

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 2122

H.P. 1482

House of Representatives, March 30, 1999

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**An Act to Base the Rate of Tax Imposed on Married Couples Solely on  
Income Earned in this State.**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative LEMONT of Kittery.  
Cosponsored by Representatives: ANDREWS of York, BOWLES of Sanford, COLLINS of  
Wells, MacDOUGALL of North Berwick, MURPHY of Berwick, Senator: MacKINNON of  
York.

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

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4       **Sec. 1. 36 MRSA §5111, first ¶**, as repealed and placed by PL 1989, c. 495, §1 and affected by c. 596, Pt. J, §7, is amended to read:

6  
8       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 nonresident individual that is derived from sources within this State. The amount of the tax is to be determined as follows.

12       **Sec. 2. 36 MRSA §§5147 to 5151** are enacted to read:

14       **§5147. Nonresident individual; taxable income**

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

22       **§5148. Married persons**

24       **1. Separate federal return.** If the federal taxable income of married persons, both nonresident individuals, is determined on separate federal returns, their taxable incomes in this State must be separately determined.

30       **2. Joint federal return.** If the federal taxable income of married persons, both nonresident individuals, is determined on a joint federal return, their tax must be determined in this State on their joint taxable income.

34       **3. One spouse a nonresident individual.** If one married person is a nonresident individual and the other a resident individual, 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.

46       **§5149. Standard deduction; nonresident individual**

48       The standard deduction of a nonresident individual or of married persons who are nonresident individuals filing a joint

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

10 **5150. Itemized deductions**

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

18 **§5151. Personal exemptions**

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

25 **Sec. 3. 36 MRSA §5192, sub-§2, as amended by PL 1985, c. 783,**  
26 **§32, is further amended to read:**

27 **2. Itemized deductions.** If a nonresident partner of any  
28 partnership elects to itemize his deductions in determining his  
29 tax-liability-to taxable income in this State, there shall-be is  
30 attributed to him-his the nonresident partner the distributive  
31 share of partnership items of deduction from federal adjusted  
32 gross income that are deductible by the nonresident partner under  
33 section 5150.

34 **Sec. 4. 36 MRSA §5218-A is enacted to read:**

35 **§5218-A. Child care credit**

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

2           **Sec. 5. 36 MRSA §5221, sub-§1, ¶C**, as amended by PL 1985, c.  
783, §39, is further amended to read:

4           C. ~~Except as provided in subsection 2, if~~ If the federal  
6           income tax liabilities of ~~husband and wife~~ married persons,  
8           ~~other than married persons described in subsection 2,~~ are  
determined on a joint federal return, they shall file a  
joint return under this Part and their tax liabilities shall  
be are joint and several; and

10           **Sec. 6. 36 MRSA §5221, sub-§2**, as repealed and replaced by PL  
12           1985, c. 783, §40, is repealed and the following enacted in its  
14           place:

16           2. One spouse a nonresident individual. If one married  
18           person is a resident individual and the other is a nonresident  
20           individual, each individual shall file separate income tax  
22           returns in this State on such forms as may be required by the  
assessor, in which event the tax liabilities for each individual  
are separate; but both individuals may elect to determine their  
joint taxable income as if they both were resident individuals  
and, in such case, their liabilities are joint and several.

24           **Sec. 7. 36 MRSA §5224-A**, as amended by PL 1989, c. 596, Pt.  
J, §5, is repealed.

26           **Sec. 8. Application.** This Act applies to tax years beginning  
28           on or after January 1, 2001.

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## SUMMARY

34           Current law requires the spousal income of nonresident  
36           taxpayers to be included in the determination of the applicable  
tax rate to compute tax liability.

38           Under this bill, the tax liability is based only on income  
40           earned in Maine by a resident or nonresident spouse. No tax  
42           liability would be incurred on income earned outside of Maine by  
a nonresident spouse filing a joint return.