

# MAINE STATE LEGISLATURE

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11 of 11

L.D. 1571

DATE: 5-16-03

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TAXATION

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 530, L.D. 1571, Bill, "An Act Concerning Technical Changes to the Tax Laws"

Amend the bill by striking out all of sections 1 to 3.

Further amend the bill by inserting after section 7 the following:

'Sec. 8. 36 MRSA §191, sub-§3-A is enacted to read:

3-A. Additional restrictions for proprietary information provided to assessor. Information and materials provided in confidence to the assessor and used by the bureau for the purpose of preparing legislation or legislative analysis, including the preparation of fiscal estimates for the Office of Fiscal and Program Review, are to be accorded the same confidentiality as established by this section for tax information.'

Further amend the bill by inserting after section 11 the following:

'Sec. 12. 36 MRSA §1760, sub-§23-C, ¶A, as enacted by PL 1999, c. 759, §2 and affected by §5, is amended to read:

A. Motor vehicles, except automobiles rented for a period of less than one year, all-terrain vehicles as defined in Title 12, section 7851 and snowmobiles as defined in Title 12, section 7821;'

COMMITTEE AMENDMENT

2 Further amend the bill by striking out all of section 13.

4 Further amend the bill by striking out all of sections 24 to  
26.

6 Further amend the bill by inserting after section 32 the  
8 following:

10 'Sec. 33. 36 MRSA §5122, sub-§1, ¶D, as amended by PL 1983, c.  
12 855, §15, is further amended to read:

14 D. ~~-The-~~ For income tax years beginning before January 1,  
16 2002, the amount of any net operating loss in the taxable  
18 year which that has been carried back to previous years  
pursuant to the United-States-Internal-Revenue Code, Section  
172;'

20 Further amend the bill by inserting after section 35 the  
22 following:

24 'Sec. 36. 36 MRSA §5122, sub-§2, ¶H, as amended by PL 2001, c.  
26 559, Pt. J, §2, is further amended to read:

28 H. For each taxable year subsequent to the year of the  
30 loss, an amount equal to the absolute value of the net  
32 operating loss arising from tax years beginning on or after  
34 January 1, 1989, but before January 1, 1993, and the  
36 absolute value of the amount of any net operating loss  
arising from tax years beginning on or after January 1,  
2002, for which federal adjusted gross income was increased  
in accordance with subsection 1, paragraph H and that  
pursuant to the Code, Section 172 was carried back for  
federal income tax purposes, less the absolute value of loss  
used in the taxable year of loss to offset any addition  
modification required by subsection 1, but only to the  
extent that:

38 (1) Maine taxable income is not reduced below zero;

40 (2) The taxable year is within the allowable federal  
42 period for carry-over; and

44 (3) The amount has not been previously used as a  
46 modification pursuant to this subsection;'

48 Further amend the bill by striking out all of sections 37  
and 38.

50 Further amend the bill by striking out all of section 40.

2 Further amend the bill by inserting after section 43 the  
following:

4 'Sec. 44. 36 MRSA §5200-A, sub-§1, ¶B, as amended by PL 1987,  
6 c. 504, §18, is further amended to read:

8 B. ~~-The-~~ For income tax years beginning before January 1,  
10 2002, the amount of any net operating loss in the taxable  
12 year which that has been carried back to previous taxable  
years pursuant to the Code, Section 172;'

14 Further amend the bill by striking out all of sections 49  
and 50 and inserting in their place the following:

16 'Sec. 49. 36 MRSA §5200-A, sub-§2, ¶H, as amended by PL 2001,  
18 c. 559, Pt. J, §4, is further amended to read:

20 H. For each taxable year subsequent to the year of the  
22 loss, an amount equal to the absolute value of the net  
24 operating loss arising from tax years beginning on or after  
26 January 1, 1989 but before January 1, 1993 and the absolute  
28 value of the amount of any net operating loss arising from  
tax years beginning on or after January 1, 2002 that,  
pursuant to the Code, Section 172, was carried back for  
federal income tax purposes, less the absolute value of loss  
used in the taxable year of loss to offset any addition  
modification required by subsection 1, but only to the  
extent that:

30 (1) Maine taxable income is not reduced below zero;

32 (2) The taxable year is within the allowable federal  
34 period for carry-over; and

36 (3) The amount has not been previously used as a  
38 modification pursuant to this subsection;

40 'Sec. 50. 36 MRSA §5200-A, sub-§2, ¶J, as amended by PL 2001, c.  
559, Pt. GG, §16 and affected by §26, is further amended to read:

42 J. An amount equal to an income tax refund to the taxpayer  
44 by this State or another state of the United States that is  
46 included in that taxpayer's federal taxable income for the  
taxable year under the Code, but only to the extent that:

48 (1) Maine net income is not reduced below zero; and

2 (2) The amount to be refunded from this State or  
3 another state of the United States has not been  
4 previously used as a modification pursuant to this  
subsection.

6 If this modification amount results in Maine net income that  
7 is less than zero for the taxable year, the excess negative  
8 modification amount may be carried ~~back-or~~ forward in the  
9 same manner as a net operating loss deduction ~~carry-back-or~~  
10 ~~carry-forward~~ to a taxable year that is within the allowable  
11 federal period for ~~a-carry-back-or-carry-forward~~ carrying  
12 forward net operating losses, subject to the above  
13 limitations;'

14 Further amend the bill by striking out all of section 57.

16 Further amend the bill by inserting after section 58 the  
17 following:

20 'Sec. 59. Application. Those sections of this Act that amend  
21 the Maine Revised Statutes, Title 36, section 5122, subsection 1,  
22 paragraph D and subsection 2, paragraph H and section 5200-A,  
23 subsection 1, paragraph B and subsection 2, paragraphs H and J  
24 apply to tax years beginning on or after January 1, 2002.'

26 Further amend the bill by relettering or renumbering any  
27 nonconsecutive Part letter or section number to read  
28 consecutively.

30

32 **SUMMARY**

34 This amendment makes the following changes to the bill.

36 1. It removes the provision that established specific  
37 statutory authority and procedures for the State Tax Assessor to  
38 accept protective claims for refund.

40 2. It removes the provision that clarified that a taxpayer  
41 who fails to file a timely request for administrative review of a  
42 denial of a tax refund claim forfeits the right to seek review of  
43 the denial in Superior Court and that the taxpayer can not submit  
44 reiterative claims for the same refund.

46 3. It provides confidentiality protection to information  
47 provided to the State Tax Assessor and used for preparing  
48 legislation or legislative analysis.

2 4. It clarifies that the sales tax exemption for motor  
vehicles leased to nonresidents does not apply to short-term  
4 rentals of automobiles to nonresidents. This change corrects an  
apparent oversight in the drafting of statutory changes enacted  
in 2002.

6  
8 5. It removes a provision designed to correct a conflict  
between the Maine Revised Statutes, Title 36, sections 1861-A and  
1951-A regarding an individual's use tax responsibility to the  
10 State because the correction is being made in another bill.

12 6. It removes a provision regarding administrative  
requirements pertaining to the sale of a controlling interest in  
14 real property in the real estate transfer tax law.

16 7. It limits the requirement to add back net operating  
losses that have been carried back to previous years for federal  
18 income tax purposes to tax years beginning before January 1,  
2002, consistent with other recent changes in Maine's treatment  
20 of federal net operating loss deductions.

22 8. It eliminates the provision allowing a negative  
modification amount attributable to subtraction of a state income  
24 tax refund to be carried back to prior years. The negative  
modification will still be available in carry-forward years.  
26 This change is consistent with statutory changes made in 2002  
disallowing the use of federal net operating loss carry-backs.

28  
30 9. It removes a definition of "primary recipient" for  
purposes of the pension income deduction.

32 10. It removes provisions designed to clarify the language  
of Title 36, section 5124-A because they are no longer needed.

34  
36 11. It removes a provision designed to clarify that the  
credit for income tax paid to another taxing jurisdiction is  
38 limited to tax paid with respect to income that Maine recognizes  
as being derived from sources in the other taxing jurisdiction.  
The changes conformed to current agency practice.

40  
42 12. It removes a provision designed to clarify the  
calculation of the credit for child care expenses by part-year  
44 residents. The changes conformed to current agency practice.

46 13. It removes a provision that amends the business  
equipment tax reimbursement statutes to provide that business  
equipment tax reimbursement is available, and limited to, a

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successor in interest that owns eligible business property on  
August 1st of the year in which a claim may be made.

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**FISCAL NOTE REQUIRED**  
(See attached)

**COMMITTEE AMENDMENT**

Approved: 05/15/03 *MAC*

**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 1571**

**An Act Concerning Technical Changes to the Tax Laws**



**LR 1977(02)**

**Fiscal Note for Bill as Amended by Committee Amendment 'A' 175**

**Committee: Taxation**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Minor cost increase - General Fund