

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 784

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H.P. 564

House of Representatives, March 2, 2017

### An Act To Prevent Tax Haven Abuse

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative TIPPING of Orono.  
Cosponsored by Senator JACKSON of Aroostook and  
Representatives: BERRY of Bowdoinham, DAUGHTRY of Brunswick, DEVIN of Newcastle,  
HAMANN of South Portland, MARTIN of Eagle Lake, MOONEN of Portland, RYKERSON  
of Kittery, TEPLER of Topsham.

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

2 **Sec. 1. 36 MRSA §5200, sub-§5**, as enacted by PL 2005, c. 457, Pt. FFF, §1 and  
3 affected by §2, is repealed and the following enacted in its place:

4 **5. Net income.** For purposes of this section, "net income" means for any taxable  
5 year the total of the following as modified by section 5200-A:

6 A. The taxable income of the taxpayer for that taxable year under the laws of the  
7 United States; and

8 B. The taxable income or loss of any corporation that is a member of a unitary group  
9 and that is incorporated in any of the following jurisdictions: the Principality of  
10 Andorra, Anguilla, Antigua and Barbuda, Aruba, the Commonwealth of the  
11 Bahamas, the Kingdom of Bahrain, Barbados, Belize, Bermuda, the British Virgin  
12 Islands, the Cayman Islands, the Cook Islands, the Republic of Cyprus, the  
13 Commonwealth of Dominica, Gibraltar, Grenada, the Bailiwick of Guernsey, the Isle  
14 of Man, the Bailiwick of Jersey, the Republic of Liberia, the Principality of  
15 Liechtenstein, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic  
16 of the Marshall Islands, the Republic of Mauritius, the Principality of Monaco,  
17 Montserrat, the Republic of Nauru, the Caribbean Netherlands, Niue, the Independent  
18 State of Samoa, the Republic of San Marino, the Republic of Seychelles, the  
19 Federation of St. Christopher and Nevis, St. Lucia, St. Vincent and the Grenadines,  
20 the Turks and Caicos Islands, the United States Virgin Islands and the Republic of  
21 Vanuatu.

22 The State Tax Assessor shall review annually the list of jurisdictions in paragraph B and  
23 report to the joint standing committee of the Legislature having jurisdiction over taxation  
24 matters whether any jurisdictions should be added to or deleted from the list based on  
25 whether the jurisdiction taxes no or only nominal income, the jurisdiction lacks effective  
26 exchange of information with other taxing authorities, the jurisdiction lacks governmental  
27 transparency and the jurisdiction protects business with no substantial activity.

28 **Sec. 2. Rules.** The State Tax Assessor shall adopt rules to determine the income or  
29 loss for a corporation that is a member of a unitary group that is not otherwise required to  
30 file a consolidated federal return and to prevent double taxation or double deduction of  
31 any amount included in the computation of net income under the Maine Revised Statutes,  
32 Title 36, section 5200, subsection 5. Rules adopted pursuant to this section are major  
33 substantive rules as described in Title 5, chapter 375, subchapter 2-A.

34 **Sec. 3. Application.** This Act applies to tax years beginning on or after January 1,  
35 2018.

## 36 SUMMARY

37 This bill requires corporations that file unitary income tax returns in Maine to include  
38 income from certain jurisdictions outside the United States in net income when  
39 apportioning income among tax jurisdictions. The State Tax Assessor is required to  
40 adopt major substantive rules to determine the income or loss attributable to such

1 corporations and to prevent double taxation or deduction of income and to submit an  
2 annual report to the joint standing committee of the Legislature having jurisdiction over  
3 taxation matters regarding whether jurisdictions should be added to or deleted from the  
4 list of tax havens based on specified criteria.