

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 453-End

AND AT THE

**FIRST SPECIAL SESSION**  
September 6, 1983 to September 7, 1983  
Chapters 583-588

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., Inc.  
Augusta, Maine  
1983

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

AS PASSED AT THE  
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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from the District Court authorizing that entry or inspection.

Effective September 23, 1983.

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## CHAPTER 571

H.P. 1054 - L.D. 1398

AN ACT Providing for Administrative  
Changes in Maine Tax Laws.

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

Sec. 1. 36 MRSA §576-B, first ¶, as amended by PL 1981, c. 706, §§5 and 6, is further amended to read:

The percentage factor by which the growth rates set by the State Tax Assessor pursuant to section 576 shall be reduced to reflect the growth which can be extracted on a sustained basis shall be 10% for the tax year 1982 and for the tax year 1983, and thereafter shall annually be set by the Legislature in the year preceding the tax year in which the factor will apply.

Sec. 2. 36 MRSA §1760, sub-§42 is enacted to read:

42. Certain property purchased outside the State. Sales of property purchased and used by the present owner outside the State more than 6 months before being brought into the State. For the purposes of this subsection, "use" does not include storage, but means actual utilization of the property for a purpose consistent with its design. Property which is required to be registered for use in this State does not qualify for exemption unless it was registered by its present owner outside this State more than 6 months prior to its registration in this State.

Sec. 3. 36 MRSA §2013, sub-§2, as amended by PL 1981, c. 364, §28, is further amended to read:

2. Credit authorized. Any person, association of persons, firm or corporation who purchases depreciable machinery or equipment for use in commercial agricultural production or commercial fishing shall be refunded the amount of sales tax paid by him by

presenting to the State Tax Assessor evidence that the machinery or equipment complies with the definitions of subsection 1. Evidence required by the State Tax Assessor ~~shall~~ may include, but ~~not~~ be ~~limited to,~~ a copy or copies of that portion of the purchaser's most recent filing under the United States Internal Revenue Code which indicates that the purchaser is ~~in fact~~ engaged in commercial agricultural production or commercial fishing and that the purchased machinery or equipment is depreciable for those purposes. In the event that any piece of machinery or equipment shall be only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax shall be prorated accordingly. Application for refunds shall be filed with the State Tax Assessor within 36 months of the date of purchase and ~~shall be limited to purchases made subsequent to July 17 1978.~~

Sec. 4. 36 MRSA §2621, as amended by PL 1973, c. 268, §1, is repealed.

Sec. 5. 36 MRSA §2621-A is enacted to read:

§2621-A. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Net railway operating income. "Net railway operating income" means railway operating revenues, including debits and credits arising from equipment rents and joint facility rents, less railway operating expenses, tax accruals and uncollectible railway revenues.

2. Operating investment. "Operating investment" means investment in railway property used in transportation service, less depreciation, plus cash, including temporary cash investments and special deposits, plus material and supplies. For purposes of railroad excise taxes payable in 1983, based upon operations for the calendar year 1982, "operating investment" also includes freight car operating leases of 10 years or more, valued at cost less straight-line depreciation over the initial term of the lease.

Sec. 6. 36 MRSA §2624, first ¶, as amended by PL 1981, c. 682, §§1 and 2, is further amended to read:

The amount of the annual excise tax on railroads shall be ascertained as follows: The amount of the gross transportation receipts as ~~returned to the Public Utilities Commission~~ for the year ended on the

31st day of December preceding the levying of such the tax shall be compared with the net railway operating income for that year as returned to the Public Utilities Commission. When the net railway operating income does not exceed 10% of the gross transportation receipts, the tax shall be an amount equal to 3 1/4% of such the gross transportation receipts. When the net railway operating income exceeds 10% of the gross transportation receipts but does not exceed 15%, the tax shall be an amount equal to 3 3/4% of the gross transportation receipts. When the net railway operating income exceeds 15% of the gross transportation receipts but does not exceed 20%, the tax shall be an amount equal to 4 1/4% of such gross transportation receipts. When the net railway operating income exceeds 20% of the gross transportation receipts but does not exceed 25%, the tax shall be an amount equal to 4 3/4% of such the gross transportation receipts. When the net railway operating income exceeds 25% of the gross transportation receipts, the tax shall be an amount equal to 5 1/4% of such the gross transportation receipts. The tax shall be decreased by the amount by which 5 3/4% of operating investment exceeds net railway operating income but shall in no event be decreased below a minimum amount equal to 1/4 of 1% of gross transportation receipts. For purposes of this section, "operating investment" means investment in railway property used in transportation service (less depreciation) plus cash (including temporary cash investments and special deposits) plus material and supplies, all as reported by the railroad in its annual report to the Public Utilities Commission. For purposes of railroad excise taxes payable in 1980 through 1983, based upon operations for the calendar years 1979 through 1982, "operating investment" shall also include freight car operating leases of 10 years or more, valued at cost less straight-line depreciation over the initial term of the lease. In the case of railroads operating not over 50 miles of road, the tax shall not exceed 1 3/4% of the gross transportation receipts.

Sec. 7. 36 MRSA §2624, 3rd ¶ is amended to read:

The term "net railway operating income" means the railway operating revenues less the railway operating expenses, tax accruals and uncollectible railway revenues, including in the computation thereof debits and credits arising from equipment rents and joint facility rents. The Public Utilities Commission State Tax Assessor, after notice and hearing, may determine the accuracy of any returns required of any railroad, and if found inaccurate, may order proper corrections to be made therein.

Sec. 8. 36 MRSA §2625 is repealed and the fol-

lowing enacted in its place:

§2625. Return and payment

Every railroad company incorporated under the laws of this State or doing business in this State shall file with the State Tax Assessor annually, on or before April 15th, a railroad excise tax return, on a form prescribed by the State Tax Assessor. The tax shall be paid in equal installments on the next June 15th, September 15th and December 15th.

Sec. 9. 36 MRSA §2626, as repealed and replaced by PL 1981, c. 364, §31, is repealed.

Sec. 10. 36 MRSA §2628, as amended by PL 1979, c. 378, §20, is repealed.

Sec. 11. 36 MRSA §3461, sub-§2 is amended to read:

2. Life insurance. All proceeds of life insurance policies upon the life of a decedent payable to his estate or to his executors or administrators except, if testate, such part thereof as is bequeathed to a widow or widower, or issue, or, if intestate, such part thereof as descends under Title 18, section 853 to a surviving widow, widower or issue.

Sec. 12. 36 MRSA §3742, as amended by PL 1981, c. 364, §43, is repealed.

Sec. 13. 36 MRSA §5102, sub-§1-B is enacted to read:

1-B. Affiliated group. "Affiliated group" means a group of 2 or more corporations in which more than 50% of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations.

Sec. 14. 36 MRSA §5102, sub-§8, as repealed and replaced by PL 1981, c. 704, §1, is amended to read:

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. To the extent that it derives from a unitary business carried on by 2 or more members of an affiliated group, the Maine net income of a corporation shall be determined by apportioning that part of the federal tax-

able income of the entire group which derives from the unitary business.

Sec. 15. 36 MRSA §5102, sub-§8-A, as enacted by PL 1975, c. 627, §2, is repealed.

Sec. 16. 36 MRSA §5102, sub-§10, as amended by PL 1979, c. 541, Pt. A, §231, is further amended to read:

10. Taxable corporation. "Taxable corporation" means, for any taxable year, a corporation which, at any time during that taxable year ~~received any, realized Maine net income allocable or apportionable to this State under chapter 821.~~ In the case of affiliated corporations which are required to file consolidated returns under section 52207, subsection 57 the group shall be deemed to be the taxable corporation.

Sec. 17. 36 MRSA §5102, sub-§10-A is enacted to read:

10-A. Unitary business. "Unitary business" means a business activity which is characterized by unity of ownership, functional integration, centralization of management and economies of scale.

Sec. 18. 36 MRSA §5111, as amended by PL 1977, c. 686, §7, is repealed and the following enacted in its place:

A tax is imposed for each taxable year on the entire taxable income of every resident individual of this State and on the taxable income of every non-resident individual which is derived from sources within this State. The amount of the tax shall be determined in accordance with the following tables:

1. For single individuals and married persons filing separate returns:

| <u>If the taxable income is:</u>      | <u>The tax is:</u>                        |
|---------------------------------------|---|
| <u>Not over \$2,000</u>               | <u>1% of the taxable income</u>           |
| <u>\$2,000 but not over \$4,000</u>   | <u>\$20 + 2% of excess over \$2,000</u>   |
| <u>\$4,000 but not over \$6,000</u>   | <u>\$60 + 3% of excess over \$4,000</u>   |
| <u>\$6,000 but not over \$8,000</u>   | <u>\$120 + 6% of excess over \$6,000</u>  |
| <u>\$8,000 but not over \$10,000</u>  | <u>\$240 + 7% of excess over \$8,000</u>  |
| <u>\$10,000 but not over \$15,000</u> | <u>\$380 + 8% of excess over \$10,000</u> |
| <u>\$15,000 but not over</u>          | <u>\$780 + 9.2% of excess</u>             |



|                         |                                |
|-------------------------|--------------------------------|
| <u>\$25,000</u>         | <u>over \$15,000</u>           |
| <u>\$25,000 or more</u> | <u>\$1,700 + 10% of excess</u> |
|                         | <u>over \$25,000</u>           |

2. For unmarried or legally separated individuals who qualify as heads of household:

| <u>If the taxable income is:</u> | <u>The tax is:</u>             |
|----------------------------------|--------------------------------|
| <u>Not over \$3,000</u>          | <u>1% of the taxable</u>       |
|                                  | <u>income</u>                  |
| <u>\$3,000 but not over</u>      | <u>\$30 + 2% of excess</u>     |
| <u>\$6,000</u>                   | <u>over \$3,000</u>            |
| <u>\$6,000 but not over</u>      | <u>\$90 + 3% of excess</u>     |
| <u>\$9,000</u>                   | <u>over \$6,000</u>            |
| <u>\$9,000 but not over</u>      | <u>\$180 + 6% of excess</u>    |
| <u>\$12,000</u>                  | <u>over \$9,000</u>            |
| <u>\$12,000 but not over</u>     | <u>\$360 + 7% of excess</u>    |
| <u>\$15,000</u>                  | <u>over \$12,000</u>           |
| <u>\$15,000 but not over</u>     | <u>\$570 + 8% of excess</u>    |
| <u>\$22,500</u>                  | <u>over \$15,000</u>           |
| <u>\$22,500 but not over</u>     | <u>\$1,170 + 9.2% of</u>       |
| <u>\$37,500</u>                  | <u>excess over</u>             |
|                                  | <u>\$22,500</u>                |
| <u>\$37,500 or more</u>          | <u>\$2,550 + 10% of excess</u> |
|                                  | <u>over \$37,500</u>           |

3. For the joint income of married individuals and widows or widowers permitted to file a joint federal return:

| <u>If the taxable income is:</u> | <u>The tax is:</u>             |
|----------------------------------|--------------------------------|
| <u>Not over \$4,000</u>          | <u>1% of the taxable</u>       |
|                                  | <u>income</u>                  |
| <u>\$4,000 but not over</u>      | <u>\$40 + 2% of excess</u>     |
| <u>\$8,000</u>                   | <u>over \$4,000</u>            |
| <u>\$8,000 but not over</u>      | <u>\$120 + 3% of excess</u>    |
| <u>\$12,000</u>                  | <u>over \$8,000</u>            |
| <u>\$12,000 but not over</u>     | <u>\$240 + 6% of excess</u>    |
| <u>\$16,000</u>                  | <u>over \$12,000</u>           |
| <u>\$16,000 but not over</u>     | <u>\$480 + 7% of excess</u>    |
| <u>\$20,000</u>                  | <u>over \$16,000</u>           |
| <u>\$20,000 but not over</u>     | <u>\$760 + 8% of excess</u>    |
| <u>\$30,000</u>                  | <u>over \$20,000</u>           |
| <u>\$30,000 but not over</u>     | <u>\$1,560 + 9.2% of</u>       |
| <u>\$50,000</u>                  | <u>excess over</u>             |
|                                  | <u>\$30,000</u>                |
| <u>\$50,000 or more</u>          | <u>\$3,400 + 10% of excess</u> |
|                                  | <u>over \$50,000</u>           |

Sec. 19. 36 MRSA §5113, as enacted by P&SL 1969, c. 154, §F, is repealed and the following enacted in its place:

§5113. Surviving spouse

A taxpayer who qualifies and files a federal income tax return utilizing the joint return tax rates as a surviving spouse may file in a similar manner with the State.

Sec. 20. 36 MRSA §5114, as enacted by PL 1975, c. 627, §2-A, is repealed.

Sec. 21. 36 MRSA §5115, as enacted by PL 1977, c. 686, §8, is repealed.

Sec. 22. 36 MRSA §5127, sub-§1, as amended by PL 1981, c. 411, §2, is repealed and the following enacted in its place:

1. Income tax paid to other taxing jurisdiction. A resident individual is allowed a credit against the tax otherwise due under this Part for the amount of income tax imposed on him for the taxable year by another state of the United States, a political subdivision thereof, the District of Columbia or any political subdivision of a foreign country which is analogous to a state of the United States with respect to income derived from sources therein which is also subject to tax under this Part. The credit, for any of the specified taxing jurisdictions, shall not exceed the proportion of the tax otherwise due under this Part that the amount of the taxpayer's adjusted gross income derived from sources in that taxing jurisdiction bears to his entire adjusted gross income as modified by this Part; provided that, when a credit is claimed for taxes paid to both a state and a political subdivision thereof, the total credit allowable for those taxes shall not exceed the proportion of the tax otherwise due under this Part that the amount of the taxpayer's adjusted gross income derived from sources in that state bears to his entire adjusted gross income as modified by this Part.

Sec. 23. 36 MRSA §5127, sub-§3, ¶A, as amended by PL 1981, c. 706, §36, is further amended to read:

A. As used in this subsection, "renewable energy system" means a wood furnace or a system, including any of the systems defined in this paragraph, which are is designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to heat water or any combination thereof, by means of collecting and transferring solar, wind or wind-generated energy into such uses and which system also may have the capability of storing the energy for future use.

(1) "Solar energy system" means equipment which uses solar energy to heat, cool or produce electricity.

(a) An "active solar system" means an assembly of collectors, thermal storage device or devices and transfer liquid which converts solar energy into thermal energy and in which energy in addition to solar is used to accomplish the transfer of thermal energy or devices, such as photovoltaics, which convert solar energy into electrical energy.

(b) A "passive solar system" means an assembly of natural and architectural components including collectors, thermal storage device or devices and transfer fluid which converts solar energy into thermal energy in a controlled manner and in which no fans or pumps are used to accomplish the transfer of thermal energy. The prime elements in a passive solar system are usually some form of thermal capacitance and solar energy control.

(2) A "wind energy system" includes any machine or device which converts available wind energy into electrical or mechanical output form. A wind energy system has 4 subsystems:

- (a) A rotor,
- (b) Power processing components,
- (c) Frame, and
- (d) Controlled components.

(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 of 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. 24. 36 MRSA §5220, sub-§5, as amended by PL 1979, c. 541, Pt. B, §50, is repealed and the following enacted in its place:

5. Certain taxable corporations. Every taxable corporation which is required to file a federal income tax return. A taxable corporation which is a member of an affiliated group and which is engaged in a unitary business with one or more other members of that affiliated group shall file a combined report, containing such information as the State Tax Assessor may designate by rule, for each such unitary business. Neither the income nor the property, payroll and sales of a member corporation which is not required to file a federal income tax return shall be included in the combined report. The State Tax Assessor may, in his discretion, allow 2 or more taxable corporations which are members of an affiliated group to file a consolidated return.

Sec. 25. 36 MRSA §6104, 2nd ¶, as amended by PL 1979, c. 541, Pt. B, §59, is further amended to read:

If the claimant was the only member of his household, the claim may be paid to his ~~executor or administrator~~ personal representative, but if ~~neither one~~ is not appointed and qualified within 2 years of the filing of the claim, the amount of the claim shall escheat to the State.

Effective September 23, 1983.

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## CHAPTER 572

H.P. 1343 - L.D. 1782

AN ACT Relating to the Taxation of  
Certain Watercraft.

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

Sec. 1. 12 MRSA §7794, sub-§1, as amended by PL 1983, c. 92, Pt. B, §1, is further amended to read:

1. Motorboats requiring. The owner of every motorboat, including airmobiles, used on the waters of the State as the state of principal use shall obtain a certificate of number for the motorboat from