

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 403

H.P. 312

House of Representatives, January 29, 2019

An Act To Prevent Tax Haven Abuse

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 President JACKSON of Aroostook and
Representatives: CUDDY of Winterport, GATTINE of Westbrook, MOONEN of Portland,
PIERCE of Falmouth, TEPLER of Topsham, Senators: BREEN of Cumberland, LIBBY of
Androscoggin.

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3 affected by §2, is repealed and the following enacted in its place: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 2020.

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. The assessor is
2 required to submit an annual report to the joint standing committee of the Legislature
3 having jurisdiction over taxation matters regarding whether jurisdictions should be added
4 to or deleted from the list of tax havens based on specified criteria.