

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2467

H.P. 1803 House of Representatives, March 7, 1988
Reference to the Committee on Taxation suggested and
ordered printed.

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

Cosponsored by Senators SEWALL of Lincoln, TWITCHELL of
Oxford and Representative JACKSON of Harrison.

STATE OF MAINE

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

1 **AN ACT to Amend the Maine Income Tax Law.**
2

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

5 **Sec. 1. 5 MRSa §1514, sub-§4, as enacted by PL**
6 **1987, c. 504, §1, is repealed and the following**
7 **enacted in its place:**

8 4. Fund adjustments. Adjustments to the fund

1 shall be as follows.

2 A. A transfer from this fund to the General Fund
3 to offset the loss of revenue attributable to
4 income tax reductions to avoid a windfall for the
5 tax year 1987 is required prior to June 30, 1988,
6 in the amount of \$16,500,000.

7 B. A transfer from this fund to the General Fund
8 to offset the loss of revenue resulting from
9 individual income tax reform for the 1988 tax
10 year. The amount of this transfer will be equal
11 to the amount certified to the fund because of
12 increased individual income tax collections
13 through the period ending June 30, 1988, less the
14 amount transferred in paragraph A to offset
15 individual income tax reductions and less the
16 amount transferred to offset 1987 tax year
17 rebates. This transfer shall be made no later
18 than September 1, 1988.

19 Sec. 2. 36 MRS.A §5102, sub-§8, as amended by PL
20 1983, c. 571, §14, is further amended to read:

21 8. Maine net income. "Maine net income" means,
22 for any taxable year for any corporate taxpayer, the
23 taxable income of that taxpayer for that taxable year
24 under the laws of the United States as modified by
25 sections section 5200-A and 5202-B and allocated
26 or and apportioned to this State under chapter 821.
27 To the extent that it derives from a unitary business
28 carried on by 2 or more members of an affiliated
29 group, the Maine net income of a corporation shall be
30 determined by apportioning that part of the federal
31 taxable income of the entire group which derives from
32 the unitary business.

33 Sec. 3. 36 MRS.A §5111, as amended by PL 1987,
34 c. 504, §7, is repealed and the following enacted in
35 its place:

36 §5111. Imposition and rate of tax

37 A tax is imposed for each taxable year beginning
38 on or after January 1, 1988, on the Maine adjusted
39 gross income of every resident individual of this
40 State. The amount of the tax is to be determined as
41 follows.

1 1. Single individuals and married persons filing
2 separate returns. For single individuals and married
3 persons filing separate returns:

4 If Maine adjusted gross income is: The tax is:

5 Less than \$6,000 2% of the Maine
6 adjusted gross
7 income

8 At least \$6,000 but less than \$120 plus 4% of
9 \$10,000 the excess over
10 \$6,000

11 At least \$10,000 but less than \$280 plus 6% of
12 \$16,250 excess over
13 \$10,000

14 \$16,250 or more \$655 plus 8% of
15 the excess over
16 \$16,250

17 2. Unmarried individuals or legally separated
18 individuals. The tax of unmarried individuals or
19 legally separated individuals who qualify as heads of
20 households is based on the tax table in subsection 1.
21 The tax imposed shall be 1 1/2 the tax levied in
22 subsection 1 on income which is 2/3 the amount
23 attributable to the individuals taxed in this
24 subsection.

25 3. Individuals filing married joint return or
26 surviving spouses. The tax of individuals filing a
27 married joint return or surviving spouses permitted to
28 file a joint return is based on the tax table in
29 subsection 1. The tax imposed shall be twice the tax
30 levied in subsection 1 on income which is 1/2 the
31 amount attributable to the individuals taxed in this
32 subsection.

33 Additionally, a tax is imposed for each taxable year
34 beginning on or after January 1, 1988, on the Maine
35 adjusted gross income of every nonresident individual.

1 The amount of the tax shall equal the tax computed
2 under this section and chapter 805, as if the
3 nonresident were a resident, less applicable tax
4 credits other than that provided by section 5217, and
5 multiplied by the ratio of the individual's Maine
6 adjusted gross income, as defined in section 5102,
7 subsection 1-C, paragraph B, to the nonresident's
8 entire federal adjusted gross income, as modified by
9 section 5122.

10 Sec. 4. 36 MRSA §5111-A, as amended by PL 1975,
11 c. 765, §26, is repealed and the following enacted in
12 its place:

13 §5111-A. Alternative method of computation

14 In lieu of a tax computed exactly according to the
15 rates set forth in section 5111, taxpayers may utilize
16 a tax table. The State Tax Assessor shall prepare and
17 issue tables approximating as near as practicable the
18 tax computed using section 5111 for this express
19 purpose.

20 Sec. 5. 36 MRSA §5121, as repealed and replaced
21 by PL 1987, c. 504, §8, is repealed and the following
22 enacted in its place:

23 §5121. Taxable income

24 The entire taxable income of a resident individual
25 of this State shall be that resident's Maine adjusted
26 gross income less any excess itemized deductions as
27 defined in section 5125. If an individual's excess
28 itemized deductions exceed the Maine adjusted gross
29 income, the Maine taxable income is zero.

30 Sec. 6. 36 MRSA §5123, as enacted by P&SL 1969,
31 c. 154, §F, §1, is repealed.

32 Sec. 7. 36 MRSA §5124-A, as amended by PL 1987,
33 c. 497, §§48 and 49, is repealed and the following
34 enacted in its place:

35 §5124-A. Standard deduction tax credit

1 All individuals shall be entitled to a standard
2 deduction tax credit. The standard deduction tax
3 credit amount shall be as follows:

4 1. Married persons; joint return. Married persons,
5 joint return or surviving spouses, credit is \$100;

6 2. Unmarried or legally separated heads of
7 households. Unmarried or legally separated heads of
8 households, credit is \$88;

9 3. Single individuals. Single individuals, credit
10 is \$60; or

11 4. Married persons; separate returns. Married
12 persons, separate returns, credit is \$50.

13 In no case does this credit reduce the Maine income
14 tax to less than zero.

15 Sec. 8. 36 MRSA §5125, as enacted by P&SL 1969,
16 c. 154, §F, §1, is repealed and the following enacted
17 in its place:

18 §5125. Itemized deductions

19 1. General. If an individual has itemized
20 deductions from adjusted gross income in determining
21 the federal taxable income for the taxable year, the
22 individual is entitled in determining the tax under
23 this Part to claim an itemized deduction amount
24 consistent with this section.

25 2. Spouses. Spouses, both of whom are required to
26 file returns under this Part, shall be allowed to
27 claim itemized deductions only if both do so. The
28 total of itemized deductions allowable for determining
29 federal income tax as adjusted by this section may be
30 taken by either or divided between them, as they may
31 elect, if their federal income tax is determined on a
32 joint return but their tax pursuant to this Part is
33 determined on married separate returns.

34 3. Amount. The amount of the itemized deductions

1 shall be determined as follows.

2 A. The sum of the individual's allowable federal
3 itemized deductions shall be:

4 (1) Reduced by any amount representing income
5 taxes imposed by this State or any other taxing
6 jurisdiction and interest or expenses incurred in
7 the production of income exempt from tax under
8 this Part;

9 (2) Increased by any amount of interest or
10 expense incurred in the production of income
11 taxable under this Part but exempt from federal
12 income tax, and which has not been deducted in
13 determining federal adjusted gross income; and

14 (3) Reduced by the federal standard deduction
15 which is otherwise allowed by the Code, Section
16 63(c).

17 Sec. 9. 36 MRSA §5126, as amended by PL 1987, c.
18 504, §§11 and 12, is repealed and the following
19 enacted in its place:

20 §5126. Personal exemptions tax credit

21 An individual shall be allowed a personal exemption
22 tax credit of \$40 for each exemption to which the
23 individual is entitled for the taxable year for
24 federal income tax purposes.

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

1 of the Code or the higher amount provided in the 3rd
2 paragraph. For a tax year in which the taxpayer does
3 not make a joint return with that taxpayer's spouse
4 and if the spouse has no gross income for the calendar
5 year in which the taxable year of the taxpayer begins
6 and is not the dependent of another taxpayer, the
7 taxpayer is entitled to claim a personal exemption tax
8 credit for each additional personal exemption
9 allowable to the spouse as provided by this section.
10 In no case does this credit reduce the Maine income
11 tax to less than zero.

12 Sec. 10. 36 MRSA §5131, as enacted by PL 1987, c.
13 504, §15, is repealed.

14 Sec. 11. 36 MRSA §5142, sub-§6, as enacted by
15 P&SL 1969, c. 154, §F, is amended to read:

16 6. Apportionment. If a business, trade, profession
17 or occupation is carried on partly within and partly
18 without this State, the items of income and deduction
19 derived from or connected with sources within this
20 State shall be determined as allocated or
21 apportioned to this State under chapter 821 or in the
22 case of the rendering of purely personal services by
23 an individual under regulations to be prescribed by
24 the assessor.

25 Sec. 12. 36 MRSA §5206-B, sub-§3, as repealed and
26 replaced by PL 1985, c. 783, §35, is amended to read:

27 3. Maine net income. "Maine net income" means, for
28 any taxable year, a taxable entity's net income or
29 loss per books, as required to be reported on the
30 United States Internal Revenue Service Form 1120,
31 Schedule M, Line 1 and allocated or apportioned to
32 this State under chapter 821.

33 A. To the extent that a taxable entity derives
34 income from a unitary business carried on by 2 or
35 more members of an affiliated group, Maine net
36 income shall be determined by apportioning, in
37 accordance with chapter 821, that part of net income
38 of the entire group which derives from the unitary

1 business.

2 Sec. 13. 36 MRSA c. 821, first 2 lines are
3 repealed and the following enacted in their place:

4 CHAPTER 821

5 APPORTIONMENT OF INCOME

6 Sec. 14. 36 MRSA §5210, sub-§§1, 2 and 4, as
7 enacted by PL 1981, c. 698, §187, are repealed.

8 Sec. 15. 36 MRSA §5211, sub-§§1 and 2, as enacted
9 by P&SL 1969, c. 154, §F, are amended to read:

10 1. Apportionment. Any taxpayer, other than a
11 resident individual, estate, or trust, having income
12 from business activity which is taxable both within
13 and without this State, other than the rendering of
14 purely personal services by an individual, shall
15 ~~allocate~~ and apportion his net income as provided in
16 this section. Any taxpayer having income solely from
17 business activity taxable within this State shall
18 ~~allocate or~~ apportion his entire net income to this
19 State.

20 2. Taxpayer taxable in another state. For purposes
21 of ~~allocation and~~ apportionment of income under
22 this section, a taxpayer is taxable in another state
23 if in that state he is subject to a net income tax, a
24 franchise tax measured by net income, a franchise tax
25 for the privilege of doing business, or a corporate
26 stock tax, or that state has jurisdiction to subject
27 the taxpayer to a net income tax regardless of whether
28 in fact, the state does or does not.

29 Sec. 16. 36 MRSA §5211, sub-§§3, 4, 5, 6 and 7,
30 as enacted by P&SL 1969, c. 154, §F, are repealed.

31 Sec. 17. 36 MRSA §5211, sub-§8, as enacted by
32 P&SL 1969, c. 154, §F, is amended to read:

33 8. Formula for apportionment of income to State.
34 All ~~business~~ income shall be apportioned to this
35 State by multiplying the income by a fraction, the

1 numerator of which is the property factor plus the
2 payroll factor plus the sales factor, and the
3 denominator of which is 3.

4 Sec. 18. 36 MRSA §5211, sub-§17, as enacted by
5 P&SL 1969, c. 154, §F, is amended to read:

6 17. Variations. If the allocation and
7 apportionment provisions of this section do not fairly
8 represent the extent of the taxpayer's business
9 activity in this State, the taxpayer may petition for,
10 or the tax assessor may require, in respect to all or
11 any part of the taxpayer's business activity, if
12 reasonable:

13 A. Separate accounting;

14 B. The exclusion of any one or more of the factors;

15 C. The inclusion of one or more additional factors
16 which will fairly represent the taxpayer's business
17 activity in this State; or

18 D. The employment of any other method to effectuate
19 an equitable allocation and apportionment of the
20 taxpayer's income.

21 Sec. 19. 36 MRSA §5220, sub-§1, as repealed and
22 replaced by PL 1987, c. 504, §33, is amended to read:

23 1. Resident individuals. Every resident individual:

24 A. Who is required to file a federal income tax
25 return for the taxable year; or

26 B. Who has Maine adjusted gross income equal to
27 or greater than the income levels for which a
28 federal income tax return is required pursuant to
29 the United States Internal Revenue Code, Section
30 6012, pursuant to this Part, has a Maine individual
31 income tax liability for the taxable year.

32 Sec. 20. 36 MRSA §5220, sub-§2, as repealed and
33 replaced by PL 1987, c. 504, §34, is repealed and the

1 following enacted in its place:

2 2. Nonresident individuals. Every nonresident
3 individual who, pursuant to this Part, has a Maine
4 individual income tax liability for the taxable year.

5 **Sec. 21.** 36 MRSA §5241, as amended by PL 1979, c.
6 541, Pt. A, §241, is further amended to read:

7 §5241. Partnership and S corporation returns

8 Every partnership and S corporation having a
9 resident partner or shareholder or having any income
10 derived from sources in this State, determined in
11 accordance with the applicable rules of section 5142
12 as in the case of a nonresident individual, shall,
13 if required by the assessor, make a return for the
14 taxable year setting forth all items of income, gain,
15 loss, and deduction, and the names and addresses of
16 the individuals whether residents or nonresidents who
17 would be entitled to share in the net income if
18 distributed and the amount of the distributive share
19 of each individual and such other pertinent
20 information as the assessor may prescribe by
21 regulations and instructions. Such The appropriate
22 return shall be filed on or before the 15th day of the
23 4th month for partnerships or the 15th day of the 3rd
24 month for S corporations following the close of each
25 taxable year. For purposes of this section, "taxable
26 year" means a year or period which would be a taxable
27 year of the partnership or S corporation if it were
28 subject to tax under this Part.

29 **Sec. 22.** 36 MRSA §5402, sub-§1-A, as enacted by
30 PL 1987, c. 430, §1, is amended to read:

31 1-A. Base year index. "Base year index" means the
32 Consumer Price Index for the period July 1, 1985
33 1987, through June 30, 1986 1988.

34 **Sec. 23.** 36 MRSA §5403, as amended by PL 1987, c.
35 430, §2, is repealed and the following enacted in its
36 place:

37 §5403. Annual adjustments for inflation

1 For tax years beginning in 1988, no annual
2 adjustment is applicable. Thereafter, on or about
3 September 15th of each taxable year, the State Tax
4 Assessor shall multiply the inflation factor for that
5 taxable year by the dollar amounts of the tax rate
6 table specified in section 5111. The dollar amounts
7 of the dollar bracket amounts, adjusted by application
8 of the inflation factor and rounded to the nearest
9 \$100, shall be effective for the then current taxable
10 year and shall be incorporated into the income tax
11 forms and instructions of the State Tax Assessor for
12 that taxable year. If the inflation factor for any
13 taxable year is 1.000 or less, no adjustment shall be
14 made for that taxable year in the dollar bracket
15 amounts of the tax rate tables as adjusted for the
16 previous year. The nominal dollar amounts of the tax
17 credits provided in sections 5124-A and 5126 are
18 annually subject to adjustment based on the conformity
19 of the Maine Income Tax Law to the Code. When Maine
20 extends its conformity to the Code for a particular
21 taxable year, the credits provided in sections 5124-A
22 and 5126 are to be adjusted to equal the corresponding
23 indexed federal standard deductions and indexed
24 federal personal exemption amount multiplied by 2%
25 and, if the result is not an even dollar amount,
26 rounded to the next higher dollar.

27 Sec. 24. Application. This Act shall apply to
28 taxable years beginning on or after January 1, 1988.

29 FISCAL NOTE

30 The cost of the individual tax reform provisions
31 will be funded by transfers from the Tax Adjustment
32 Reserve Fund which was established for this explicit
33 purpose when the Legislature conformed to the Federal
34 Tax Reform Act of 1986. The elimination of the
35 distinction between business and nonbusiness income
36 will result in an additional \$500,000 to the General
37 Fund in fiscal year 1988-89.

38 STATEMENT OF FACT

1 This bill makes the following changes in the Maine
2 Income Tax Law.

3 Section 1. Section 1 authorizes transfers from the
4 Tax Adjustment Reserve Fund to finance the individual
5 income tax reform provisions of this bill.

6 Section 2. Section 2 eliminates the term "allocate"
7 from the definition of Maine net income and also
8 removes the reference to the Maine Revised Statutes,
9 Title 36, section 5202-B, which has been repealed.

10 Section 3. Section 3 replaces the old tax tables
11 with the new tax table. The table specified is for
12 single and married separate returns. The tables for
13 married joint/surviving spouses and heads of
14 households are defined as derivatives of the single
15 table. Thus, as indexing occurs the relationship
16 between the rate structure for the various tables is
17 maintained. The imposition of the tax on nonresidents
18 is clarified.

19 Section 4. The responsibility of the State Tax
20 Assessor to publish tax tables which approximate tax
21 rates and the authority for their use is broadened.

22 Section 5. The definition of "taxable income" is
23 modified.

24 Section 6. The definition of "deduction" is
25 repealed.

26 Section 7. The provision of the standard deduction
27 is repealed and replaced with a standard deduction tax
28 credit.

29 Section 8. The provision of the itemized deduction
30 is modified to reduce its allowable amount by the
31 amount of the applicable federal standard deduction.
32 This change is necessary because all taxpayers are
33 entitled to a standard deduction tax credit on their
34 Maine return.

1 Section 9. The provision of the personal exemption
2 is repealed and replaced with a personal exemption tax
3 credit.

4 Section 10. The exemption credit for tax year 1987
5 is repealed.

6 Sections 11 to 18. The proposal would eliminate the
7 distinction between business and nonbusiness income in
8 determining the income tax base. Present law attempts
9 to distinguish the items of income of corporations,
10 including both single corporations and unitary groups
11 of corporations, which are subject to the income tax
12 of 2 or more states. Business income is apportioned
13 to the states of activity according to an
14 apportionment formula, whereas nonbusiness income is
15 allocated entirely to one state. Although guidelines
16 exist for the classification of various items of
17 income, the distinction is a very complex and
18 troublesome area of the tax law. Taxpayers often are
19 unable to predict the characterization that the State
20 will ascribe to a particular item of income or audit.
21 The proposal would subject all income to the
22 apportionment formula. However, it is recognized that
23 on rare occasions there may arise an income item that
24 is completely unrelated to the operation of the
25 business conducted in Maine and which should be
26 considered outside the apportionment formula.

27 Section 19. A requirement for a resident individual
28 to file a Maine income tax return is amended.

29 Section 20. The requirement for a nonresident
30 individual to file a Maine income tax return is
31 amended.

32 Section 21. Requires partnerships and S
33 corporations to file a Maine income tax return.

34 Section 22. The indexing base year is updated to
35 reflect the new base amounts.

36 Section 23. The income tax indexing provisions are

1 amended to index the standard deduction and personal
2 exemption tax credits based on the indexing of the
3 federal standard deduction and personal exemption.
4 Furthermore, all income brackets would be indexed,
5 since those above the indexing limit have been
6 eliminated.

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