

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 1240

H.P. 858

House of Representatives, March 10, 2005

### An Act To Change the Maine Income Tax Rates

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CRESSEY of Cornish.  
Cosponsored by Senator NASS of York and  
Representatives: AUSTIN of Gray, BIERMAN of Sorrento, BISHOP of Boothbay, HAMPER  
of Oxford, JACOBSEN of Waterboro, LANSLEY of Sabattus, McLEOD of Lee, Senator:  
ANDREWS of York.

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

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**Sec. 1. 1 MRSA §815, first ¶**, as enacted by PL 2001, c. 328, §2, is amended to read:

Notwithstanding any other provision of law, if an entity that has taken property by eminent domain fails to use the property for the project or purpose for which that property was taken, the condemnee or the condemnee's heirs have a right of first refusal to purchase the property as provided in this section. The right may be exercised at a price equal to the total compensation paid to the condemnee for the taking plus an adjustment for any improvements made to the property and for changes in inflation based upon the Consumer Price Index as ~~defined in Title 36, section 5402, subsection 1.~~ The right of first refusal automatically terminates once the property is used for the project or purpose for which that property was taken. The purpose of a taking may be passive in nature, including conservation or preservation. As used in this section, "Consumer Price Index" means the average over a 12-month period of the National Consumer Price Index, not seasonally adjusted, published monthly by the United States Department of Labor, Bureau of Labor Statistics and designated as the "National Consumer Price Index for All Urban Consumers - United States City Average."

**Sec. 2. 5 MRSA §1665, sub-§1**, as amended by PL 2003, c. 451, Pt. X, §9, is further amended to read:

**1. Expenditure and appropriation requirements.** On or before September 1st of the even-numbered years, all departments and other agencies of the State Government and corporations and associations receiving or desiring to receive state funds under the provisions of law shall prepare, in the manner prescribed by and on blanks furnished them by the State Budget Officer, and submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium contrasted with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year. The total General Fund appropriation requests submitted by each department and agency for each fiscal year may not exceed the General Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate. For purposes of this subsection, "average real personal income growth rate" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State for a calendar year, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for that calendar

2 year. For purposes of this subsection, "Consumer Price Index"  
3 ~~has the same meaning as in Title 36, section 5402, subsection 1~~  
4 means the average over a 12-month period of the National Consumer  
5 Price Index, not seasonally adjusted, published monthly by the  
6 United States Department of Labor, Bureau of Labor Statistics and  
7 designated as the "National Consumer Price Index for All Urban  
8 Consumers - United States City Average." The expenditure  
9 estimates shall must be classified to set forth the data by  
10 funds, organization units, character and objects of expenditure.  
11 The organization units may be subclassified by functions and  
12 activities, or in any other manner, at the discretion of the  
13 State Budget Officer.

14 **Sec. 3. 36 MRSA §3321, sub-§2**, as enacted by PL 2001, c. 688,  
15 §8, is amended to read:

16 **2. Method of calculation; inflation index defined.** The  
17 inflation index for 2003 is 1.118, representing annual inflation  
18 adjustments for the years 1999 to 2002, inclusive. Starting in  
19 2004 and every year thereafter, the inflation index is the  
20 Consumer Price Index ~~as defined in section 5402, subsection 1~~ for  
21 the calendar year ending on the December 31st immediately  
22 preceding the calculation date, divided by the Consumer Price  
23 Index for the prior calendar year. As used in this subsection,  
24 "Consumer Price Index" means the average over a 12-month period  
25 of the National Consumer Price Index, not seasonally adjusted,  
26 published monthly by the United States Department of Labor,  
27 Bureau of Labor Statistics and designated as the "National  
28 Consumer Price Index for All Urban Consumers - United States City  
29 Average."

30 **Sec. 4. 36 MRSA §5111**, as amended by PL 1999, c. 731, Pt. T,  
31 §§1 to 7, is repealed.

32 **Sec. 5. 36 MRSA §5111-A**, as repealed and replaced by PL 1987,  
33 c. 819, §3, is repealed.

34 **Sec. 6. 36 MRSA §5111-C** is enacted to read:

35 **§5111-C. Imposition and rate of tax**

36 **1. Resident.** A tax is imposed for each taxable year  
37 beginning on or after January 1, 2006 on the Maine taxable income  
38 of every resident individual of this State. If Maine taxable  
39 income is:

40 **A. Less than the federal poverty level, the tax is \$0;**

- 2           B. At least the federal poverty level but less than  
3           \$50,000, the tax is 1%;
- 4           C. At least \$50,000 but less than \$100,000, the tax is 5%;
- 6           D. At least \$100,000 but less than \$1,000,000, the tax is  
7           8%; and
- 8           E. One million dollars or more, the tax is 10%.

10           For purposes of this subsection, "federal poverty level" means  
11           the nonfarm income official poverty line for a family of the size  
12           involved, as defined by the federal Office of Management and  
13           Budget and revised annually in accordance with the United States  
14           Omnibus Budget Reconciliation Act of 1981, Section 673,  
15           Subsection 2.

18           2. Additional tax. Additionally, a tax is imposed for each  
19           taxable year beginning on or after January 1, 1989 on the Maine  
20           adjusted gross income of every nonresident individual. The  
21           amount of the tax equals the tax computed under this section and  
22           chapter 805, as if the nonresident were a resident, multiplied by  
23           the ratio of the individual's Maine adjusted gross income, as  
24           defined in section 5102, subsection 1-C, paragraph B, to the  
25           nonresident's entire federal adjusted gross income as modified by  
26           section 5122.

28           **Sec. 7. 36 MRSA §5122, sub-§2, ¶T,** as amended by PL 2003, c.  
29           705, §12 and affected by §14, is further amended to read:

30           T. For income tax years beginning on or after January 1,  
31           2002 and before January 1, 2004, an amount equal to the  
32           total premiums spent for long-term care insurance policies  
33           certified under Title 24-A, section 5075-A as long as the  
34           amount subtracted is reduced by the long-term care premiums  
35           claimed as an itemized deduction pursuant to section 5125.

38           For income tax years beginning on or after January 1, 2004,  
39           an amount equal to the total premiums spent for qualified  
40           long-term care insurance contracts certified under Title  
41           24-A, section 5075-A, as long as the amount subtracted is  
42           reduced by any amount claimed as a deduction for federal  
43           income tax purposes in accordance with the Code, Section  
44           162(1) ~~and-by-the-long-term-care-premiums-claimed-as-an~~  
45           ~~itemized-deduction-pursuant-to-section-5125.~~

46           **Sec. 8. 36 MRSA §5124-A,** as amended by PL 2003, c. 479, §4,  
47           is repealed.

2           **Sec. 9. 36 MRSA §5125**, as amended by PL 2003, c. 390, §34, is  
repealed.

4           **Sec. 10. 36 MRSA §5126**, as amended by PL 2001, c. 583, §16,  
is repealed.

6           **Sec. 11. 36 MRSA §5160**, as amended by PL 2003, c. 390, §35,  
8 is further amended to read:

10       **§5160. Imposition of tax**

12           The tax is imposed, at the rates provided by section ~~5111~~  
14 5111-C for single individuals, upon the Maine taxable income of  
estates and trusts. The tax must be paid by the fiduciary.

16           **Sec. 12. 36 MRSA §5203-C, sub-§1, ¶¶F, G and H**, as enacted by  
18 PL 2003, c. 673, Pt. JJ, §3 and affected by §6, are amended to  
read:

20           F. "Regular income tax" means:

22               (1) For resident individuals, estates and trusts, the  
24 amount derived by multiplying the applicable tax rate  
or rates by taxable income under section 5121 or 5163;

26               (2) For nonresident individuals, estates and trusts,  
28 the amount derived by multiplying the applicable tax  
rate or rates by taxable income under section 5121 or  
30 5175, the result of which is adjusted for nonresident  
individuals in accordance with section ~~5111~~ 5111-C,  
32 subsection -4- 2; or

34               (3) For taxable corporations, the amount derived by  
multiplying the applicable tax rate or rates against  
36 Maine net income under section 5102, subsection 8.

38           G. "Tentative alternative minimum taxable income" means  
federal alternative minimum taxable income:

40               (1) Reduced by income that states are prohibited under  
42 federal law from subjecting to income tax to the extent  
included in federal alternative minimum taxable income;

44               (2) Reduced by income, loss or deductions by which the  
46 State decreases federal adjusted gross income in the  
case of individuals or federal taxable income in the  
48 case of corporations, estates and trusts under section  
~~5122, section 5125, subsection 3 or section~~ 5164, 5176  
or 5200-A or as otherwise indicated by law to the

2 extent included in federal alternative minimum taxable  
income; and

4 (3) Increased by income, loss or deductions by which  
6 the State increases federal adjusted gross income in  
the case of individuals or federal taxable income in  
8 the case of corporations, estates and trusts under  
section 5122, ~~section 5125, subsection 3 or section~~  
10 5164, 5176 or 5200-A or as otherwise indicated by law  
to the extent not included in federal alternative  
12 minimum taxable income.

14 H. "Tentative minimum tax" means:

16 (1) Except as provided in subparagraph (2), in the  
18 case of a taxpayer other than a taxable corporation,  
the sum of:

20 (a) An amount equal to 7% of so much of the  
alternative minimum taxable income as does not  
22 exceed \$175,000; plus

24 (b) An amount equal to 7.6% percent of so much of  
the alternative minimum taxable income as exceeds  
26 \$175,000.

28 For a nonresident individual, the tentative minimum tax  
must be adjusted in accordance with section ~~5111~~  
30 5111-C, subsection -4- 2.

32 (2) In the case of a married individual filing a  
separate return, the sum of:

34 (a) An amount equal to 7% of so much of the  
alternative minimum taxable income as does not  
36 exceed \$87,500; plus

38 (b) An amount equal to 7.6% percent of so much of  
the alternative minimum taxable income as exceeds  
40 \$87,500.

42 For a nonresident individual, the tentative minimum tax  
must be adjusted in accordance with section ~~5111~~  
44 5111-C, subsection -4- 2.

46 (3) In the case of a taxable corporation, the  
tentative minimum tax for the taxable year is 5.4% of  
48 the alternative minimum taxable income.

2           **Sec. 13. 36 MRSA §5216-C, sub-§1**, as enacted by PL 1999, c.  
475, §6 and affected by §7, is amended to read:

4           **1. Credit allowed.** A taxpayer who contributes to a family  
6 development account reserve fund as defined in Title 10, section  
1075 is allowed a credit against the tax imposed by this Part  
equal to the lower of:

8           A. Twenty-five thousand dollars; or

10           B. Fifty percent of the amount contributed by the taxpayer.

12           Only one credit may be claimed on each annual income tax return  
14 regardless of filing status. The credit allowed under this  
section may not reduce the tax to less than 0 and must be applied  
16 after allowance for all other eligible credits. ~~A taxpayer who  
18 claims a credit under this section may not claim an itemized  
charitable deduction under section 5125 for the amount of the  
contribution that qualified for the credit.~~

20           **Sec. 14. 36 MRSA §5224-A**, as amended by PL 1989, c. 596, Pt.  
22 J, §5, is further amended to read:

24           **§5224-A. Return of part-year resident**

26           If an individual changes that individual's status as a  
28 resident individual or nonresident individual during the taxable  
year, the individual shall file a nonresident return pursuant to  
section 5220, subsection 2. That individual's tax shall must be  
30 computed, pursuant to section ~~5111~~ 5111-C, subsection -4- 2, as  
if that individual were a nonresident individual, except that the  
32 numerator of the apportionment ratio ~~shall--be--comprised--of~~  
comprises the individual's Maine adjusted gross income, as  
34 defined in section 5102, subsection 1-C, paragraph A, for the  
portion of the taxable year during which that individual was a  
36 resident, plus that individual's Maine adjusted gross income, as  
defined in section 5102, subsection 1-C, paragraph B, for the  
38 portion of the taxable year during which that individual was a  
nonresident. The part-year resident ~~shall~~ is also be entitled to  
40 the credit provided by section 5217-A, computed as if the  
individual's Maine adjusted gross income for the entire year ~~were~~  
42 comprised only ~~of~~ that portion ~~which~~ that is attributed to the  
portion of the year during which that individual was a resident.

44           **Sec. 15. 36 MRSA §5250, sub-§2**, as amended by PL 1997, c. 668,  
46 §§36 and 37, is repealed.

48           **Sec. 16. 36 MRSA §5275, first ¶**, as enacted by P&SL 1969, c.  
154, §F, is amended to read:



2 In addition to any other penalty provided by law, an  
3 individual is liable for a penalty of \$50 for each such statement  
4 if any that individual in claiming a withholding allowance states:

6 **Sec. 17. 36 MRSA §5275, sub-§1**, as enacted by P&SL 1969, c.  
7 154, §F, is amended to read:

8  
9 **1. An amount less than wages.** As the amount of the wages  
10 shown on ~~his~~ that individual's return for any taxable year an  
11 amount less than such wages actually shown, ~~or unless:~~

12 A. Such statement did not result in a decrease in the  
13 amounts deducted and withheld; or

14  
15 B. The taxes imposed with respect to the individual under  
16 this Part for the succeeding taxable year do not exceed the  
17 sum of the payments of estimated tax that are considered  
18 payments on account of such taxes.

19  
20 **Sec. 18. 36 MRSA §5275, sub-§2**, as amended by PL 1979, c. 378,  
21 §44, is repealed.

22  
23 **Sec. 19. 36 MRSA c. 841.** as amended, is repealed.

24  
25 **Sec. 20. Application.** This Act applies to tax years beginning  
26 on or after January 1, 2006.

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28  
29 **SUMMARY**

30  
31 This bill repeals the existing graduated income tax rates  
32 and provides for graduated tax rates based on a percentage  
33 without any deductions or personal exemptions. Income below the  
34 federal poverty level is exempt from the income tax.

35  
36 The tax rates are 1% for income less than \$50,000; income of  
37 at least \$50,000 but less than \$100,000 is taxed at 5%; income of  
38 at least \$100,000 but less than \$1,000,000 is taxed at 8%; and  
39 income of \$1,000,000 or more is taxed at 10%.  
40