

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 45

S.P. 31

In Senate, January 3, 1991

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

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.

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STATE OF MAINE

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

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**An Act to Amend the Laws Regarding Nonresident Income Taxes.**

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

2           Sec. 1. 36 MRSA §5102, sub-§1-C, as enacted by PL 1985, c.  
4 783, §17, is repealed.

6           Sec. 2. 36 MRSA §5111, first ¶, as affected by PL 1989, c. 596,  
8 Pt. J, §7, is amended to read:

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

20           Sec. 3. 36 MRSA §§5140-A, 5141-A, 5143-B, 5144-B and 5145-A are  
22 enacted to read:

24           **§5140-A. Nonresident individuals; taxable income**

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

36           **§5141-A. Married persons**

38           1. Separate federal return. If the federal taxable income  
40 of either married person, both nonresidents of this State, is  
42 determined on a separate federal return, their taxable incomes in  
44 this State must be separately determined.

46           2. Joint federal return. If the federal taxable income of  
48 both married persons, both nonresidents, is determined on a joint  
50 federal return, their tax must be determined in this State on  
52 their joint taxable income.

3. One spouse a nonresident. If either married person is a  
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  
determine their joint taxable income in this State as if both  
were residents. If married persons file a joint federal income  
tax return but determine their taxable income in this State  
separately, they must compute their taxable incomes in this State  
as if their federal adjusted gross incomes had been determined  
separately.

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

The standard deduction of a nonresident individual or of  
nonresident married persons who file a joint return or of a

2 nonresident married person who files a separate return is the  
3 same as determined by section 5124-A, multiplied by a percentage  
4 arrived at by dividing the nonresident's adjusted gross income  
5 from sources within the State by the adjusted gross income that  
6 would be required to be reported if the nonresident were a  
7 resident.

8 **§5144-B. Itemized deductions**

10 The itemized deductions of a nonresident individual are  
11 determined in accordance with the provisions for a resident  
12 individual as contained in section 5125 and multiplied by a  
13 percentage arrived at by dividing the nonresident's adjusted  
14 gross income from sources within this State by the adjusted gross  
15 income that would be required to be reported if the nonresident  
16 were a resident.

18 **§5145-A. Personal exemptions**

20 A nonresident individual is allowed the personal exemptions  
21 allowed to resident individuals under section 5126, multiplied by  
22 a percentage arrived at by dividing the nonresident individual's  
23 adjusted gross income from sources within this State by the  
24 adjusted gross income that would be required to be reported if  
25 the nonresident were a resident.

26 Sec. 4. 36 MRSA §5192, sub-§2, as amended by PL 1985, c. 783,  
28 §32, is further amended to read:

30 2. Itemized deductions. If a nonresident partner of any  
31 partnership elects to itemize his deductions in determining his  
32 tax liability to taxable income in this State, there shall be is  
33 attributed to him his the nonresident partner the distributive  
34 share of partnership items of deduction from federal adjusted  
35 gross income that are deductible by the nonresident partner under  
36 section 5144-B.

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

40 **§5218-A. Child care credit**

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

