

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2120

S.P. 793

In Senate, January 20, 1998

An Act Concerning Technical Changes to the Tax Laws.

(EMERGENCY)

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

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 RUHLIN of Penobscot.
Cosponsored by Representative TRIPP of Topsham.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, delay in making technical changes to the tax laws
6 would interfere with administration of those laws; and

8 Whereas, legislative action is immediately necessary in
order to ensure continued and efficient administration of the tax
10 laws; and

12 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
14 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
16 safety; now, therefore,

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

20 **Sec. 1. 10 MRSA §1495, sub-§2,** as enacted by 1997, c. 495, §1,
is amended to read:

22 **2. Payroll processing services.** "Payroll processing
24 services" means preparing and issuing payroll checks; preparing
and filing tax returns, including quarterly state income
26 withholding tax reports or unemployment insurance contribution
reports; and or collecting, holding and turning over to the State
28 Tax Assessor income withholding taxes pursuant to Title 36,
chapter 827 or unemployment insurance contributions pursuant to
30 Title 26, chapter 13, subchapter 7.

32 **Sec. 2. 18-A MRSA §3-715, sub-§(18),** as enacted by PL 1979, c.
540, §1, is amended to read:

34 (18) Pay taxes, assessments, compensation of the personal
36 representative, and other expenses incident to the administration
of the estate, ~~in the collection and payment of state inheritance~~
38 ~~taxes, the personal representative shall observe the provisions~~
~~of Title 36, chapter 557;~~

40 **Sec. 3. 36 MRSA §111, sub-§1-B,** as enacted by PL 1997, c. 526,
42 §4, is amended to read:

44 **1-B. Bureau.** "Bureau" means the Bureau of Revenue
Services, which may be referred to as "Maine Revenue Services."

46 **Sec. 4. 36 MRSA §187-B, sub-§5,** as enacted by PL 1991, c. 873,
48 §5 and affected by §§8 and 9, is amended to read:

2 **5. Insufficient funds.** Any person who makes payment of an
3 amount due under this Title by means of a check or electronic
4 funds transfer that is returned unpaid by the bank on which it is
5 drawn because of insufficient funds or the closing or
6 nonexistence of the account on which it is drawn is liable for a
7 penalty of \$10 or 1% of the ~~check~~ payment amount, whichever is
8 greater.

9 **Sec. 5. 36 MRSA §193**, as amended by PL 1997, c. 504, §5, is
10 further amended to read:

11 **§193. Returns; declaration covering perjury; submission of**
12 **returns and funds by electronic means**

13 Any return, report or other document required to be made
14 pursuant to this Title must contain a declaration, in a form
15 prescribed by the State Tax Assessor, that the statements
16 contained in the return, report or other document are true and
17 made under the penalties of perjury. The assessor may allow the
18 filing of a return or document by electronic data submission or
19 by telephone. The assessor may also allow the payment of a tax
20 or the refund of a tax by the electronic transfer of funds. In
21 the case of a taxpayer that has \$200,000 or more in annual
22 withholding tax payments to the ~~Bureau-of-Taxation~~ bureau or
23 \$400,000 or more in annual payments of any other single tax
24 type, and in the case of payroll processing companies as defined
25 in Title 10, chapter 222, the assessor may require payment or
26 refund of a tax by electronic funds transfer. An electronic
27 funds transfer allowed or required by the assessor pursuant to
28 this section is considered a return. The assessor may adopt
29 rules to establish procedures necessary to implement the
30 provisions of this section and shall adopt rules in the event
31 that payment of taxes by electronic funds transfer is mandated.
32 Any rule adopted pursuant to this section is considered a major
33 substantive rule for the purposes of Title 5, chapter 375,
34 subchapter II-A.
35

36 **Sec. 6. 36 MRSA §652, sub-§1, ¶A**, as corrected by RR 1995, c.
37 2, §93, is amended to read:

38 A. The real estate and personal property owned and occupied
39 or used solely for their own purposes by benevolent and
40 charitable institutions incorporated by this State, ~~and none~~
41 ~~of these.~~ Such an institution may not be deprived of the
42 right of exemption by reason of the source from which its
43 funds are derived or by reason of limitation in the classes
44 of persons for whose benefit such funds are applied.
45

46 ~~(1) -- Any such institution that is in fact conducted or~~
47 ~~operated principally for the benefit of persons who are~~
48

2 net-residents-of-Maine-is-entitled-to-an-exemption-not
to-exceed-\$50,000-of-current-just-value-only-when-the
4 total-amount-of-any-stipends-or-charges-that-it-makes
or-takes-during-any-tax-year,-as-defined-by-section
6 502,-for-its-services,-benefits-or-advantages-divided
by-the-total-number-of-persons-receiving-such-services,
8 benefits-or-advantages-during-the-same-tax-year-does
not-result-in-an-average-rate-in-excess-of-\$30-per-week
when-said-weekly-rate-is-computed-by-dividing-the
10 average-yearly-charge-per-person-by-the-total-number-of
weeks-in-a-tax-year-during-which-such-institution-is-in
12 fact-conducted-or-operated-principally-for-the-benefit
of-persons-who-are-not-residents-of-Maine.--No-such
14 institution--that--is--in--fact--conducted--or--operated
principally--for--the--benefit--of--persons-who-are-not
16 residents-of-Maine-and-makes-charges-that-result-in-an
average-weekly-rate-per-person,-as-computed-under-this
18 subparagraph,-in-excess-of-\$30-may-be-entitled-to-tax
exemption.--This--subparagraph--does--not--apply--to
20 institutions-incorporated-as-nonprofit-corporations-for
the-sole-purpose-of-conducting-medical-research.

22
24 For the purposes of this paragraph, "benevolent and
charitable institutions" include, but are not limited to,
26 nonprofit nursing homes and nonprofit boarding homes and
boarding care facilities licensed by the Department of Human
28 Services pursuant to Title 22, chapter 1665 or its
successor, nonprofit community mental health service
30 facilities licensed by the Commissioner of Mental Health,
Mental Retardation and Substance Abuse Services, pursuant to
32 Title 34-B, chapter 3 and nonprofit child care centers
incorporated by this State as benevolent and charitable
34 institutions. For the purposes of this paragraph,
"nonprofit" means a facility exempt from taxation under
36 Section 501(c)(3) of the Code;

38 **Sec. 7. 36 MRSA §1504, sub-§2, ¶D,** as enacted by PL 1997, c.
324, §6 and affected by §7, is amended to read:

40 D. The tax payable for a watercraft registered to a new
42 owner after September 1st of any year is 50% of the value
amount due under subsection 1.

44 **Sec. 8. 36 MRSA §2113,** as repealed and replaced by PL 1997,
46 c. 393, Pt. A, §42, is repealed and the following enacted in its
place:

48 **§2113. Penalties**

2 A violation of any provision of this Part for which a
3 penalty or forfeiture is not provided by any other Title is a
4 Class E crime. For purposes of this section, every person
5 required to register under section 1754-B who engages in a
6 business for which registration is required under that section
7 without holding a currently valid registration certificate
8 commits a separate offense for each day or part thereof during
9 which that person engages in that business.

10 **Sec. 9. 36 MRSA §2863, sub-§1, ¶A,** as amended by PL 1985, c.
11 785, Pt. A, §112, is further amended to read:

12 A. "Commissioner" means the Commissioner of Finance
13 Administrative and Financial Services.

14 **Sec. 10. 36 MRSA cc. 551 to 565,** as amended, are repealed.

15 **Sec. 11. 36 MRSA §4366-B, sub-§2,** as enacted by PL 1997, c.
16 458, §10, is amended to read:

17 2. **Exception for personal use.** An individual who is not a
18 licensed distributor or a dealer may transport cigarettes into
19 this State and may transport cigarettes from place to place
20 within this State for the individual's personal use in a quantity
21 not greater than -4- 2 cartons.

22 **Sec. 12. 36 MRSA §4372-A, sub-§2, ¶C,** as enacted by PL 1997,
23 c. 458, §17, is amended to read:

24 C. Unstamped cigarettes in a quantity of -4- 2 cartons or
25 less in the possession of an individual who is not a
26 licensed distributor.

27 **Sec. 13. 36 MRSA §5102, sub-§6,** as amended by PL 1993, c. 502,
28 §4 and affected by §5, is further amended to read:

29 6. **Corporation.** "Corporation" means any business entity
30 subject to income taxation as a corporation under the laws of the
31 United States, excepting either a corporation subject to tax
32 under sections 2512 to 2522 2523 and section 5206 or a business
33 entity referred to in Title 24-A, section 1157, subsection 5,
34 paragraph B, subparagraph (1).

35 **Sec. 14. 36 MRSA §5204-B,** as enacted by 1995, c. 281, §30, is
36 repealed.

37 **Sec. 15. 36 MRSA §5206-D, sub-§1,** as enacted by PL 1997, c.
38 404, §5 and affected by §10, is amended to read:

1. **Affiliated group.** "Affiliated group" means a group of 2 or more financial institutions in which more than 50% of the voting stock of each member ~~corporation or~~ financial institution is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member financial institutions.

Sec. 16. 36 MRSA §5206-D, sub-§8, ¶¶B and D, as enacted by PL 1997, c.404, §5 and affected by §10, are amended to read:

B. A bank, savings bank, industrial bank, savings and loan association or any other entity, excluding a credit union as defined in Title 9-B, section 131, subsection ~~12-A~~ 12, that accepts deposits that are insured by an agency of the Federal Government;

D. A corporation ~~or other entity~~ more than 50% of the voting stock ~~or, if there is no voting stock, other ownership interest~~ of which is owned, directly or indirectly, by any one or more of the organizations defined in ~~paragraph A, B or C~~ this subsection or by a credit union as defined in Title 9-B, section 131, subsection 12.

Sec. 17. 36 MRSA §5206-D, sub-§§12 and 13, as enacted by PL 1997, c. 404, §5 and affected by §10, are amended to read:

12. Maine assets. "Maine assets" means a financial institution's total end-of-year assets required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, ~~Schedule-L 1120S or 1065 or any other Internal Revenue Service form used to report end-of-year assets or, in the case of an entity with a single owner that may be disregarded as an entity separate from its owner pursuant to Internal Revenue Service regulation 26 CFR section 301.7701-1, -2 or -3, the financial institution's total end-of-year assets required to be reported pursuant to Title 9-B, section 222 or analogous provisions of other state or federal banking laws,~~ multiplied by the fraction obtained pursuant to section 5206-E.

13. Maine net income. "Maine net income" means, for any taxable year, a financial institution's net income or loss per books, as required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, ~~Schedule-M, Line-1 1120S or 1065 or any other Internal Revenue Service form used to report end-of-year assets or, in the case of an entity with a single owner that may be disregarded as an entity separate from its owner pursuant to Internal Revenue Service regulation 26 CFR section 301.7701-1, -2 or -3, the financial institution's net income or loss per books required to be reported pursuant to Title 9-B, section 222 or analogous provisions of other state or~~

2 federal banking laws, and apportioned to this State under section
5206-E.

4 To the extent that a financial institution derives income from a
6 unitary business carried on by 2 or more members of an affiliated
8 group, "Maine net income" is determined by apportioning, in
accordance with section 5206-E, that part of the net income of
the entire group that derives from the unitary business.

10 **Sec. 18. 36 MRSA §5219-M, sub-§1, ¶¶B and C**, as enacted by PL
12 1997, c. 557, Pt. B, §10 and affected by §14 and affected by Pt.
G, §1, are amended to read:

14 B. "Investment credit base ~~of equipment~~" means the total
16 ~~original~~ adjusted basis of the eligible equipment for
federal income tax purposes of the taxpayer ~~for on the date~~
18 that the equipment that was placed into service for the
first time in the State by the taxpayer or other person
during the tax year for which the credit is claimed.

20 C. "Eligible equipment" means all computer equipment,
22 electronics components and accessories, communications
equipment, ~~as defined in paragraph A, subparagraph (2)~~, and
24 computer software placed into service in the State.

26 **Sec. 19. 36 MRSA §5219-M, sub-§§4 to 6**, as enacted by PL 1997,
28 c. 557, Pt. B, §10 and affected by §14 and affected by Pt. G, §1,
are amended to read:

30 **4. Limitation.** The credit provided by this section may not
32 be used to reduce the taxpayer's tax liability under this Part to
less than the amount of the taxpayer's tax due liability in the
34 preceding taxable year after the allowance of any other credits
taken pursuant to this chapter. The credit allowed under this
36 section for any taxable year may not reduce the tax due liability
to less than zero.

38 **5. Carry over to succeeding years.** A taxpayer person
40 entitled to a credit under this section for any taxable year may
carry over and apply to the tax due liability for any one or more
42 of the next succeeding 5 taxable years the portion, as reduced
from year to year, of any unused credits.

44 **6. Corporations filing combined return.** In the case of
46 corporations filing a combined return, a credit generated by an
individual member corporation under the provisions of this
48 section must first be applied against the tax due liability
attributable to that company under this Part. A member
50 corporation with an excess high-technology investment tax credit
may apply its excess credit against the tax due liability of

2 another group member to the extent that that other member
3 corporation can use additional credits under the limitations of
4 subsection 4. Unused, unexpired credits generated by a member
5 corporation may be carried over from year to year by the
6 individual corporation that generated the credit, subject to the
7 limitation in subsection 5.

8 **Sec. 20. 36 MRSA §5220, sub-§6**, as amended by PL 1997, c. 404,
9 §7 and affected by §10, is repealed and the following enacted in
10 its place:

12 6. Certain financial institutions. Every financial
13 institution, as defined by section 5206-D, subsection 8, that is
14 required to file a federal income tax return. A financial
15 institution that is a member of an affiliated group and that is
16 engaged in a unitary business with one or more other members of
17 that affiliated group shall file, in addition, a combined report
18 in accordance with section 5244. The State Tax Assessor may
19 allow 2 or more financial institutions that are members of an
20 affiliated group and that are engaged in a unitary business to
21 file a single return on which the aggregate state tax liability
22 of all those financial institutions is reported.

24 **Sec. 21. 36 MRSA §5228, sub-§2**, as repealed and replaced by PL
25 1985, c. 691, §§35 and 48, is amended to read:

26 **2. Requirement to pay estimated tax.** Every person subject
27 to taxation under this Part shall make payment of estimated tax
28 as required by this Part in such form as the State Tax Assessor
29 may require. If the person's income tax liability pursuant to
30 this Part exclusive of a withholder's liability for taxes
31 withheld reduced by allowable credits for the taxable year is
32 less than \$500 ~~\$1,000~~ for the taxable year or, if the person had
33 less than \$500 ~~\$1,000~~ tax liability for the prior tax year, the
34 requirement to make the payments is waived.

36 **Sec. 22. 36 MRSA §6220**, as amended by PL 1997, c. 526, §14,
37 is further amended to read:

40 **§6220. Coordination required**

42 ~~The Bureau of Revenue Services~~ bureau shall seek the advice
43 and cooperation of the Bureau of Elder and Adult Services; the
44 Bureau of Family Independence; the Bureau of Child and Family
45 Services; advocates for elderly and low-income individuals; ~~the~~
46 ~~Maine--Literacy--Coalition;~~ and other interested agencies and
47 organizations in developing the application form and instruction
48 booklet for the Maine Residents Property Tax Program and the
49 outreach plan required by section 6219.

