# MAINE STATE LEGISLATURE

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# 115th WAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

Legislative Document

No. 45

S.P. 31

In Senate, January 3, 1991

Reference to the Committee on Taxation suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator ESTES of York.

Cosponsored by Senator CARPENTER of York, Representative MURPHY of Berwick and Representative FARNUM of South Berwick.

#### STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-ONE

An Act to Amend the Laws Regarding Nonresident Income Taxes.



	Be it enacted by the People of the State of Maine as follows:
2	
4	Sec. 1. 36 MRSA §5102, sub-§1-C, as enacted by PL 1985, c. 783, §17, is repealed.
6	Sec. 2. 36 MRSA §5111, first ¶, as affected by PL 1989, c. 596, Pt. J, §7, is amended to read:
8	
10	A tax is imposed for each taxable year beginning on or after January 1, 1989, on the Maine taxable income of every resident individual of this State and on the taxable income of every
12	nonresident individual that is derived from sources within this State. The amount of the tax is to be determined as follows.
14	المنافعة والمنازية الراجات والمنازل والمنازلة
16	Sec. 3. 36 MRSA §§5140-A, 5141-A, 5143-B, 5144-B and 5145-A are enacted to read:
18	§5140-A. Nonresident individuals; taxable income
20	The taxable income of a nonresident individual is that part of the nonresident individual's federal adjusted gross income
22	derived from sources within this State determined by reference to section 5142 less the deductions and personal exemptions provided
24	in this chapter.
26 1919	§5141-A. Married persons
28	1. Separate federal return. If the federal taxable income of either married person, both nonresidents of this State, is
30	determined on a separate federal return, their taxable incomes in this State must be separately determined.
32	and the consisting of the section of
34	both married persons, both nonresidents, is determined on a joint
	federal return, their tax must be determined in this State on
36	their joint taxable income.
38	3. One spouse a nonresident. If either married person is a
40	nonresident and the other a resident, separate taxes must be determined on their separate taxable incomes in this State on
	such forms as the assessor shall prescribe unless both elect to
42	determine their joint taxable income in this State as if both were residents. If married persons file a joint federal income
44	tax return but determine their taxable income in this State
46	separately, they must compute their taxable incomes in this State as if their federal adjusted gross incomes had been determined separately.
48	
•	§5143-B. Standard deduction; nonresident
50	The standard deduction of a nonresident individual or of
52	nonresident married persons who file a joint return or of a
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	nonresident married person who files a separate return is the
2	same as determined by section 5124-A, multiplied by a percentage
	arrived at by dividing the nonresident's adjusted gross income
4	from sources within the State by the adjusted gross income that
	would be required to be reported if the nonresident were a
6	resident.
8	\$5144-B. Itemized deductions
10	The itemized deductions of a nonresident individual are
	determined in accordance with the provisions for a resident
12	individual as contained in section 5125 and multiplied by a
	percentage arrived at by dividing the nonresident's adjusted
14	gross income from sources within this State by the adjusted gross
	income that would be required to be reported if the nonresident
16	were a resident.
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18	\$5145-A. Personal exemptions
10	33113-A. IELBONGI ENCUPETONS
20	A nonresident individual is allowed the personal exemptions
20	allowed to resident individuals under section 5126, multiplied by
22	a percentage arrived at by dividing the nonresident individual's
	adjusted gross income from sources within this State by the
24	adjusted gross income that would be required to be reported if
	the nonresident were a resident.
26	the homestdent were a resident.
20	Sec. 4. 36 MRSA §5192, sub-§2, as amended by PL 1985, c. 783,
28	\$32, is further amended to read:
20	332, is fulcher amended to read:
30	2. Itemized deductions. If a nonresident partner of any
30	=
32	partnership elects to itemize his deductions in determining his
0.4	tax-liability-to taxable income in this State, there shall-be is
34	attributed to him-his the nonresident partner the distributive
94	share of partnership items of deduction from federal adjusted
	gross income that are deductible by the nonresident partner under
36	section 5144-B.

## Sec. 5. 36 MRSA §5218-A is enacted to read:

### §5218-A. Child care credit

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A nonresident individual is allowed a credit against the tax otherwise due under this Part in the amount of 25% of the federal tax credit allowable for child care expenses, except that this credit is limited by the percentage that the nonresident's Maine adjusted gross income bears to the nonresident's federal adjusted gross income. In no case may this credit reduce the Maine income tax to less than zero.

	Sec. 6. 36 MRSA §5221, sub-§1, ¶C, as amended by PL 1985, c.
2	783, §39, is further amended to read:
4	C. Except-as-provided-in-subsection-2,-if If the federal
•	income tax liabilities of husband-and-wife married persons,
6	other than married persons described in subsection 2, are
_	determined on a joint federal return, they shall file a
8	joint return under this Part and their tax liabilities shall
	be <u>are</u> joint and several : and
10	
	Sec. 7. 36 MRSA §5221, sub-§2, as repealed and replaced by PL
12	1985, c. 783, §40, is repealed and the following enacted in its
	place:
14	
	2. One spouse a nonresident. If either married person is a
16	resident and the other is a nonresident, they shall file separate
	income tax returns in this State on such forms as may be required
18	by the assessor in which event their tax liabilities are
	separate; but they may elect to determine their joint taxable
20	income as if both were residents and in such case, their
	liabilities are joint and several.
22	
	Sec. 8. 36 MRSA §5224-A, as amended by PL 1989, c. 596, Pt.
24	J, §5, is repealed.
26	Sec. 9. Application. This Act applies to tax years beginning
20	on or after January 1, 1992.
28	on of after danuary 1, 1992.
20	at the state of th
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00	STATEMENT OF FACT
32	
<b>-</b>	This bill amends the tax law requiring the spousal income of
34	nonresident taxpayers to be included in the determination of the
- <b>-</b>	applicable tax rate to compute tax liability. Under this bill,
36	the tax liability would be based only on Maine-source income
	earned by a resident or nonresident spouse. No tax liability
38	would be incurred on income earned outside of Maine by a
	nonresident spouse filing a joint return.
40	