

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.

J.S. McCarthy Co.
Augusta, Maine
1981

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND AND THIRD SPECIAL SESSIONS

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FOURTH AND FIFTH SPECIAL SESSIONS

of the

ONE HUNDRED AND TENTH LEGISLATURE

1981

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1982-83

ENVIRONMENTAL PROTECTION,
DEPARTMENT OF

All Other \$30,000

Emergency clause. This Act shall take effect when approved except for Parts C, F, I, J, K, M, N, O, R, U and W which will become effective July 1, 1982; Part G which will become effective as designated in sections 17 and 18 of that Part; Part L which will become effective on January 6, 1983; and Part V which will become effective as designated in section 43 of that Part.

Effective May 4, 1982, unless otherwise indicated.

CHAPTER 706

H.P. 2406 - L.D. 2149

**AN ACT Providing for Administrative Changes
in the Maine Tax Laws.**

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

Sec. 1. 9-B MRSA §161, sub-§2, ¶H is enacted to read:

H. The making of reports to the State Tax Assessor required under Title 36, section 3851 and the examination of the financial records authorized by Title 36, section 112.

Sec. 2. 36 MRSA c. 2, as enacted by PL 1981, c. 312, is repealed.

Sec. 3. 36 MRSA §186, 4th sentence, as enacted by PL 1981, c. 180, §1, is repealed as follows:

The interest rate so determined shall also be the interest rate for the state's payment of interest on overpayments.

Sec. 4. 36 MRSA §186, as last amended by PL 1981, c. 364, §14, is further amended by adding at the end a new paragraph to read:

Except as otherwise provided in this Title, interest, at the rate determined by the State Tax Assessor for underpayments pursuant to this section, shall be paid from the date of overpayment upon any overpayment of tax, interest or penalty.

Sec. 5. 36 MRSA §576-B, first paragraph, 2nd sentence, as amended by PL 1977, c. 694, §680, is repealed.

Sec. 6. 36 MRSA §576-B, first paragraph, 3rd sentence, as enacted by PL 1977, c. 549, §5, is repealed.

Sec. 7. 36 MRSA §578, sub-§1, 6th paragraph, as enacted by PL 1981, c. 517, §11, is repealed and the following enacted in its place:

No municipality may receive a reimbursement payment under this section which would exceed an amount determined by calculating the tree growth tax loss less the municipal savings in educational costs attributable to reduced state valuation.

A. The tree growth tax loss is the adjusted tax that would have been assessed, but for this subchapter, on the classified forest lands if they were assessed according to the undeveloped acreage valuations used in the state valuation then in effect minus the tax that was actually assessed on the same lands in accordance with this subchapter.

In determining the adjusted tax that would have been assessed, the tax rate to be used is computed by adding the additional school support required by the modified state valuation attributable to the increased valuation of forest land to the original tax committed and dividing this sum by the modified total municipal valuation. The adjusted tax rate is then applied to the valuation of forest land based on the undeveloped acreage valuations, adjusted by the certified ratio, to determine the adjusted tax.

B. The municipal savings in educational costs is determined by multiplying the school subsidy index by the change in state valuation attributable to the use of the valuations determined in accordance with this

subchapter on classified forest lands rather than their valuation using the undeveloped acreage valuations used in the state valuation then in effect.

Sec. 8. 36 MRSA §578, sub-§2, as amended by PL 1973, c. 308, §8, is further amended to read:

2. Unorganized territory. The State Tax Assessor shall adjust the 100% valuation per acre for each type for each county by such ratio or percentage as is then being used to determine the state valuation applicable to other property in the unorganized territory to obtain the assessed values. Commencing April 1, 1973, forest land in the unorganized territory subject to taxation under this subchapter shall be taxed at the state same property tax rate ~~provided in section 451,~~ as is applicable to other property in the unorganized territory, which rate shall be applied to the assessed values so determined. If the April 1, 1973 total assessed valuation of forest lands under this subchapter for the entire unorganized territory is more than 10% less than the April 1, 1972 total assessed valuation of such forest lands for the entire unorganized territory, the State Tax Assessor shall adjust the April 1, 1973 assessed values of such forest lands proportionately back to a 10% aggregate change. Upon collection by the State Tax Assessor, such taxes shall be deposited in the General Fund Unorganized Territory Education and Services Fund in accordance with section 342 1605. The assessed values so determined shall be used in the 1973 State Valuation of the Unorganized Territory.

Sec. 9. 36 MRSA §579, first sentence, as repealed and replaced by PL 1979, c. 666, §16, is amended to read:

The owner or owners of forest land subject to valuation under this subchapter shall submit a signed schedule in duplicate, on or before April 1st of the year in which that land first becomes subject to valuation under this subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor, identifying the land to be valued hereunder, listing the number of acres of each forest type, showing the location of each forest type and representing that the land is used primarily for the growth of trees and forest products to be harvested for commercial use.

Sec. 10. 36 MRSA §707, sub-§1 is repealed.

Sec. 11. 36 MRSA §892, first sentence, as amended by PL 1977, c. 27, §7, is further amended to read:

Beginning with the first day of January, following the

date on which state taxes are levied, interest at $1/2\%$ per month or fraction thereof shall accrue on any unpaid balances that are then due.

Sec. 12. 36 MRSA §941, 6th ¶ is amended to read:

Any person interested in ~~said~~ the real estate may redeem ~~the same~~ it at any time within one year after ~~the its~~ sale thereof by the officer on ~~such~~ that execution by paying the amount for which it was sold with interest at the rate of ~~6%~~ 6% a year determined by the State Tax Assessor pursuant to section 186.

Sec. 13. 36 MRSA §1281, 2nd sentence, as amended by PL 1977, c. 509, §30-A, is repealed and the following enacted in its place:

Annually, on or before February 20th, the State Tax Assessor shall send by mail to the last known address of each owner of such real estate upon which taxes remain unpaid a notice in writing, containing a description of the real estate assessed, the amount of unpaid taxes and interest, and alleging that a lien is claimed on that real estate for payment of those taxes, interests and costs, with a demand that payment be made by the next March 1st.

Sec. 14. 36 MRSA §1281, 5th sentence, as amended by PL 1977, c. 509, §30-C, is repealed and the following enacted in its place:

If those taxes and interest to date of payment and costs are not paid by March 1st, the State Tax Assessor shall record by March 15th, in the registry of deeds of the county or registry district where the real estate lies, a certificate signed by him, setting forth the name or names of the owners according to the last state valuation, or the valuation established in accordance with section 1331; the description of the real estate assessed as contained in the last state valuation, or the valuation established in accordance with section 1331; the amount of unpaid taxes and interest; the amount of costs; and a statement that demand for payment of those taxes has been made, and that those taxes, interests and costs remain unpaid.

Sec. 15. 36 MRSA §1283, 2nd ¶, 4th sentence, is amended to read:

The State Tax Assessor shall ~~biennially~~ make a report annually to the Legislature not later than 15 days after ~~such~~ Legislature it convenes.

Sec. 16. 36 MRSA §1286, as amended by PL 1967, c. 271,

§11, is further amended to read:

§1286. Limitation on recovery of tax sold real estate in unorganized places

When the State has taxed real estate in unorganized territory, and the ~~Treasurer of State~~ State Tax Assessor has conveyed it, or part of it, for nonpayment of tax, by deed purporting to convey the interest of the State by forfeiture for such nonpayment, or it or a part of it has been conveyed under authority given by the Legislature by a deed purporting to convey the interest of the State acquired under sections 1281 to 1283, and the pertinent records of the ~~Treasurer of State or the State Tax Assessor~~ show that the grantee, his heirs or assigns, has paid the state and county taxes thereon, or on his acres or interest therein, as stated in the deed, continuously for the 20 years subsequent to such deed; and when a person claims under a recorded deed describing real estate in unorganized territory taxed by the State, and the pertinent records of the ~~Treasurer of State or the State Tax Assessor~~ show that he has, by himself or by his predecessors under ~~such that~~ deed, paid the state and county taxes thereon, or on his acres or interest therein as stated in the deed, continuously for 20 years subsequent to recording ~~such that~~ deed; and whenever, in either case, it appears that the person claiming under such a deed, and those under whom he claims, have, during ~~such that~~ period, held such exclusive, peaceable, continuous and adverse possession thereof as comports with the ordinary management of real estate in unorganized territory in this State, and it further appears that during such period no former owner, or person claiming under him, has paid any such tax, or any assessment by the county commissioners, or done any other act indicative of ownership, no action ~~shall~~ may be maintained by a former owner, or those claiming under him, to recover such real estate or to avoid such deed, unless commenced within said those 20 years. ~~Such That~~ payment shall give ~~such the~~ grantee or person claiming, his heirs or assigns, a right of entry and seizin in the whole, or such part, in common and undivided, of the whole tract as the deed states, or as the number of acres in the deed is to the number of acres assessed.

This section shall apply to rights and interests acquired under tax sales made by the ~~Treasurer of State~~ State Tax Assessor for the nonpayment of taxes.

Sec. 17. 36 MRSA §1331, first sentence, as repealed and replaced by PL 1977, c. 509, §31, is amended to read:

Supplemental assessments may be made within 5 3 years from the last assessment date whenever it is determined that

any estates in the unorganized territory liable to taxation have been omitted from assessment or any tax on estates is invalid or void by reason of illegality, error or irregularity in assessment.

Sec. 18. 36 MRSA §1481, sub-§5, first sentence, as repealed and replaced by PL 1977, c. 564, §132, is repealed and the following enacted in its place:

"Vehicle" means a motor vehicle, mobile home, camper trailer, heavier-than-air aircraft or lighter-than-air aircraft.

Sec. 19. 36 MRSA §1752, sub-§8 is repealed.

Sec. 20. 36 MRSA §1752, sub-§13 is amended to read:

13. Sale. "Sale" means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration in the regular course of business and includes leases and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts are deemed by the State Tax Assessor to be in lieu of purchase by the State Tax Assessor.

Sec. 21. 36 MRSA §1760, sub-§16, first sentence, as last amended by PL 1981, c. 502, is further amended to read:

Sales to incorporated hospitals, incorporated nonprofit nursing homes licensed by the Department of Human Services, incorporated nonprofit home health care agencies certified under Title XVIII of the Social Security Act of 1965 as amended, incorporated nonprofit rural community health centers engaged in, or providing facilities for, the delivery of comprehensive primary health care, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology or operating educational television or radio stations, schools and regularly organized churches or houses of religious worship, excepting sales, storage or use in activities which are mainly commercial enterprises.

Sec. 22. 36 MRSA §1811-A, as enacted by PL 1965, c. 196, §1, is amended to read:

§1811-A. Credit for worthless accounts

The tax paid on sales represented by accounts found to be worthless and actually charged off as worthless may be credited upon against the tax due on a subsequent report

filed within 3 years of the charge-off, but, if any such accounts are thereafter collected by the retailer, a tax shall be paid upon the amounts so collected. For the purpose of sections 1954 and 1955 such credit shall be considered as being required to be reported on or before the 15th day of the month following that in which the charge-off was made.

Sec. 23. 36 MRSA c. 217, as amended, is repealed.

Sec. 24. 36 MRSA §1925, as enacted by PL 1977, c. 316, §2, is repealed.

Sec. 25. 36 MRSA §2521-B is enacted to read:

§2521-B. Self-insurers; return for calendar year 1982

Every group self-insurer issuing workers' compensation insurance policies covering the payment of compensation and benefits and every individual self-insurer which self-insures the payment of compensation and benefits as provided for in Title 39 subject to the .05% tax imposed by this chapter shall file a return covering the calendar year 1982 on or before the last day of January, 1983.

At the time of filing such returns, each group self-insurer and each individual self-insurer shall pay to the State Tax Assessor the amount of tax shown due.

Sec. 26. 36 MRSA §2970 is repealed.

Sec. 27. 36 MRSA §4067, as enacted by PL 1981, c. 451, §7, is repealed.

Sec. 28. 36 MRSA §4073, as enacted by PL 1981, c. 451, §7, is repealed.

Sec. 29. 36 MRSA §4074, 3rd ¶, as enacted by PL 1981, c. 451, §7, is repealed.

Sec. 30. 36 MRSA §4076, as enacted by PL 1981, c. 451, §7, is repealed.

Sec. 31. 36 MRSA §4079, first sentence, as enacted by PL 1981, c. 451, §7, is repealed.

Sec. 32. 36 MRSA c. 718 is enacted to read:

CHAPTER 718

GENERAL PROVISIONS

§4821. Referendum requirement

No special tax, under chapters 701, 707, 708, 709 and 713, may be imposed on any particular industry, nor may an existing special tax under those chapters be increased, unless the persons required to pay the tax within that industry have given their approval, according to the provisions of this chapter.

Within 30 days after the effective date of an Act subject to this chapter, the State Tax Assessor shall determine those persons subject to the tax and mail to each a copy of the Act, a ballot prepared under this section and a self-addressed stamped envelope.

The ballot shall be prepared on a suitable form by the State Tax Assessor. The question on the ballot shall contain the following:

"Shall a tax be levied and imposed on (describe the industry being taxed) at the rate of (describe the rate of tax), as proposed by the Legislature in An Act (give title of Act)?"

YES

NO

I hereby certify that I am a (describe taxpayer subject to tax imposed by the Act).

If the taxpayer is a partnership or is incorporated, I am authorized to cast this ballot on behalf of that partnership or corporation.

The State Tax Assessor shall review the returns received by him within 50 days after the date of mailing the ballots. If at least 51% of the taxpayers eligible to vote have voted and if at least a majority of that number have approved the tax by an affirmative vote, the tax is effective. In any event, the State Tax Assessor shall declare the results.

The costs of any election shall be paid out of tax money received from the special tax imposed on the industry for which the election is held.

Sec. 33. 36 MRSA §5122, sub-§1, ¶B, as amended by PL 1981, c. 463, Part C, §2, is further amended to read:

B. Interest or dividends on obligations of any authority, commission, instrumentality, territory or possession of the United States which by the laws of the United States are exempt from federal income tax but not from state income tax; and

Sec. 34. 36 MRSA §5122, sub-§1, ¶C, as enacted by PL 1981, c. 463, Part C, §2, is amended to read:

C. For a taxable year beginning in 1981 or 1982, interest and dividends excluded under the United States Internal Revenue Code, Section 116, except for an amount equivalent to the amount of dividends, not exceeding \$100, received by the individual;

Sec. 35. 36 MRSA §5122, sub-§1, ¶¶ D and E are enacted to read:

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

E. 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.

Sec. 36. 36 MRSA §5127, sub-§3, ¶A, sub-¶(3), as enacted by PL 1979, c. 577, §1, is repealed and the following enacted in its place:

(3) "Wood furnace" means a wood burning appliance designed to operate as part of a central heating system. The furnace may burn wood solely or in combination with another fuel. "Central heating system" means a system whereby heat is produced in a central combustion chamber and distributed by a series of pipes, ducts or similar physical distribution system throughout a building or group of buildings. "Wood furnace" does not include a "fireplace," meaning a hearth, fire chamber or similarly prepared place with a chimney intended to be useable in an open configuration whether or not it can also be closed or operated closed; or a "wood stove," meaning a wood burning appliance designed primarily for space heating purposes.

Sec. 37. 36 MRSA §5142, sub-§1, ¶A, as enacted by P&SL 1969, c. 154, Section F, is amended to read:

A. The net amount of items of income, gain, loss, and

deduction entering into his federal adjusted gross income which are derived from or connected with sources in this State including (i) his distributive share of partnership income and deductions determined under section 5192 and, (ii) his share of estate or trust income and deductions determined under section 5176, and (iii) his distributive share of the income of an electing small business corporation for federal income tax purposes derived from or connected with sources within this State; and

Sec. 38. 36 MRSA §5142, sub-§5, as enacted by P&SL 1969, c. 154, Section F, is repealed.

Sec. 39. 36 MRSA §5200, as last repealed and replaced by PL 1977, c. 686, §12, is repealed and the following enacted in its place:

§5200. Imposition and rate of tax

A tax is hereby imposed upon every taxable corporation for each taxable year at the rate of 4.95% of that corporation's Maine net income plus 1.98% of that corporation's Maine net income in excess of \$25,000.

Sec. 40. 36 MRSA c. 902, as amended, is repealed.

Effective July 29, 1982.

CHAPTER 707

H.P. 2419 - L.D. 2151

AN ACT to Adjust Fees for Licenses Issued by the Real Estate Commission.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period will not terminate until after the Real Estate Commission collects license revenue for fiscal year 1983 funding; and

Whereas, revenue generated by the current license fee