical statutory basis for determining how  
36 interest is to be calculated on supplemental  
37 assessments in the Unorganized Territory. It would  
38 apply the same due date standard as for all other tax  
39 bills for the same tax year. However, since notice of  
40 assessment is delayed, a 2-month grace period is



1 provided for paying the bill before interest accrues.

2 Section 9 deletes an obsolete reference to Title  
3 22, chapter 959. Additionally, persons who would have  
4 qualified for the \$3,500 exemption would also qualify  
5 for the remaining \$4,000 exemption.

6 Section 12 is amended to recognize that a use tax  
7 is not due on casual sales on which a tax has been  
8 paid to another taxing jurisdiction in addition to  
9 retail sales.

10 Sections 14 and 15 correct statutory references.

11 Sections 16 and 17 repeal a reference to a  
12 repealed section of law and relocate the language of  
13 that provision.

14 Sections 18 and 19 protect the State's ability to  
15 collect death taxes through the lien process on real  
16 estate. Currently, if the personal representative  
17 disposes of real property without a lien discharge,  
18 the State is unprotected.

19 Section 20 repeals the body of the illegal drugs  
20 tax which has been declared unconstitutional in  
21 certain of its provisions by the Attorney General's  
22 office and section 21 replaces it with a tax which  
23 satisfies constitutional requirements.

24 Section 22 clarifies that states can reach neither  
25 tier 1 nor tier 2 railroad retirement benefits for  
26 purposes of income taxation. Formerly, only tier 1  
27 benefits were specifically excluded.

28 Section 23 corrects a technical deficiency in  
29 describing the additional personal exemptions allowed  
30 certain qualified taxpayers under federal law.

31 Section 24 corrects an inadvertent reference error.

32 Section 25 is necessary because of the repeal of  
33 the investment tax credit for federal purposes.  
34 Maine's job and investment credit was linked through  
35 definitions to the federal credit. This change

1 preserves the Maine jobs credit by referencing the  
2 Internal Revenue Code definitions prior to the Tax  
3 Reform Act of 1986.

4 Section 26 makes changes to the credit for child  
5 care expenses provision as intended by Public Law  
6 1987, chapter 343, section 10.

7 Section 27 makes it clear that an amended return  
8 should be filed within 90 days of federal audits to  
9 correct Maine tax filings.

10 Section 28 deletes an unnecessary reference to the  
11 1988 fiscal year.

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