

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)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

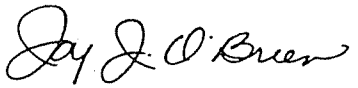
No. 209

S.P. 124

In Senate, February 16, 1989

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 EMERSON of Penobscot.

Cosponsored by Representative SEAVEY of Kennebunkport, Representative TARDY of Palmyra and Representative NADEAU of Saco.

STATE OF MAINE

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

An Act Concerning Technical Changes to the Tax Law.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1.** 4 MRSA §807-A, 4th ¶, as amended by PL 1987, c. 497,
5 §1, is repealed.

7 **Sec. 2.** 36 MRSA §1602, sub-§3, as amended by PL 1981, c. 364,
9 §24, is further amended to read:

11 3. Determination of original tax. The State Tax Assessor
13 shall determine the amount of tax due from each taxpayer. He The
15 State Tax Assessor shall notify each taxpayer in writing, not
17 later than July-15th August 1st annually.

19 **Sec. 3.** 36 MRSA §1764, as repealed and replaced by PL 1987,
21 c. 769, Pt. A, §155, is amended to read:

23 **§1764. Tax against certain isolated sales**

25 The tax imposed by chapters 211 to 225 shall be levied upon
27 all ~~isolated-transactions~~ casual sales involving the sale of
29 camper trailers, motor vehicles, special mobile equipment,
31 livestock trailers or aircraft ~~excepting~~ except those sold for
33 resale, ~~and excepting an isolated transaction involving the sale~~
35 ~~of camper trailers, motor vehicles, special mobile equipment,~~
37 ~~livestock trailers or aircraft to~~ or to a corporation when the
39 seller is the owner of a majority of the common stock of the
41 corporation.

43 **Sec. 4.** 36 MRSA §1955-A, as amended by PL 1987, c. 497, §42,
45 is further amended to read:

47 **§1955-A. Failure to pay tax on vehicles**

49 If, after notice of assessment and demand for payment, any
51 amount required to be paid ~~with respect to~~ for any vehicle is not
paid as demanded within the ~~12-day~~ 10-day period prescribed in
section 1959 171, ~~or such extension thereof as the State Tax~~
Assessor ~~may allow,~~ the State Tax Assessor may, in addition to
proceeding ~~to enforce~~ enforcing collection pursuant ~~to chapters~~
211 ~~to 225,~~ by any method authorized by Part 1 or this Part, may
immediately notify the Secretary of State who shall proceed in
accordance with Title 29, section 55-B, to mail the required
5-day notice and ~~to~~ suspend any registration certificate and
plates issued for the vehicle ~~in respect to~~ for which the tax
remains unpaid ~~upon~~ at the expiration of the 5-day period
provided therein.

53 **Sec. 5.** 36 MRSA §1955-B, as enacted by PL 1975, c. 702, §8,
55 is amended to read:

57 **§1955-B. Payment of tax on vehicles resulting in protest**

1 Whenever the payment of the tax due ~~in-respect-to-any~~ for a
3 vehicle results in a protest or is returned by the bank upon
5 which it was drawn because of "Insufficient Funds," "Account
7 Closed," "No Account" or ~~any-other~~ a similar reason, the State
9 Tax Assessor shall promptly mail a notice of dishonor, as defined
11 in Title 11, section 3-508, to the person liable for the payment
13 of such the tax and ~~warning-such~~ warn that person that if he ~~does~~
15 ~~not-make-the~~ payment is not made as demanded within 10 days after
17 the mailing of such the notice, suspension of the registration
19 certificate and plates issued for such the vehicle may result in
21 accordance with Title 29, section 55-B. If such that person fails
to pay the amount due within 10 days after the mailing of such
the notice, the State Tax Assessor may, in addition to ~~proceeding~~
~~to-enforce~~ enforcing collection pursuant to ~~chapters 211 to 225,~~
by any method authorized by Part 1 or this Part, may immediately
notify the Secretary of State who ~~shall-proceed,~~ in accordance
with Title 29, section 55-B, shall proceed to mail the required
5-day notice and ~~to~~ suspend any registration certificate and
plates issued for the vehicle ~~in-respect-to~~ for which the tax
remains unpaid upon at the expiration of the 5-day period
provided therein.

23 **Sec. 6. 36 MRSA §2726, sub-§1,** as enacted by PL 1985, c. 514,
§2, is amended to read:

25 **§2726. Administration**

27
29 1. Returns. The State Tax Assessor shall prescribe and make
31 available the required tax return. All owners of more than 500
33 acres of forested land, whether or not that land is commercial
forest land, shall complete and file tax returns with the State
Tax Assessor no later than ~~March 1, 1986, and each subsequent~~
March 1st February 1st.

35 **Sec. 7. 36 MRSA §5122, sub-§2, ¶D,** as amended by PL 1987, c.
739, §§46, 48, is further amended to read:

37
39 D. For each of the taxable years ending in 1985 through
41 1987, 1/3 of the amount by which federal adjusted gross
income was increased for the taxable year ending in 1984
under subsection 1, paragraph F; and

43 **Sec. 8. 36 MRSA §5122, sub-§2, ¶E,** as enacted by PL 1987, c.
739, §§47, 48, is amended to read:

45
47 E. Pick-up contributions paid to the taxpayer by the Maine
49 State Retirement System which that have been previously
taxed under this Part; and

51 **Sec. 9. 36 MRSA §5122, sub-§2, ¶F** is enacted to read:

1 F. An amount equal to income taxes imposed by this State or
3 any other taxing jurisdiction on the taxpayer which are
 included in the taxpayer's federal adjusted gross income.

5 Sec. 10. 36 MRSA §5203, sub-§1, as amended by PL 1987, c. 504,
7 §25, is repealed and the following enacted in its place:

9 1. Noncorporate. A tax is imposed, for each taxable year,
11 upon every noncorporate taxpayer required to file a return under
13 this Part, equal to 3% of the amount determined for the taxable
15 year by computing the excess of the taxpayer's alternative
 minimum taxable income, as defined in the Code, Section 55(b),
 over the sum of the taxpayer's exemption amount, as defined in
 the Code, Section 55(f), plus the taxpayer's interest on United
 States obligations and railroad retirement benefits.

17 Sec. 11. 36 MRSA §5243, as amended by PL 1987, c. 772, §41,
19 is further amended to read:

21 §5243. Report of change in tax law

23 If the amount of a taxpayer's federal taxable income
25 reported on his a federal income tax return or the amount of
27 total end-of-year assets, net income or loss under section 5206
29 for a taxpayer subject to taxation under section 5206, for any
31 taxable year, is changed or corrected by the United States
33 Internal Revenue Service or other competent authority, or as the
35 result of a renegotiation of a contract or subcontract with the
37 United States, the taxpayer shall report such-a that change or
39 correction in-federal-taxable-income within 90 days after the
41 final determination of the change, correction or renegotiation,
 or as otherwise required by the assessor, and shall concede the
 accuracy of that determination or state wherein how it is
 erroneous and shall file an amended Maine return reflecting the
 adjustments affecting Maine taxable income. Any taxpayer filing
 an amended federal income tax return shall also file within 90
 days thereafter of that filing an amended return under this Part,
 and shall give--such provide information as the assessor may
 require. The assessor may by--rule prescribe by rule such
 exceptions to the requirements of this section as he-deems the
 assessor determines appropriate.

43 Sec. 12. 36 MRSA §5256, sub-§2, as enacted by P&SL 1969, c.
45 154, §F, is amended to read:

47 2. Change of taxable year. If a taxpayer's taxable year is
49 changed for federal income tax purposes, his the taxable year for
51 purposes of the tax imposed by this Part shall be similarly
 changed. ~~If a change in taxable year results in a taxable period~~
 ~~of less than 12 months, taxable income, the standard deduction~~
 ~~and the deduction for personal exemption, if applicable, allowed~~
 ~~by this Part may be prorated under regulations prescribed by the~~

1 ~~assesser.~~ The income tax for a period of less than 12 months
2 resulting from a change in accounting period is computed by first
3 determining the taxable income for the period. That taxable
4 income is then multiplied by 12 and divided by the number of
5 months in the period of less than 12 months. A tax is computed
6 on the resulting taxable income. The tax is then divided by 12
7 and multiplied by the number of months in the period of less than
8 12 months. The result is the tax liability before credits. For
9 individuals, the standard deduction tax credit and the exemption
10 credit amounts shall be reduced by dividing them by 12 and
11 multiplying them by the number of months in the period of less
12 than 12 months. Itemized deductions for the period of less than
13 12 months shall be reduced as provided in section 5125,
14 subsection 3, paragraph A, subparagraph (3), except that the
15 amount established by the Code, Section 63(c) shall be divided by
16 12 and multiplied by the number of months in the period of less
17 than 12 months.

19 **Sec. 13. 36 MRSA §5278, sub-§4, as repealed and replaced by PL**
20 **1987, c. 772, §42, is amended to read:**

21 **4. Notice of change or correction.** If a taxpayer is
22 required by section 5243 to file an amended Maine return, a claim
23 for credit or refund of any resulting overpayment of the tax
24 shall be filed by the taxpayer within 2 years from the time the
25 filing of the amended return was required ~~to be~~ filed. The
26 amount of the credit or refund shall not exceed the amount of the
27 reduction in tax attributable to the federal amendment. This
28 subsection shall not affect the time within which or the amount
29 for which a claim for credit or refund may be filed apart from
30 this subsection.

33 **Sec. 14. 36 MRSA §6209, sub-§1, as enacted by PL 1987, c. 516,**
34 **§§3, 6, is amended to read:**

35 **1. Household limitation adjustment.** Beginning March 1,
36 1989, and annually thereafter, the State Tax Assessor shall
37 determine the household income eligibility adjustment factor.
38 That factor shall be multiplied by the income limitations in
39 section 6206, applicable for the year prior to that for which
40 relief is requested. The result shall be rounded to the nearest
41 \$100 and shall apply to the year for which relief is requested
42 corresponding to the year on which the annualized cost of living
43 adjustments were based. Beginning March 1, 1991, the same
44 procedure shall be employed to adjust the income limitation in
45 section 6207, subsection 2.

47

49

51

STATEMENT OF FACT

1 Section 1 of the bill allows employees of the Bureau of
3 Employment Security and the Bureau of Taxation to continue to
5 perform certain functions for the courts that are normally
7 reserved for attorneys. The procedure has been in operation for
9 about one year and has worked well. The original enactment of
11 this provision was sunsetted pending the results of the initial
13 period. Because of the success of the procedure, the Bureau of
15 Taxation requests its continuation.

17 Section 2 of this bill responds to the increasing amount of
19 building activity in the unorganized territories and the
21 corresponding increase in the number of property tax accounts.
23 It has become increasingly difficult to meet the current July
25 15th notification deadline. An August 1st notification date
27 would provide the Property Tax Division of the Bureau of Taxation
29 with a more reasonable time frame to work within, and provide the
31 unorganized territory taxpayer with a 2-month period of time
33 before the tax bill is due and interest is charged on October 1st.

35 Section 3 of this bill substitutes the term "casual sale"
37 for "isolated transaction." A casual sale is defined in the
39 Maine Revised Statutes, Title 36, section 1752, subsection 1,
41 paragraph D, as an isolated transaction. The change in language
43 makes the law more understandable without changing its meaning.

45 Sections 4 and 5 update the language of Title 36, sections
47 1955-A and 1955-B to reflect current law as contained in the
49 uniform administrative provisions of Title 36, Part 1.

51 Section 6 of the bill amends the current law that requires
landowners to file their commercial forestry excise tax returns
no later than March 1st and the State Tax Assessor to notify
landowners of the tax assessed against them no later than 30 days
prior to the date the tax is due on May 1st. Because landowners
traditionally file late, the period of time between March 1st and
April 1st is insufficient for the tax to be assessed and
committed. Because the ownership of the land subject to this tax
is determined the preceding April 1st, a filing deadline of
February 1st would not appear to create a hardship for the
landowners involved. This would greatly ease a continuing
problem which the Property Tax Division of the Bureau of Taxation
has with complying with the April 1st notification date.

For federal income tax purposes, taxpayers taking itemized
deductions must include state or local income tax refunds in
their adjusted gross income. Because the deduction for state or
local taxes is not allowed on the Maine return, any related
refund should not be considered income by Maine. Accordingly,
the Bureau of Taxation has provided for this adjustment on the
income tax return for years. Sections 7 and 9 amend the law to
include this provision.

1 Because of restrictions in the United States Constitution,
2 states that Maine cannot subject United States obligations and
3 railroad retirement benefits to an income tax interest. However,
4 these income sources are part of the base for computing the
5 federal alternative minimum tax. The Bureau of Taxation computes
6 Maine's minimum tax as a percentage of the federal income tax.
7 Section 10 removes these 2 income sources from the base on which
8 Maine's minimum tax is computed. Section 10 accomplishes this.

9
10 Current law lacks the necessary requirement for franchise
11 taxpayers to file information concerning relevant adjustments to
12 the federal income tax returns with the Bureau of Taxation. All
13 other income taxpayers must enact this requirement. Section 11
14 extends the requirement to franchise taxpayers as well.

15 Section 12 of this provision corrects the law to reflect the
16 change from personal exemptions and standard deductions to tax
17 credits. It also provides a statutory procedure for calculating
18 the tax for a taxable year of less than 12 months.

19
20 Section 13 of this provision extends the limitations on
21 credits or refunds that apply to income taxpayers to franchise
22 taxpayers.

23
24 Section 14 of this bill extends the indexing of the income
25 limitation amount to the general circuit breaker program. The
26 indexing does not begin until March 1, 1991 because the
27 Legislature has reviewed the program based on a limit of \$28,000
28 until 1991.
29