

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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Twin City Printery
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

STATE OF MAINE

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Services, Bureau of Rehabilitation shall develop by January 1, 1988, a plan to provide reasonable access by January 1, 1989, to telecommunication devices for the hearing and speech impaired in state buildings where a primary function is the delivery of service to the general public. The agencies shall begin to implement the plan as soon as possible and submit the plan and a progress report on implementation to the Governor and the Legislature by January 1, 1988, together with any legislative or administrative recommendations and any recommendations for supplementary funding found necessary.

Effective September 29, 1987.

CHAPTER 504

H.P. 1050 — L.D. 1413

AN ACT to Return to Maine Income Taxpayers the Additional Tax Payments Associated with Conformity to the United States Internal Revenue Code of 1986 for Tax Year 1987.

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

Sec. 1. 5 MRSA §1514, sub-§4 is enacted to read:

4. Fund adjustments. Adjustments to the fund shall be as follows.

A. A transfer from this fund to the General Fund to offset the loss of revenue attributable to income tax reductions to avoid a windfall for the tax year 1987 is required prior to June 30, 1988, in the amount of \$16,500,000. A transfer from this fund to the General Fund to offset the loss of revenue attributable to taxable income adjustments for individuals, for the tax year 1988, is required prior to June 30, 1989, in the amount of \$4,000,000.

Sec. 2. 36 MRSA §111, sub-§1-A is enacted to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 1986.

Sec. 3. 36 MRSA §2855, sub-§1, as amended by PL 1985, c. 535, §5, is repealed.

Sec. 4. 36 MRSA §4062, sub-§1, as repealed and replaced by PL 1985, c. 535, §7, is repealed.

Sec. 5. 36 MRSA §5102, sub-§1-D is enacted to read:

1-D. Laws of the United States. "Laws of the United States" means the Code, as defined in section 111, subsection 1-A, and other provisions of the laws of the United States relating to federal income taxes as of the date specified in section 111, subsection 1-A.

Sec. 6. 36 MRSA §5102, sub-§11, as amended by PL 1985, 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, 1985. This subsection shall be effective as to items of income, deductions, loss or gain accruing in taxable years ending on or after January 1, 1985, but only to the extent that those items have been earned, received, incurred or accrued on or after that effective date. Notwithstanding other provisions of this subsection, for taxable years ending 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 those taxable years. Notwithstanding other provisions of this subsection, for taxable years ending in 1983, 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 January 31, 1983 for items of income, deductions, loss or gain earned, incurred or accrued within those taxable years. Notwithstanding other provisions of this subsection, for taxable years ending in 1984, any reference in this Part to the laws of the United States shall be construed as a reference to the United States Internal Revenue Code of 1954 and amendments to that Code and other provisions of the laws of the United States relating to federal income taxes as of September 1, 1984, for items of income, deductions, loss or gain earned, incurred or accrued within those taxable years.~~

Sec. 7. 36 MRSA §5111, sub-§4, as enacted by PL 1985, c. 783, §20, is amended to read:

4. Nonresident individuals. A tax is imposed upon the Maine income of every nonresident individual. The amount of the tax shall be equal to the tax computed under this section and chapter 805 as if the nonresident were a resident, less applicable tax credits other than that provided by section 5127, subsection 1 section 5217, and multiplied by the ratio of his Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to his entire federal adjusted gross income, as modified by section 5122.

Sec. 8. 36 MRSA §5121, as enacted by P&SL 1969, c. 154, Section F, §1, is repealed and the following enacted in its place:

§5121. Taxable income

The entire taxable income of a resident individual of this State shall be his federal adjusted gross income as defined in the laws of the United States with the modifications and less the deductions and personal exemptions provided in this chapter. In the case of resident individuals whose Maine adjusted gross income less their allowable federal deduction and exemption amounts does not exceed zero, their Maine taxable income is zero. In this section, the allowable federal deduction for an itemized deduction is the amount defined in section 5125.

Sec. 9. 36 MRSA §5122, sub-§1, ¶C, as amended by PL 1981, c. 706, §34, is repealed.

Sec. 10. 36 MRSA §5122, sub-§2, as amended by PL 1985, c. 737, Pt. A, §102, is further amended to read:

2. Subtractions. For tax years beginning on or after January 1, 1977, federal Federal adjusted gross income shall be reduced by:

A. Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States or on a seller-sponsored loan, as defined by Title 10, chapter 110, to the extent includable in gross income for federal income tax purposes, but exempt from state income taxes under the laws of the United States, provided that the amount subtracted shall be decreased by any expenses incurred in the production of the interest or dividend income to the extent that these expenses, including amortizable bond premiums, are deductible in determining federal adjusted gross income;

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

C. Social security benefits and tier 1 railroad retirement benefits paid by the United States, to the extent included in federal adjusted gross income; and

D. For each of the taxable years ending in 1985 through 1987, 1/3 of the amount by which federal adjusted gross income was increased for the taxable year ending in 1984 under subsection 1, paragraph F.

Sec. 11. 36 MRSA §5126, first ¶, as amended by PL 1979, c. 615, §4, is further amended to read:

A resident individual shall be allowed an exemption of \$1,000 for each exemption to which he is entitled for the taxable year for federal income tax purposes, except that for a taxable year ending on or after December 31, 1978 and on or before November 30, 1979 the exemption shall be \$1,200 for each federal exemption; provided that a resident individual shall only be allowed a \$1,200 exemption for each federal exemption for no more than one taxable year. This section shall not take effect unless

actual total General Fund revenues for the first 6 months of fiscal year 1978-79 meet or exceed the estimates as revised by the Governor and approved by the Legislature.

Sec. 12. 36 MRSA §5126, as amended by I.B. 1983, c. 2, §3, is further amended by adding at the end a new paragraph to read:

For tax years beginning in 1987, or thereafter, an additional personal exemption is allowable to each individual who, pursuant to the United States Internal Revenue Code, Section 63(f), would, if claiming a standard deduction for the tax year, be entitled to the additional amount provided in either the first paragraph or the higher amount provided in 2nd paragraph. An additional personal exemption is also allowable to each individual who, pursuant to the United States Internal Revenue Code, Section 63(f), would, if claiming a standard deduction for the tax year, be entitled to the additional amount provided in the 2nd paragraph. For a tax year in which the taxpayer does not make a joint return with his spouse and if the spouse for the calendar year in which the taxable year of the taxpayer begins has no gross income and is not the dependent of another taxpayer, the taxpayer is entitled to claim any additional personal exemptions allowable to the spouse as provided by this section.

Sec. 13. 36 MRSA §5127, as amended by PL 1985, c. 783, §21, is repealed.

Sec. 14. 36 MRSA §5130, as amended by PL 1985, c. 691, §33, is repealed.

Sec. 15. 36 MRSA §5131 is enacted to read:

§5131. Exemption credit

For a taxable year beginning in 1987, an individual taxpayer is entitled to a credit against taxes levied for that tax year pursuant to this Part. The amount of the credit is \$9 for each exemption allowable on the return for the same year, but in no case may this credit reduce the Maine income tax to less than zero.

Sec. 16. 36 MRSA §5146, as amended by PL 1985, c. 766, §2, is repealed.

Sec. 17. 36 MRSA §5165, as enacted by P&SL 1969, c. 154, Section F, §1, is amended to read:

§5165. Credit for income tax of another state

A resident estate or trust shall be allowed the credit provided in section 5127, relating to an income tax imposed by another state by section 5217, except that the limitation shall be computed by reference to the taxable income of the estate or trust.

Sec. 18. 36 MRSA §5200-A, sub-§1, ¶B, as enacted by PL 1981, c. 704, §4, is amended to read:

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;

Sec. 19. 36 MRSA §5200-A, sub-§1, ¶C, as enacted by PL 1981, c. 704, §4, is amended to read:

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;

Sec. 20. 36 MRSA §5200-A, sub-§1, ¶D, as amended by PL 1983, c. 855, §18, is repealed.

Sec. 21. 36 MRSA §5200-A, sub-§1, ¶F, as enacted by PL 1983, c. 855, §§19 and 20, is repealed.

Sec. 22. 36 MRSA §5200-A, sub-§2, ¶B, as enacted by PL 1981, c. 704, §4, is repealed and the following enacted in its place:

B. The amount, "foreign dividend gross-up," added to income under the Code, Section 78;

Sec. 23. 36 MRSA §5200-A, sub-§2, ¶D, as amended by PL 1983, c. 855, §21, is repealed.

Sec. 24. 36 MRSA §5202-B, as amended by PL 1983, c. 480, Pt. A, §67, is repealed.

Sec. 25. 36 MRSA §5203, sub-§1, as repealed and replaced by PL 1985, c. 691, §§34 and 48, is amended to read:

1. Noncorporate. A tax is imposed, for each taxable year, upon every noncorporate taxpayer required to file a return under this Part, equal to the amount by which 3% of the excess of that taxpayer's alternative minimum taxable income, as defined in the ~~United States Internal Revenue Code of 1954~~, Section 55(b), ~~as amended~~, over that taxpayer's exemption amount, as defined in the ~~United States Internal Revenue Code of 1954~~, Section 55(f), ~~as amended~~, exceeds that taxpayer's liability for all other taxes, except withholding taxes, under this Part.

Sec. 26. 36 MRSA §5203, sub-§2, as repealed and replaced by PL 1985, c. 691, §§34 and 48, is amended to read:

2. Corporate. A tax is imposed, for each taxable year, upon every corporate taxpayer required to file a return under this Part, equal to the amount by which 2.25% of the sum of that taxpayer's items of tax preference, as defined in the ~~United States Internal Revenue Code of 1954~~, Section 57, ~~as amended~~, but excluding the capital gain tax preference item in the ~~United States Internal Revenue Code of 1954~~, Section 57, ~~Subsection(a)(9)(B)~~, exceeds the greater of \$1,500 or that taxpayer's liability for all other taxes, except withhold-

ing taxes, under this Part.

Sec. 27. 36 MRSA §5204, as enacted by PL 1977, c. 424, §3, is amended to read:

§5204. Lump-sum retirement plan distributions

In addition to any other tax imposed by this Part, a tax is hereby imposed for each taxable year on every taxpayer who, in accordance with the ~~Internal Revenue Code~~, section Section 402(e)(I), elects to compute a separate federal tax on a lump-sum distribution from a retirement plan at the rate of 15% of the separate federal tax imposed on such distribution.

Sec. 28. 36 MRSA §5204-A, as enacted by PL 1985, c. 670, is repealed and the following enacted in its place:

§5204-A. Early distribution from qualified retirement plans

The tax imposed under this Part on any individual whose federal income tax for any taxable year is increased pursuant to the Code, Section 72(t), as a result of a distribution from a qualified retirement plan shall be increased by an amount equal to 15% of the amount by which the individual's federal income tax was increased as a result of the distribution.

Sec. 29. 36 MRSA §5206-C, as enacted by PL 1983, c. 842, §5, is repealed.

Sec. 30. 36 MRSA §5214-A, sub-§1, as enacted by PL 1985, c. 783, §36, is amended to read:

1. General. A beneficiary of a trust whose adjusted gross income includes all or part of an accumulation distribution by ~~such that~~ trust, as defined in the ~~United States Internal Revenue Code~~, Section 665, or its equivalent, shall be allowed a credit against the tax otherwise due under this Part for all or a proportionate part of any tax paid by the trust under this Part for any preceding taxable year which would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in the ~~United States Internal Revenue Code~~, Section 666, or its equivalent.

Sec. 31. 36 MRSA §5215, sub-§2, ¶A, as enacted by PL 1977, c. 722, is repealed and the following enacted in its place:

A. "Qualified federal credit" means, with respect to any taxable year, that portion of the credit allowed by the Code, Section 38 (b)(1), which is directly and solely attributable to qualified investment with a situs in this State.

Sec. 32. 36 MRSA §§5217 to 5219-B are enacted to read:

§5217. 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 of any such state, 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 in that taxing jurisdiction 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 Maine adjusted gross income derived from sources in that taxing jurisdiction bears to his entire Maine adjusted gross income; provided that, when a credit is claimed for taxes paid to both a state and a political subdivision of a state, 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 Maine adjusted gross income derived from sources in the other state bears to his entire Maine adjusted gross income.

§5218. Income tax credit for child care expenses.

A resident individual shall be allowed a credit against the tax otherwise due under this Part in the amount of 16% of the federal tax credit allowable for child care expenses in tax year 1986; 20% of the federal tax credit allowable for child care expenses in tax year 1987; and 25% of the federal tax credit allowable for child care expenses thereafter. In no case may this credit reduce the Maine income tax to less than zero.

§5219. Income tax credit for installation of renewable energy systems.

A taxpayer who purchases and installs an active solar system, a passive solar system, a photovoltaic system or a wind energy system or components for any of these systems in this State shall be allowed a credit against the tax otherwise due under this Part equal to 20% of the purchase price of the system, including sales tax, or \$100, whichever is less. The credit is allowable against taxes due only for the year in which installation is completed and only for the initial purchase of new equipment. No more than one taxpayer may claim the credit for any installation. In no case may this credit be claimed more than once by any taxpayer and in no case may this credit reduce the state income tax to less than zero. This subsection shall remain in effect until January 1, 1989.

A. An "active solar system" means an assembly of a collector, thermal device and transfer medium which converts solar energy into thermal energy and in which mechanical energy is used to accomplish the transfer of thermal energy. Active solar systems include, but are not limited to, solar hot water systems and solar space heating panels that use a fan or pump to circulate the transfer medium. Qualifying systems or components do not include sunspaces or heat pumps.

B. A "passive solar system" means an assembly of a collector, thermal device and transfer medium 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 the thermal energy. Passive solar systems include, but are not limited to, Trombe walls and thermosiphoning air panels. Qualifying components include, but are not limited to, phase change materials and water storage tubes. The following solar-related items do not qualify as a passive solar system or component: Glazing; windows and movable insulation; skylights; solar ponds; swimming pool covers; and masonry walls and floors.

C. "Photovoltaic system" means an array of solar cells which convert sunshine directly into electric current. The system may include batteries that store the electricity.

D. A "wind energy system" includes any machine which converts available wind energy into electrical output form. A wind energy system has 4 subsystems:

- (1) A rotor;
- (2) Power processing components;
- (3) Tower; and
- (4) Control components.

§5219-A. Retirement and disability credit

A resident individual is allowed a credit against the tax otherwise due under this Part equal to 20% of any credit he received for the same taxable year under the Code, Section 22. In no case may this credit reduce the Maine income tax to less than zero.

§5219-B. Conformity credit

For a taxable year beginning in 1987, a corporate taxpayer is entitled to receive a credit against taxes levied for that year pursuant to this Part, except for chapter 819. The amount of the credit is 5% of the amount of the tax otherwise due for the same year.

Sec. 33. 36 MRSA §5220, sub-§1, as enacted by P&SL 1969, c. 154, Section F, §1, is repealed and the following enacted in its place:

1. Resident individuals. Every resident individual:
 - A. Who is required to file a federal income tax return for the taxable year; or
 - B. Who has Maine adjusted gross income equal to or greater than the income levels for which a federal income tax return is required pursuant to the United States Internal Revenue Code, Section 6012.

Sec. 34. 36 MRSA §5220, sub-§2, as amended by PL 1985, c. 783, §38, is repealed and the following enacted in its place;

2. Nonresident individuals. Every nonresident individual who has Maine adjusted gross income from sources within this State equal to or greater than the income levels for which a federal income tax return is required pursuant to the United States Internal Revenue Code, Section 6012.

Sec. 35. 36 MRSA §5220, sub-§6 is enacted to read:

6. Certain taxable entities. Every taxable entity, as defined by section 5206-B, subsection 4, which is required to file a federal income tax return. The State Tax Assessor may, in his discretion, allow 2 or more taxable entities which are members of an affiliated group to file a consolidated return.

Sec. 36. 36 MRSA §5224-A, as repealed and replaced by PL 1985, c. 783, §41, is amended to read:

§5224-A. Return of part-year resident

If an individual changes his status as a resident individual or nonresident individual during his taxable year, he shall file a nonresident return pursuant to section 5220, subsection 2. His tax shall be computed, pursuant to section 5111, subsection 4, as if he were a nonresident individual, except that the numerator of the apportionment ratio shall be comprised of his Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph A, for the portion of the taxable year during which he was a resident individual, plus his Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B, for the portion of the taxable year during which he was a nonresident individual. The part-year resident shall also be entitled to the credit provided by ~~section 5127, subsection 1~~ section 5217, computed as if the individual's Maine adjusted gross income for the entire year were comprised only of that portion which is attributed to the portion of the year during which he was a resident individual.

Sec. 37. 36 MRSA §5250, sub-§1, as enacted by PL 1981, c. 371, §1, is amended to read:

1. General. Every employer maintaining an office or transacting business within this State and making payment of any wages taxable under this part to a resident or nonresident individual shall, if required to withhold federal income tax from such wages, deduct and withhold from such wages for each payroll period a tax computed in such manner as to result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee under this part with respect to the amount of such wages included in his adjusted gross income during the calendar year. The method of determining the amount to be withheld shall be prescribed by regulations of the asses-

sor. This section shall not apply to shares of a lobster boat's catch apportioned by a lobster boat operator to a sternman. This section does not apply to wages from which a tax is required to be deducted and withheld under the ~~United States Internal Revenue Code~~, Sections 1441 and 1442.

Sec. 38. 36 MRSA §5255-B, as amended by PL 1985, c. 535, §28, is further amended to read:

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

Any 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~~, 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 Internal 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. 39. Application. This Act shall apply to taxable years ending on or after January 1, 1987.

Effective September 29, 1987.

CHAPTER 505

H.P. 1256 — L.D. 1714

AN ACT to Clarify the Organizational Status of the Bureau of Lottery within the Department of Finance.

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

Sec. 1. 8 MRSA c. 14, as amended, is repealed.

Sec. 2. 8 MRSA c. 14-A is enacted to read:

CHAPTER 14-A

LOTTERY

§371. Definitions

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

1. Bureau. "Bureau" means the Bureau of Lottery within the Department of Finance to carry out the pur-