

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND TWELFTH LEGISLATURE

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

AND AT THE

**THIRD SPECIAL SESSION**  
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine

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

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

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Deductible or self-insured retention provisions hereunder shall not exceed ~~\$500,000~~ \$1,000,000 per occurrence with respect to any risk of loss.

Effective July 16, 1986.

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## CHAPTER 535

H.P. 861 - L.D. 1220

### AN ACT Providing for Administrative Changes in Maine Tax Law.

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

Sec. 1. 36 MRSA §111, sub-§3, as enacted by PL 1979, c. 378, §2, is amended to read:

3. Person. "Person" means an individual, firm, partnership, association, society, club, corporation, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit, taxable entity, the State or Federal Government or any political subdivision or agency of either government.

Sec. 2. 36 MRSA §1760, sub-§46, as enacted by PL 1983, c. 851 and c. 855, §7, is repealed and the following enacted in its place:

46. Residential facilities for medical patients and their families. Incorporated nonprofit organizations providing temporary residential accommodations to pediatric patients suffering from critical illness or disease, such as cancer, or who are accident victims, and adult patients with cancer, or the families of the patients;

Sec. 3. 36 MRSA §1760, sub-§49 is enacted to read:

49. Community action agencies. Sales to community action agencies designated in accordance with Title 5, section 3519, except sales, storage or use for activities which are mainly commercial enterprises;

Sec. 4. 36 MRSA §1762 is amended to read:

§1762. Sale of business; purchaser liable for tax

If any ~~retailer~~ person liable for any tax or interest levied shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within 15 days after the date of selling or quitting business. His successor, successors or assignees, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes and interest due and unpaid, until such time as the former owner shall produce a receipt from the State Tax Assessor showing that they have been paid or a certificate stating that no taxes or interest are due. If a purchaser of a business or stock of goods shall fail to withhold purchase money, he shall be personally liable for the payment of the taxes and interest accrued and unpaid on account of the operation of the business by any former owner, owners or assignors.

Sec. 5. 36 MRSA §2855, sub-§1, as enacted by PL 1981, c. 711, §10, is amended to read:

1. The code. The "code" means the United States Internal Revenue Code of 1954, as amended, as of ~~December 31, 1981~~ the date applicable to Part 8, and the implementing regulations thereof.

Sec. 6. 36 MRSA §3235, as amended by PL 1983, c. 817, §9, is further amended to read:

§3235. Tax a debt; recovery; preference

The taxes, interest and penalties imposed by chapters 7, 451, 453, 459 and 463 463-A, from the time the same shall be due, shall be personal debt of the supplier, distributor, importer, motor carrier or user to the State, recoverable in any court of competent jurisdiction in a civil action in the name of the State, and shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment obtained shall be paid to the State Tax Assessor.

Sec. 7. 36 MRSA §4062, sub-§1, as enacted by PL 1981, c. 451, §7, is repealed and the following enacted in its place:

1. Code. "Code" means the United States Internal Revenue Code of 1954, as amended, as of the date applicable with regard to Part 8.

Sec. 8. 36 MRSA §4063, sub-§1, as enacted by PL 1981, c. 451, §7, is amended to read:

1. Amount. A tax is imposed upon the transfer of the estate of every person who, at the time of death, was a resident of this State. The amount of this tax is a sum equal to the amount by which the credit for state death taxes allowable to a decedent's estate under the Code, Section 2011 as amended as of December 31, 1980, in this chapter sometimes referred to as the "credit," exceeds the lesser of:

A. The aggregate amount of all constitutionally valid estate, inheritance, legacy and succession taxes actually paid to the several states of the United States, other than this State, in respect of any property owned by that decedent or subject to those taxes as a part of or in connection with his estate; or

B. An amount equal to such proportion of such allowable credit as the value of properties taxable by other states bears to the value of the entire federal gross estate wherever situated.

Sec. 9. 36 MRSA §4365, first ¶, as amended by PL 1983, c. 859, Pt. M, §§8 and 13, is further amended to read:

A tax is imposed on all cigarettes held in this State by any person for sale, the tax to be at the rate of 14 mills for each cigarette and the payment thereof to be evidenced by the affixing of stamps to the packages containing the cigarettes. If a federal program similar to that provided in Title 22, section 3185, becomes effective, this tax is reduced by one mill for each cigarette. The Governor shall determine by proclamation when the federal program has become effective. Any cigarette on which a tax has been paid, such payment being evidenced by the affixing of such stamp, shall not be subject to a further tax under this chapter. Nothing contained in this chapter shall be construed to impose a tax on any transaction, the taxation of which by this State is prohibited by the Constitution of the United States.

Sec. 10. 36 MRSA §4365-A is enacted to read:

§4365-A. Rate of tax after September 30, 1985

Cigarettes which have been stamped at the rate of 10 mills for each cigarette which are held for resale by any person after September 30, 1985, shall be subject to tax at the rate of 14 mills for each cigarette.

Any person holding cigarettes for resale shall be liable for the difference between the 14 mills for

each cigarette tax rate and the 10 mills for each cigarette tax rate in effect prior to October 1, 1985. Stamps evidencing payment of the tax imposed by this section shall be affixed to all packages of cigarettes held as of October 1, 1985, for resale, except that cigarettes held in vending machines as of October 1, 1985, need not be so stamped.

Notwithstanding any other provision of this chapter, it is presumed that all cigarette vending machines are filled to capacity on October 1, 1985, and the tax imposed by this section shall be reported on that basis. A credit against this inventory tax shall be allowed for cigarettes stamped at the 14-mill rate placed in vending machines before October 1, 1985.

Payment of the tax imposed by this section shall be made to the State Tax Assessor before November 15, 1985, and it shall be accompanied by forms prescribed by the State Tax Assessor.

Sec. 11. 36 MRSA §4368 is amended to read:

§4368. Stamps affixed by licensed dealers

Each distributor shall affix, or cause to be affixed, in such manner as the State Tax Assessor may specify in regulations issued pursuant to this chapter, to each individual package of cigarettes sold or distributed by him, stamps of the proper denominations, as required by ~~section 4365~~ this chapter. Such stamps may be affixed by a distributor at any time before the cigarettes are transferred out of his possession.

Sec. 12. 36 MRSA §4369, as amended by PL 1983, c. 828, §16, is further amended to read:

§4369. Stamps affixed by licensed dealers

Each dealer shall, within 72 hours after coming into possession of any cigarettes not bearing proper stamps evidencing payment of the tax imposed by this chapter, and before selling such cigarettes, affix or cause to be affixed, in such manner as the State Tax Assessor may specify in regulations issued pursuant to this chapter, to each individual package of cigarettes, stamps of the proper denomination as required by ~~section 4365~~ this chapter.

Sec. 13. 36 MRSA §4641-D, first ¶, as repealed and replaced by PL 1977, c. 318, §2, is amended to read:

Any deed, except as provided in this section, shall, when offered for recording, be accompanied by a statement or declaration prepared in duplicate and signed, subject to the penalties of perjury, by the parties to the transaction or their authorized representatives, declaring the consideration for the property thereby transferred and indicating the taxpayer identification numbers of the grantor and grantee. The exceptions to the foregoing are the following:

Sec. 14. 36 MRSA §5111, as amended by PL 1983, I.B. 2, §1, and PL 1983, c. 3, §1, and as repealed and replaced by PL 1983, c. 571, §18, is repealed and the following enacted in its place:

§5111. Imposition and rate of tax

For tax years beginning on or after January 1, 1985, 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 nonresident 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:

If the taxable income is:            The tax is:

<u>Not over \$2,000</u>	<u>1% of the taxable income</u>
<u>\$ 2,000 but not over \$4,300</u>	<u>\$ 20 + 2% of excess over \$ 2,000</u>
<u>\$ 4,300 but not over \$6,300</u>	<u>\$ 66 + 3% of excess over \$ 4,300</u>
<u>\$ 6,300 but not over \$8,500</u>	<u>\$ 126 + 6% of excess over \$ 6,300</u>
<u>\$ 8,500 but not over \$10,600</u>	<u>\$ 258 + 7% of excess over \$ 8,500</u>
<u>\$10,600 but not over \$15,900</u>	<u>\$ 405 + 8% of excess over \$10,600</u>
<u>\$15,900 but not over \$25,000</u>	<u>\$ 829 + 9.2% of excess over \$15,900</u>
<u>\$25,000 or more</u>	<u>\$1,666 + 10% of excess over \$25,000</u>

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

If the taxable income is:            The tax is:

<u>Not over \$3,300</u>	<u>1% of the taxable income</u>
<u>\$ 3,300 but not over \$ 6,300</u>	<u>\$ 33 + 2% of excess over \$ 3,300</u>



\$ 6,300 but not over	\$ 93 +	3% of excess
\$ 9,600		over \$ 6,300
\$ 9,600 but not over	\$ 192 +	6% of excess
\$12,700		over \$ 9,600
\$12,700 but not over	\$ 378 +	7% of excess
\$15,900		over \$12,700
\$15,900 but not over	\$ 602 +	8% of excess
\$23,900		over \$15,900
\$23,900 but not over	\$1,242 +	9.2% of excess
\$37,500		over \$23,900
\$37,500 or more	\$2,493 +	10% of excess
		over \$37,500

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

If the taxable income is:            The tax is:

Not over \$4,300		1% of the taxable income
\$ 4,300 but not over	\$ 43 +	2% of excess
\$ 8,500		over \$ 4,300
\$ 8,500 but not over	\$ 127 +	3% of excess
\$12,700		over \$ 8,500
\$12,700 but not over	\$ 253 +	6% of excess
\$17,000		over \$12,700
\$17,000 but not over	\$ 511 +	7% of excess
\$21,200		over \$17,000
\$21,200 but not over	\$ 805 +	8% of excess
\$31,900		over \$21,200
\$31,900 but not over	\$1,661 +	9.2% of excess
\$50,000		over \$31,900
\$50,000 or more	\$3,326 +	10% of excess
		over \$50,000

The nominal dollar amounts of this section are subject to annual adjustment under section 5403.

Sec. 15. 36 MRSA §5124-A, as amended by 1983 I.B. 2, §2 and PL 1983, c. 3, §2, is repealed and the following enacted in its place:

§5124-A. Standard deduction; resident

The standard deduction of a resident individual or of a resident husband and wife who file a joint return or of a resident married person who files a separate return shall be as follows:

1. Single persons. Single persons, the higher of a low-income allowance of \$1,700 or 16% of Maine adjusted gross income up to a maximum deduction of \$2,500;

2. Married persons; joint returns. Married persons filing joint returns or a surviving spouse, the higher of a low-income allowance of \$2,100 or 16% of Maine adjusted gross income up to a maximum deduction of \$3,100; and

3. Married person; separate return. A married person filing a separate return, the higher of a low-income allowance of \$1,000 or 16% of Maine adjusted gross income up to a maximum deduction of \$1,400, except that if either spouse used the low-income allowance, both must use it.

The nominal dollar amounts of this section are subject to annual adjustment under section 5403.

Sec. 16. 36 MRSA §5215, sub-§2, ¶D, as enacted by PL 1977, c. 722, is amended to read:

D. "Successor-taxpayer" means any taxpayer which has acquired within 4 years of its taxable year end ~~in 1978~~ the organization, trade or business, or 50% or more of the assets thereof, of another taxpayer which, at the time of the acquisition, was an employing unit.

Sec. 17. 36 MRSA §5215, sub-§3, ¶B, as enacted by PL 1977, c. 722, is amended to read:

B. With a new jobs credit base which increases by at least ~~\$1,200,000~~ \$1,400,000 for the taxable year of the qualified federal credit and is attributable to the operation of property considered to be a qualified investment. The ~~\$1,200,000~~ \$1,400,000 is to be adjusted proportionally for any change in Title 26, section 1043, subsection 2 wages from ~~\$6,000~~ \$7,000.

Sec. 18. 36 MRSA §5215, sub-§7, as enacted by PL 1981, c. 364, §69, is amended to read:

7. Legislative findings. The Legislature finds the encouragement of the growth of major industry in the State to be in the public interest and for the promotion of the general welfare of the people of the State; and that the use of investment tax credits to encourage industry to make substantial capital investments in the State is necessary to promote the purpose of the Legislature of encouraging the growth of industry; and that the Legislature further finds that the selecting of limits of \$5,000,000 in qualified investment in the State and an increase of a new job credit base of ~~\$1,200,000~~ \$1,400,000 for a taxable year are reasonable qualifying criteria for the

application of an investment tax credit and will best promote substantial capital investment in the State.

Sec. 19. 36 MRSA §5220, first ¶, as enacted by P&SL 1969, c. 154, §F, §1, is amended to read:

An income tax return or franchise tax return with respect to the tax imposed by this Part shall be made by the following:

Sec. 20. 36 MRSA §5220, sub-§5, as repealed and replaced by PL 1983, c. 571, §24, is amended to read:

5. Certain taxable corporations and taxable entities. Every taxable corporation or taxable entity 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 or taxable entities which are members of an affiliated group to file a consolidated return.

Sec. 21. 36 MRSA §5222, sub-§5, as enacted by P&SL 1969, c. 154, §F, is amended to read:

5. Corporations and taxable entities. The income tax return of a taxable corporation or the franchise tax return of a taxable entity shall be made and filed by an officer ~~thereof~~ of the corporation or entity.

Sec. 22. 36 MRSA §5227, as enacted by P&SL 1969, c. 154, §F, is amended to read:

§5227. Time and place for filing returns and paying tax

The income tax return or franchise tax return required by this Part shall be filed on or before the date a federal income tax return (without regard to extension) is due to be filed. A taxpayer required to make and file a return under this Part shall, without assessment, notice or demand, pay any tax due thereon to the assessor on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return). The assessor

shall prescribe by regulation the place for filing any return, declaration, statement or other document required pursuant to this Part and for the payment of any tax.

Sec. 23. 36 MRSA §5251, as amended by PL 1981, c. 371, §2, is further amended to read:

§5251. Information statement

Every employer person required to deduct and withhold tax under this Part, or who would have been required so to deduct and withhold tax if an employee had claimed no more than one withholding exemption, shall furnish to each such person in respect to the items of income subject to withholding paid by such employer person to such person during the calendar year on or before February 15th of the succeeding year, or, in the case of an employee who is terminated before the close of such calendar year, within 30 days from the date on which the last payment of wages is made, a written statement as prescribed by the assessor showing the amount of wages paid by the employer to the employee, or in the case of withholding pursuant to section 5255-B the total items of income which were subject to withholding, the amount deducted and withheld as tax, and such other information as the assessor shall prescribe.

Sec. 24. 36 MRSA §5253, sub-§1, as amended by PL 1981, c. 364, §§71 and 72, is further amended to read:

1. General. Every employer person required to deduct and withhold tax under this part shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, file a withholding return as prescribed by the assessor and pay over to the assessor or to a depository designated by the assessor, the taxes so required to be deducted and withheld. The State Tax Assessor may, by rule, require or permit the filing of returns and paying over of taxes withheld on other than a quarterly basis.

Sec. 25. 36 MRSA §5254, as amended by PL 1981, c. 371, §4, is further amended to read:

§5254. Liability for withheld taxes

Every employer person required to deduct and withhold tax under this Part is hereby made liable for such tax. For purposes of assessment and collection, any amount required to be withheld and paid

over to the assessor, and any additions to tax, penalties and interest with respect thereto, shall be considered the tax of ~~the employer~~ that person. Any amount of tax actually deducted and withheld under this Part shall be held to be a special fund in trust for the assessor. No person ~~shall~~ may have any right of action against an ~~employer~~ a person in respect to any money deducted and withheld and paid over to the assessor in compliance or in intended compliance with this Part.

Sec. 26. 36 MRSA §5255, as enacted by P&SL 1969, c. 154, §F, is amended to read:

§5255. Failure to withhold

If an ~~employer~~ a person fails to deduct and withhold tax as required, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the ~~employer~~ person, but the ~~employer~~ person shall not be relieved from liability for any additions to tax penalties or interest otherwise applicable in respect to such failure to deduct and withhold.

Sec. 27. 36 MRSA §5255-A, first ¶, as enacted by PL 1971, c. 61, §10, is amended to read:

The Tax Assessor may, by filing a complaint, apply for an injunction from doing business of any ~~employer~~ person required to deduct and withhold tax under this Part whenever any such ~~employer~~ person fails to deduct and withhold tax under this Part; or truthfully account for, or pay over, or make returns of the tax as required by section 5253. The existence of other civil or criminal remedies shall be no defense to this proceeding.

Sec. 28. 36 MRSA §5255-B, as enacted by PL 1981, c. 371, §5, is amended to read:

§5255-B. Certain items of income under the United States Internal Revenue Code

Any ~~employer~~ person maintaining an office or transacting business within this State and who is required to deduct and withhold a tax on items of income under the United States Internal Revenue Code, ~~Sections 1441 and 1442~~, other than wages subject to withholding as provided in section 5250, shall deduct and withhold from such items to the extent they constitute Maine net income a tax equal to 5% thereof, unless withholding pursuant to the United States In-

ternal Revenue Code is based on other than a flat rate amount. In that event, the State's withholding procedure should estimate taxable income using the same approach to exemptions as the United States Internal Revenue Code and the amount of tax to be withheld should be calculated in accordance with withholding methods prescribed pursuant to section 5250.

Sec. 29. Department of Finance and Administration; issuance of rule. The Department of Finance and Administration shall promulgate a rule, pursuant to the provisions of the Maine Revised Statutes, Title 5, chapter 375, requiring the collection of a sales tax on meals provided in the wild by persons licensed as outfitters or guides by the Department of Inland Fisheries and Wildlife. The term "in the wild" means at a place other than a base camp, restaurant or campground while on a trip or other expedition and shall include the provision of a meal at a primitive campsite. The rules shall not require assessment or collection of a sales tax on the consumption of game species. The rule shall establish the value of a meal at its cost to the outfitter or guide, providing that the meal is provided as part of a total service purchased by the customer and that the price of the service does not vary if the meal is not consumed. The rule shall specify means for assessment and collection of the sales tax which recognize the unconventional manner of providing meals to customers by guides and outfitters in the wild.

Effective July 16, 1986.

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## CHAPTER 536

H.P. 1235 - L.D. 1744

AN ACT Providing Conformity with the United States Internal Revenue Code under the Maine Income Tax Law.

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 would delay the processing of 1985 income tax returns; and

Whereas, legislative action is necessary before January 1, 1986, in order to insure continued and ef-