

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 708

H.P. 523

House of Representatives, March 8, 1989

Reference to the Committee on Taxation suggested and ordered printed.

*Ed Pert*  
EDWIN H. PERT, Clerk

Presented by Representative FOSTER of Ellsworth.

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STATE OF MAINE

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

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An Act Concerning Taxation of Certain Business Enterprises.

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

3 **Sec. 1. 36 MRSA §5102, sub-§6**, as amended by PL 1985, c. 783,  
5 §18, is further amended to read:

6. Corporation. "Corporation" means any business entity  
7 subject to income taxation as a corporation under the laws of  
8 the United States, excepting corporations subject to tax under  
9 sections 2512 to 2522 and section 5206. It shall also mean the  
11 Passamaquoddy Tribe, the Penobscot Nation and any other Indian  
12 nation, tribe or band of Indians when acting in its business  
13 capacity as distinguished from its governmental capacity.

14 **Sec. 2. 36 MRSA § 5102, sub-§8**, as amended by PL 1987, c. 841,  
15 §2, is further amended to read:

17 8. Maine net income. "Maine net income" means, for any  
18 taxable year for any corporate taxpayer, the taxable income of  
19 that taxpayer for that taxable year under the laws of the United  
20 States as modified by section 5200-A and apportionable to this  
21 State under chapter 821. To the extent that it derives from a  
22 unitary business carried on by 2 or more members of an  
23 affiliated group, the Maine net income of a corporation shall be  
24 determined by apportioning that part of the federal taxable  
25 income of the entire group which derives from the unitary  
26 business, except income of an 80-20 corporation. Maine net  
27 income shall also include the income of the Passamaquoddy Tribe,  
28 the Penobscot Nation and any other Indian nation, tribe or band  
29 of Indians when acting in its business capacity to the extent  
30 such income would constitute federal taxable income as modified  
31 by this subsection, if they were subject to taxation under the  
32 laws of the United States. The State Tax Assessor shall  
33 prescribe by rule the methods and procedures to be used in  
34 accounting for items of income, deductions, loss or gain arising  
35 from the business activity of Indian nations, tribes or bands.

37 **Sec. 3. 36 MRSA §5220, sub-§5-A** is enacted to read:

39 5-A. Certain Indian nations, tribes or bands. The  
40 Passamaquoddy Tribe, the Penobscot Nation and any other Indian  
41 nation, tribe or band of Indians with Maine net income for the  
42 calendar year.

43 **Sec. 4. 36 MRSA §5220, sub-§6**, as enacted by PL 1987, c. 504,  
44 §35, is repealed.

47 **Sec. 5. Application.** This Act shall apply to items of income,  
48 deductions, loss or gain accruing on or after January 1, 1988.

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