

# MAINE STATE LEGISLATURE

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L.D. 7  
(Filing No. H- 3 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 15, L.D. 7, Bill, "An Act to Amend the Laws Regarding Nonresident Income Tax Returns"

Amend the Bill by striking out everything after the enacting clause and inserting in its place the following:

Sec. 1. 36 MRSA §5102, sub-§1-C, as enacted by PL 1985, c. 783, §17, is repealed.

Sec. 2. 36 MRSA §5111, first ¶, as repealed and replaced by PL 1987, c. 504, §7, is amended to read:

A tax is imposed for each taxable year beginning on or after January 1, 1988 1989, on the Maine taxable income of every resident individual of this State and on the taxable income of every nonresident individual which is derived from sources within this State. The amount of the tax is to be determined as follows.

Sec. 3. 36 MRSA §5140-A is enacted to read:

§5140-A. Nonresident individuals -- taxable income

The taxable income of a nonresident individual shall be that part of the nonresident individual's federal adjusted gross income derived from sources within this State determined by reference to section 5142 less the deductions and personal exemptions provided in this chapter.

Sec. 4. 36 MRSA §5141, as repealed by PL 1985, c. 783, §23, is reenacted to read:

§5141. Husband and wife

1. Separate federal return. If the federal taxable income of husband or wife, both nonresidents of this State, is

1 determined on a separate federal return, their taxable incomes in  
2 this State shall be separately determined.

3  
4 2. Joint federal return. If the federal taxable income of  
5 husband and wife, both nonresidents, is determined on a joint  
6 federal return, their tax shall be determined in this State on  
7 their joint taxable income.

8  
9 3. One spouse a nonresident. If either husband or wife is  
10 a nonresident and the other a resident, separate taxes shall be  
11 determined on their separate taxable incomes in this State on  
12 such forms as the assessor shall prescribe unless both elect to  
13 determine their joint taxable income in this State as if both  
14 were residents. If a husband and wife file a joint federal  
15 income tax return but determine their taxable income in this  
16 State separately, they shall compute their taxable incomes in  
17 this State as if their federal adjusted gross incomes had been  
18 determined separately.

19

**Sec. 5. 36 MRSA §5143-B is enacted to read:**

21

**§5143-B. Standard deduction; nonresident**

23

24 The standard deduction of a nonresident individual or of a  
25 nonresident husband and wife who file a joint return or of a  
26 nonresident married person who files a separate return shall be  
27 the same as determined by section 5124-A, multiplied by a  
28 percentage arrived at by dividing the nonresident's adjusted  
29 gross income from sources within the State by his adjusted gross  
30 income he would be required to report if he were a resident:

31

32 **Sec. 6. 36 MRSA §5144-A, as repealed by PL 1985, c. 783, §25,**  
33 **is reenacted to read:**

35

**§5144-A. Itemized deductions**

37

38 The itemized deductions of a nonresident individual shall be  
39 determined in accordance with the provisions for a resident  
40 individual as contained in section 5125 and multiplied by a  
41 percentage arrived at by dividing the nonresident's adjusted  
42 gross income from sources within this State by his adjusted gross  
43 income he would be required to report if he were a resident.

43

44 **Sec. 7. 36 MRSA §5145, as repealed by PL 1985, c. 783, §26,**  
45 **is reenacted to read:**

47

**§5145. Personal exemptions**

49

50 A nonresident individual shall be allowed the personal  
51 exemptions allowed to resident individuals under section 5126,  
multiplied by a percentage arrived at by dividing the nonresident  
individual's adjusted gross income from sources within this State

1 by his adjusted gross income he would be required to report if he  
2 were a resident.

3

4 **Sec. 8. 36 MRSA §5192, sub-§2,** as amended by PL 1985, c. 783,  
5 §32, is repealed and the following enacted in its place:

6 2. Itemized deductions. If a nonresident partner of any  
7 partnership elects to itemize his deductions in determining his  
8 taxable income in this State, there shall be attributed to him  
9 his distributive share of partnership items of deduction from  
10 federal adjusted gross income which are deductible by him under  
11 section 5144-A.

12

13 **Sec. 9. 36 MRSA §5218-A** is enacted to read:

14

15 **§5218-A. Child care credit**

16

17 A nonresident individual shall be allowed a credit against  
18 the tax otherwise due under this Part in the amount of 25% of the  
19 federal tax credit allowable for child care expenses, except that  
20 this credit shall be limited by the percentage that his Maine  
21 adjusted gross income bears to his federal adjusted gross  
22 income. In no case will this credit reduce the Maine income tax  
23 to less than zero.

24

25 **Sec. 10. 36 MRSA §5221, sub-§1, ¶C,** as amended by PL 1985, c.  
26 783, §39, is repealed and the following enacted in its place:

27

28 C. If the federal income tax liabilities of husband and  
29 wife, other than a husband and wife described in subsection  
30 2, are determined on a joint federal return, they shall file  
31 a joint return under this Part and their tax liabilities  
32 shall be joint and several.

33

34 **Sec. 11. 36 MRSA §5221, sub-§2,** as repealed and replaced by PL  
35 1985, c. 783, §40, is repealed and the following enacted in its  
36 place:

37

38 2. One spouse a nonresident. If either husband or wife is  
39 a resident and the other is a nonresident, they shall file  
40 separate income tax returns in this state on such forms as may be  
41 required by the assessor in which event their tax liabilities  
42 shall be separate; but they may elect to determine their joint  
43 taxable income as if both were residents and in such case, their  
44 liabilities shall be joint and several.

45

46 **Sec. 12. 36 MRSA §5224-A,** as repealed and replaced by PL  
47 1985, c. 783, §41, is repealed.

48

49 **Sec. 13. 36 MRSA §5224-B** is enacted to read:

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51 **§5224-B. Change of status as resident or nonresident during year**

1  
3 If an individual changes his status as a resident individual  
5 or nonresident individual during his taxable year, he shall file  
7 a return as required by section 5220, subsection 2. His taxable  
9 income shall be determined in the following manner.

11 1. Income. Income exclusive of standard or itemized  
13 deductions and personal exemptions shall be the sum of the  
15 incomes determined as provided in section 5121 for residents and  
17 section 5140 for nonresidents as if the individual's taxable year  
19 for federal income tax purposes were limited to the period of his  
21 resident and nonresident status respectively.

23 2. Adjustments. Income as determined in subsection 1 shall  
25 be adjusted to reflect income, gain, loss or deductions accrued  
27 prior to the change of status even though not otherwise  
29 includable or allowable in respect of the period prior to such  
31 change, but the taxation or deduction of items accrued prior to  
33 the change of status shall not be affected by the change.

35 3. Reduction. The income computed under subsections 1 and  
37 2 shall be reduced in accordance with the law applicable to a  
39 nonresident individual under the deduction and exemption  
41 provisions contained in sections 5143-A, 5144-A and 5145.'

#### FISCAL NOTE

The estimated fiscal impact of this legislation is an annual loss of revenue of \$9.1 million.

#### STATEMENT OF FACT

This amendment clarifies that, where one or both spouses are nonresidents who elect to file jointly, their joint and several tax liabilities shall be based only on their Maine-source income.

Reported by the Minority of the Committee on Taxation  
Reproduced and distributed under the direction of the Clerk of the House  
2/21/89 (Filing No. H-3)