

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 900

S.P. 288

February 28, 2007

### An Act To Reduce the Capital Gains Tax

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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 TURNER of Cumberland.  
Cosponsored by Representative: MILLS of Farmington.

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

2 **PART A**

3 **Sec. A-1. 36 MRSA §5122, sub-§2, ¶Y** is enacted to read:

4 Y. For income tax years beginning on January 1, 2007, to the extent included in  
5 federal adjusted gross income, an amount equal to 22.5% of the net positive long-  
6 term capital gain. For income tax years beginning on or after January 1, 2008, to the  
7 extent included in federal adjusted gross income, an amount equal to 45% of the net  
8 positive long-term capital gain.

9 **Sec. A-2. 36 MRSA §5200-A, sub-§2, ¶R** is enacted to read:

10 R. For income tax years beginning on January 1, 2007, to the extent included in  
11 federal adjusted gross income, an amount equal to 22.5% of the net positive long-  
12 term capital gain. For income tax years beginning on or after January 1, 2008, to the  
13 extent included in federal adjusted gross income, an amount equal to 45% of the net  
14 positive long-term capital gain.

15 **PART B**

16 **Sec. B-1. 36 MRSA §4365, first ¶,** as amended by PL 2005, c. 457, Pt. AA, §1  
17 and affected by §8, is further amended to read:

18 A tax is imposed on all cigarettes imported into this State or held in this State by any  
19 person for sale at the rate of ~~400~~ 150 mills for each cigarette. Payment of the tax is  
20 evidenced by the affixing of stamps to the packages containing the cigarettes.

21 **Sec. B-2. 36 MRSA §4365-F,** as enacted by PL 2005, c. 457, Pt. AA, §3 and  
22 affected by §8, is repealed.

23 **Sec. B-3. 36 MRSA §4365-G** is enacted to read:

24 **§4365-G. Application of cigarette tax rate increase effective October 1, 2007**

25 The following provisions apply to cigarettes held for resale on October 1, 2007.

26 **1. Stamped rate.** Cigarettes stamped at the rate of 100 mills per cigarette and held  
27 for resale after September 30, 2007 are subject to tax at the rate of 150 mills per cigarette.

28 **2. Liability.** A person possessing cigarettes for resale is liable for the difference  
29 between the tax rate of 150 mills per cigarette and the tax rate of 100 mills per cigarette in  
30 effect before October 1, 2007. Stamps indicating payment of the tax imposed by this  
31 section must be affixed to all packages of cigarettes held for resale as of October 1, 2007,  
32 except that cigarettes held in vending machines as of that date do not require that stamp.

33 **3. Vending machines.** Notwithstanding any other provision of this chapter, it is  
34 presumed that all cigarette vending machines are filled to capacity on October 1, 2007  
35 and the tax imposed by this section must be reported on that basis. A credit against this

1 inventory tax must be allowed for cigarettes stamped at the rate of 150 mills per cigarette  
2 placed in vending machines before October 1, 2007.

3 **4. Payment.** Payment of the tax imposed by this section must be made to the  
4 assessor by October 1, 2007, accompanied by forms prescribed by the assessor.

5 **Sec. B-4. 36 MRSA §4366-A, sub-§2, ¶C,** as amended by PL 2005, c. 457, Pt.  
6 AA, §4 and affected by §8, is further amended to read:

7 C. For stamps at the face value of 50 mills sold on or after July 1, 2002, 2.03%; ~~and~~

8 **Sec. B-5. 36 MRSA §4366-A, sub-§2, ¶D,** as enacted by PL 2005, c. 457, Pt.  
9 AA, §5 and affected by §8, is amended to read:

10 D. For stamps at the face value of 100 mills sold prior to October 1, 2007, 1.15%;  
11 and

12 **Sec. B-6. 36 MRSA §4366-A, sub-§2, ¶E** is enacted to read:

13 E. For stamps at the face value of 150 mills, 0.82%.

14 **Sec. B-7. 36 MRSA §4403, sub-§1,** as amended by PL 2005, c. 627, §8, is  
15 further amended to read:

16 **1. Smokeless tobacco.** A tax is imposed on all smokeless tobacco, including  
17 chewing tobacco and snuff, at the rate of ~~78%~~ 117% of the wholesale sales price  
18 beginning ~~October 1, 2005~~ October 1, 2007.

19 **Sec. B-8. 36 MRSA §4403, sub-§2,** as amended by PL 2005, c. 627, §8, is  
20 further amended to read:

21 **2. Other tobacco.** A tax is imposed on cigars, pipe tobacco and other tobacco  
22 intended for smoking at the rate of ~~20%~~ 30% of the wholesale sales price beginning  
23 ~~October 1, 2005~~ October 1, 2007.

24 **Sec. B-9. Effective date.** Those sections of this Part that amend the Maine  
25 Revised Statutes, Title 36, sections 4365 and 4403; that repeal Title 36, section 4365-F;  
26 and that enact Title 36, section 4365-G and section 4366-A, subsection 2, paragraph E  
27 take effect October 1, 2007.

28

## SUMMARY

29 This bill removes a portion of net positive long-term capital gains from income for  
30 the purposes of calculating income tax liability. This bill also increases the cigarette tax  
31 by \$1.00 per pack, increases the tobacco products tax on smokeless tobacco from 78% to  
32 117% of the wholesale sales price and increases the tax on other tobacco products from  
33 20% to 30% of the wholesale sales price.