

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Transmitted by Director of Legislative Research pursuant to joint order.

N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 1255

H. P. 1676

House of Representatives, March 30, 1951.

Referred to the Committee on Taxation, sent up for concurrence and 1,000 copies ordered printed. Ordered sent forthwith.

HARVEY R. PEASE, Clerk

Presented by Mr. Rollins of Greenville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

**AN ACT Relating to Tax of Intangibles by Authority of Article XXXVI
of the Constitution of Maine.**

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

Sec. 1. R. S., c. 14, §§ 158-AA - 158-Z, additional. Chapter 14 of the revised statutes is hereby amended by adding thereto 26 new sections to be numbered 158-AA to 158-Z, inclusive, to read as follows:

'Tax of Intangibles

Sec. 158-AA. Purpose. Article XXXVI of the constitution of Maine, which was adopted on the 8th day of September, 1913, and which amended section 8 of Article IX of the constitution, bestowed upon the legislature the power "to levy a tax upon intangible personal property at such rate as it deems wise and equitable without regard to the rate applied to other classes of property." Sections 158-AA to 158-Z, inclusive, are intended to conform to the authority granted by Article XXXVI of the constitution.

Sec. 158-B. Rate. An annual tax upon incomes shall be assessed at the annual rate of 10 mills for each dollar of such assessed value, excepting polls, savings deposits in banks, and property specially taxed, for the year

in which the incomes taxed under the provisions of sections 158-AA to 158-Z, inclusive, are received.

Sec. 158-C. Who taxable. Taxable income is that received on intangible property during the calendar year prior to the assessment of the tax by:

I. Individuals who are inhabitants or residents of this state on January 1st in any year, and individuals who have ceased to be residents of this state during the preceding calendar year for such part of the year as they were residents in this state;

II. Partnerships, associations and trusts, the beneficial interest in which is not represented by transferable shares, and as hereinafter provided; and

III. Fiduciaries deriving their appointment from a court of this state, and as hereinafter provided.

Sec. 158-D. What taxable; exception; exemption. Income of the following described classes is taxable:

I. Interest from bonds, notes, money at interest, and from all debts due the person to be taxed, except interest from notes or bonds of this state, deposits in any savings bank, loan and building association, or savings department of any loan and trust company or national bank in this state or in those of any state which exempts from taxation the principal or income of deposits in such institutions in this state owned by residents of that state, and notes or bonds of any political subdivision of this state.

II. Dividends, other than stock dividends paid in new stock of the company issuing the same, on shares in all corporations and joint stock companies organized under the laws of any state, territory, or nation, except Maine state banks, trust companies, loan and building associations, or national banks.

Provided, however, that the provisions of sections 158-AA to 158-Z, inclusive, shall not apply to that proportion of each share of capital stock owned by a taxpayer, or of the dividends on such share of stock, which the corporation's property, both tangible and intangible and owned or used and taxed in Maine, is of the entire property of such corporation wherever located.

III. Dividends, other than stock dividends paid in new stock of the partnership, association or trust issuing the same, on shares in partner-

ships, associations or trusts, the beneficial interest in which is represented by transferable shares.

Provided, however, that \$400 of each income otherwise taxable shall be exempt from the provisions of sections 158-AA to 158-Z, inclusive.

Sec. 158-E. Pledged property. For the purposes of sections 158-AA to 158-Z, inclusive, any securities or property of the classes designated herein producing taxable income, held in pledge, or on margin, or otherwise as security for a debt of the owner, whether standing in the name of the owner or of any other person, shall be deemed the property of the owner, and the income arising therefrom shall be included in his total taxable income.

Sec. 158-F. Capital distribution. No distribution of capital, whether in liquidation or otherwise, shall be taxable as income, but accumulated profits shall not be regarded as capital.

Sec. 158-G. Non-taxable income. No tax shall be levied directly or indirectly under the provisions of sections 158-AA to 158-Z, inclusive, upon any income otherwise taxable hereunder, which is received and used by any educational, religious, charitable, or temperance organization incorporated or organized in this state, for the purposes for which it is established; provided that none of the income or profits of such organizations is divided among its stockholders or members or is used for purposes other than those for which it is established, or which is received by any trustee for the use of the state or any of its political subdivisions, or for the use of such organization for such purposes.

Sec. 158-H. Estates. The estates of deceased persons who last dwelt in this state shall be subject to the taxes imposed by sections 158-AA to 158-Z, inclusive, upon all taxable income received by such persons during their lifetime, which has not already been taxed. The income received by such estates during administration shall be taxable to the estate, except such proportion thereof as equals the proportion of the estate to be distributed to nontaxable persons or organizations. The state tax assessor and executors and administrators of estates may effect a settlement by compromise of any question of doubt or dispute arising under the provisions of this section.

Sec. 158-I. Trusts. The income received by estates held by trustees, any one of whom is an inhabitant of this state, or has derived his appointment from a court of this state, shall be subject to the taxes imposed by sections 158-AA to 158-Z, inclusive, to the extent that the persons to whom

the income from the trust is payable, or for whose benefit is accumulated, are inhabitants of this state.

Sec. 158-J. Accumulations. Income accumulated in trust for the benefit of unborn or unascertained persons shall be taxed as if accumulated for the benefit of inhabitants of this state.

Sec. 158-K. From non-resident trustees. If an inhabitant of this state received income from one or more trustees, none of whom is an inhabitant of this state or has derived his appointment from a court of this state, such income shall be subject to the taxes imposed by the provisions of sections 158-AA to 158-Z, inclusive, if it would be taxable to such inhabitant if received by him from its source.

Sec. 158-L. Guardians, etc. Sections 158-AA to 158-Z, inclusive, shall apply to guardians, conservators, trustees in bankruptcy, receivers and assignees for the benefit of creditors, so far as apt, to the taxable income received by them and to their beneficiaries, and to corporations acting as trustees or in any other fiduciary capacity.

Sec. 158-M. Partnerships; partners; members of partnership outside of state. Partnerships having a usual place of business in this state, any member of which is an inhabitant thereof, shall be subject to taxes imposed by sections 158-AA to 158-Z, inclusive. If any of the members of the partnership are not inhabitants of this state only so much of the income thereof as is proportionate to the aggregate interest of the partners who are inhabitants of this state in the profits of the partnerships shall be taxed.

The tax shall be assessed on such a partnership by the name under which it does business, and the partners shall not be taxed with respect to the taxable income derived by them from such a partnership.

An inhabitant of this state who is a member of a partnership having no usual place of business in this state, who receives income from such partnership derived from such a source that it would be taxable if received directly from such source by such partner, shall as to such income be subject to the taxes imposed by sections 158-AA to 158-Z, inclusive.

Sec. 158-N. Application of § 158-M. The provisions of section 158-M shall apply, so far as apt, to associations and trusts, but not to partnerships, associations and trusts the beneficial interest in which is represented by transferable shares.

Sec. 158-O. Returns. Returns of taxable income shall be made to the

state tax assessor in such form as he may prescribe on or before March 15th in every year, but the state tax assessor may extend such time for good cause. Selectmen and assessors are hereby authorized to administer the oath required on such returns.

Sec. 158-P. Inspection. Returns shall not be open to the inspection of any person excepting the state tax assessor and his deputies, assistants and clerks when acting under his authority, and to the state auditor and his deputies, assistants and clerks when acting under his authority; provided that a properly authorized representative of the federal income tax department may inspect such returns if reciprocal inspection of Maine returns in that department is permitted to the state tax assessor or his representative.

Sec. 158-Q. Disposal of papers. The state tax assessor may destroy any tax returns on file in his office for more than 4 years which, in his opinion, are no longer of any value to the state.

Sec. 158-R. Information. The state tax assessor shall, on the request of any inhabitant of the state, state the fact whether or not any person has filed an income tax return for the current or any prior year.

Sec. 158-S. Administration. The state tax assessor shall have the administration of sections 158-AA to 158-Z, inclusive, and shall have power to require the production of books, affidavits, papers and documents of all kinds and the appearance of any person, in the state, to determine the amount of any tax or to determine whether any tax has been evaded or any return falsified, in addition to the powers otherwise conferred upon said state tax assessor.

Sec. 158-T. Interest. All taxes shall be assessed as of January 1st, in each year, payable on October 1st to the state tax assessor. If taxes are not paid within 15 days of that date, interest at 10% from the due date shall be added.

Sec. 158-U. Warrants; collection. The state tax assessor may issue a warrant for the collection of any overdue tax to the tax collector of any town or city, who shall have the same remedies and the same fees for the collection of such taxes as are provided for by law for his collection of taxes on personal estate.

Sec. 158-V. Application for abatement; appeal; repayment. Any taxpayer aggrieved by the assessment of any tax under the provisions of sections 158-AA to 158-Z, inclusive, may apply to the state tax assessor for an abatement within 60 days after notice of the tax. If the abatement is not

granted by the state tax assessor, an appeal may be taken to the superior court within 60 days after notice of the decision of the state tax assessor, and the court shall have the same jurisdiction as provided for tax appeals. The treasurer of state, upon warrant from the state tax assessor or the court, shall repay to the taxpayer the amount of any abatement, with interest at 6%.

Sec. 158-W. Later assessment. If at any time within 5 years of the assessment date for any year the state tax assessor shall find that any taxpayer who did not file a return, or who filed a false or incorrect return, would have been liable to a tax, or to a greater tax than that imposed, the state tax assessor may, during such period, assess and collect such tax or such additional tax, with the penalties herein imposed.

Sec. 158-X. Distribution. The receipts of such taxes shall be distributed by the treasurer of state on December 31st of that year to the cities and towns where the owner of the taxable income resides, and, where the owner resides in an unorganized place, to the treasurer of the county in which such place is situated. Provided, however, that any interest and penalties collected thereon shall be credited to the general fund of the state.

Sec. 158-Y. Additional tax. If any taxpayer fails to file a return within the time prescribed, there shall be added to his tax \$5 for every day such default shall continue, but the state tax assessor may, in his discretion, abate the whole or any part of such additional tax for good cause.

Sec. 158-Z. Penalty. Whoever files a fraudulent return, and whoever, having failed to file a return or having filed an incorrect or insufficient return without reasonable excuse, fails to file a return within 20 days after receiving notice of such delinquency from the state tax assessor, shall be punished by a fine of not less than \$100, nor more than \$2,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.'

Sec. 2. Effective date. The provisions of sections 158-AA to 158-Z, inclusive, shall apply to income received subsequent to December 31, 1950.