

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

**SECOND SPECIAL SESSION**

September 25, 1981

AND

**THIRD SPECIAL SESSION**

December 9, 1981

AND

**SECOND REGULAR SESSION**

January 6, 1982 to April 13, 1982

AND AT THE

**FOURTH SPECIAL SESSION**

April 28, 1982 to April 29, 1982

AND AT THE

**FIFTH SPECIAL SESSION**

May 13, 1982

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co.  
Augusta, Maine  
1981

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND AND THIRD SPECIAL SESSIONS

and

SECOND REGULAR SESSION

and

FOURTH AND FIFTH SPECIAL SESSIONS

of the

ONE HUNDRED AND TENTH LEGISLATURE

1981

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Part B. This allocation of \$130,000 is the equivalent of the total deallocation in Part D.

Total Part E - Social services block grant \$130,000

**Emergency clause.** This Act shall become effective on July 1, 1982, except that Part A, section 29, and those sections in Part C which relate to the Food Stamp Program shall become effective on January 1, 1983.

Effective July 1, 1982, unless otherwise indicated.

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## CHAPTER 704

H.P. 2385 - L.D. 2147

### AN ACT Providing for Conformity with the Internal Revenue Code for Taxable Years Ending in 1982.

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

**Sec. 1.** 36 MRSA §5102, sub-§8, as last amended by PL 1979, c. 541, Pt. A, §230, is repealed and the following enacted in its place:

8. Maine net income. "Maine net income" means, for any taxable year for any corporate taxpayer, the taxable income of that taxpayer for that taxable year under the laws of the United States as modified by sections 5200-A and 5202-B and allocated or apportioned to this State under chapter 821.

**Sec. 2.** 36 MRSA §5102, sub-§8-B is enacted to read:

8-B. Maine net income. "Maine net income" means, for any taxable year for any corporate taxpayer, the taxable income of that taxpayer for that taxable year under the laws of the United States as modified by section 5200-A and allocated or apportioned to this State under chapter 821.

Sec. 3. 36 MRSA §5102, sub-§11, as last amended by PL 1981, c. 536, is further amended to read:

11. Other terms. Any other term used in this Part has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required. Any reference in this Part to the laws of the United States shall be construed as a reference to the provisions of the United States Internal Revenue Code of 1954, and amendments thereto and other provisions of the laws of the United States relating to federal income taxes as of December 31, 1980. This subsection shall be effective as to items of income, deductions, loss or gain accruing in taxable years ending on or after January 1, 1980 but only to the extent that those items have been earned, received, incurred or accrued on or after that effective date. ~~Except that~~ Notwithstanding other provisions of this subsection, for taxable years ending on or after January 1, 1981, but on or before December 31, 1981 in 1981 and 1982, any reference in this Part to the laws of the United States shall be construed as a reference to the provisions of the United States Internal Revenue Code of 1954, and amendments thereto and other provisions of the laws of the United States relating to federal income taxes as of December 31, 1981 for items of income, deductions, loss or gain earned, incurred or accrued within this period those taxable years.

Sec. 4. 36 MRSA §5200-A is enacted to read:

§5200-A. Modifications

1. Additions. The taxable income of the taxpayer under the laws of the United States shall be increased by:

A. The amount of any deduction for tax imposed by this Part or by the equivalent taxing statute of another state;

B. The amount of any net operating loss in the taxable year which has been carried back to previous taxable years pursuant to the United States Internal Revenue Code, Section 172;

C. The amount of any deduction claimed for the taxable year under the United States Internal Revenue Code, Section 172, which has previously been used to offset the modifications provided by this subsection;

D. For a taxable year ending in 1982, Subchapter S corporations excepted, the amount of deductions allowed for that taxable year to the taxpayer as the nominal

lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8), plus 18% of the remaining deductions allowed for that taxable year under the United States Internal Revenue Code, Sections 167 and 168; and

E. For a taxable year ending in 1982, Subchapter S corporations excepted, the amount of deductions allowed for that taxable year to the taxpayer as the nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8).

2. Subtractions. The taxable income of the taxpayer under the laws of the United States shall be decreased by:

A. Income which, under the laws of the United States, is exempt from taxation by states;

B. The amount added to income under the United States Internal Revenue Code, Section 78, foreign dividend gross-up;

C. An amount equal to the taxpayer's new jobs credit as determined under the laws of the United States; and

D. For each of the taxable years ending in 1983 through 1985, Subchapter S corporations excepted, 6% of the deductions allowed under the United States Internal Revenue Code, Sections 167 and 168 for the taxable year 1982, excluding the amount of deduction allowed for that taxable year to the nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8).

Sec. 5. 36 MRSA §5202-B is enacted to read:

§5202-B. Depreciation option

For its taxable year ending in 1982, a corporation may elect, in lieu of the accelerated cost recovery deduction provided by the United States Internal Revenue Code, Section 168, and the state modifications provided by section 5200-A, subsection 1, paragraph D or E, and subsection 2, paragraph D, to depreciate property placed in service during that taxable year in accordance with the United States Revenue Code, Section 167, in effect on December 31, 1980, provided that this election is made with regard to all such property and that the State Tax Assessor may refuse to allow any such deduction if he deems the information provided in substantiation of that deduction to be unsatisfactory in relation to generally accepted accounting procedures.

Sec. 6. 36 MRSA §5206, sub-§1, as amended by PL 1979, c. 587, §5, is further amended to read:

1. Rate. 4.95% of taxable income not in excess of \$25,000, plus 6.93% 1.98% of the taxable income in excess of \$25,000 attributable on or after January 1, 1978, provided that taxable income, for purposes of this subsection, shall be reduced by the amount of the corporation's or association's federal new jobs credit for tax years beginning on or after January 1, 1978; shall be reduced by the amount of the corporation's or association's credit for investment in the Maine Capital Corporation for tax years beginning on or after January 1, 1979; shall be increased, for the tax year ending in 1982, by the amount of deductions allowed for that tax year to the taxpayer as nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8), plus 18% of the remaining deductions allowed for that tax year under the United States Internal Revenue Code, Sections 167 and 168, shall be decreased, for each of the tax years ending in 1983 through 1985, by 6% of the deductions allowed under the United States Internal Revenue Code, Sections 167 and 168 for the taxpayer's tax year ending in 1982, excluding the amount of deductions allowed for that tax year to the nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8); and is reduced by the amount of the tax payable by the corporation or association for the taxable year under chapter 817.

Sec. 7. 36 MRSA §5206, sub-§2 is enacted to read:

2. Rate. 4.95% of taxable income, plus 1.98% of the taxable income in excess of \$25,000, provided that taxable income, for purposes of this subsection, shall be reduced by the amount of the corporation's or association's federal new jobs credit for tax years beginning on or after January 1, 1978; shall be reduced by the amount of the corporation's or association's credit for investment in the Maine Capital Corporation for tax years beginning on or after January 1, 1979; shall be increased, for the tax year ending in 1982, by the amount of deductions allowed for that tax year to the taxpayer as nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8); and is reduced by the amount of the tax payable by the corporation or association for the taxable year under chapter 817.

Sec. 8. 36 MRSA §5206-A is enacted to read:

§5206-A. Depreciation option

For its taxable year ending in 1982, a corporation or

association subject to tax under section 5206 may elect, in lieu of the accelerated cost recovery deduction provided by the United States Internal Revenue Code, Section 168, and the 18% add-back and 6% recovery of add-back provided by section 5206, subsection 1 or 2, to depreciate property placed in service during that taxable year in accordance with the United States Internal Revenue Code, Section 167, in effect on December 31, 1980, provided that this election is made with regard to all such property and that the State Tax Assessor may refuse to allow any such deduction if he deems the information provided in substantiation of that deduction to be unsatisfactory in relation to generally accepted accounting procedures.

**Sec. 9. Certification of sufficient revenue.** The State Budget Officer shall document and certify to the Legislature on December 1, 1982 whether or not there is sufficient unappropriated revenue available by an amount sufficient to fund the full federal conformity, with the exception of safe harbor lease benefits, as embodied by the Revised Statutes, Title 36, section 5102, subsection 8-B; section 5102, subsection 11; section 5200-A, subsection 1, paragraph E; and section 5206, subsection 2. In his certification process, he shall take into account all outstanding contingencies. If the excess revenues are not sufficient to provide full federal conformity, with the exception of safe harbor lease benefits, the Revised Statutes, Title 36, section 5102, subsection 8-B; section 5200-A, subsection 1, paragraph E; and section 5206, subsection 2, are repealed. If the excess revenues are sufficient to provide full federal conformity, with the exception of safe harbor lease benefits, the Revised Statutes, Title 36, section 5102, subsection 8; section 5200-A, subsection 1, paragraph D; section 5200-A, subsection 2, paragraph D; section 5202-B; section 5206, subsection 1; and section 5206-A, are repealed.

**Sec. 10. Effective date.** This Act shall be effective on December 1, 1982.

Effective December 1, 1982.

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