

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION
December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION
January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

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

J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND SPECIAL SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

erly applied for a refund and the amount of accumulated contributions is less than \$650. In the case of a part-time, seasonal or temporary employee the \$650 limitation does not apply.

Sec. 16. 5 MRSA §18306, sub-§2, ¶F is enacted to read:

F. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for such service plus interest as provided by section 17156. The right to a refund under this paragraph is nonforfeitable until the member has accrued 10 years of creditable service but does not constitute a right to a retirement benefit.

Sec. 17. 5 MRSA §18553, sub-§1, as amended by PL 1991, c. 469, §5, is further amended to read:

1. Refund of contributions. The amount of the qualifying member's accumulated contributions, as determined under section 18306, is paid:

- A. To the qualifying member's designated beneficiary, if any;
- B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:
 - (1) Surviving spouse;
 - (2) Child or children, regardless of age, sharing equally among themselves; and
 - (3) The older parent; or
- C. To the qualifying member's estate.

Sec. 18. Repeal. If the Executive Director of the Maine State Retirement System certifies that 26 Code of Federal Regulations, Part 31 is amended in a way that the retirement laws in effect on December 15, 1991 related to part-time, seasonal or temporary employees comply with federal law without requiring the State to contribute to the United States Social Security System for those employees, the sections of this Act that amend those laws are repealed. The Maine State Retirement System shall immediately notify the joint standing committee of the Legislature having jurisdiction over aging, retirement and veterans matters if that certification is made.

Sec. 19. Review. The Joint Standing Committee on Aging, Retirement and Veterans shall, by March 15, 1992, review changes made in the retirement laws in this Act and any changes made in federal requirements re-

lated to retirement coverage of part-time, seasonal or temporary employees and may report out legislation to make any changes it recommends in those laws.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect December 31, 1991.

Effective December 31, 1991.

CHAPTER 620

H.P. 1406 - L.D. 1988

An Act to Exempt from Sales Tax Snowmobiles and All-terrain Vehicles That Are Registered Outside the State

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

Whereas, recent amendments to the laws governing registration of snowmobiles and all-terrain vehicles inadvertently required the imposition of a sales tax on snowmobiles from other jurisdictions; and

Whereas, it is vital to correct this situation immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

36 MRSA §1760, sub-§45, as amended by PL 1991, c. 546, §22, is further amended to read:

45. Certain property purchased outside the State. Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29, section 1, and if the owner was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

A-1. If the property is a watercraft ~~which~~, snowmobile or all-terrain vehicle that is registered outside the State by an owner who at the time of purchase was a resident of another state and the watercraft, snowmobile or all-terrain vehicle is present in the State not more than 30 days during the 12 months following its purchase; or

B. For more than 12 months in all other cases.

For purposes of this subsection, "use" does not include storage, but means actual utilization of the property for a purpose consistent with its design. Property, other than automobiles and watercraft, which snowmobiles and all-terrain vehicles, that 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 12 months prior to its registration in this State.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective December 21, 1991.

CHAPTER 621

H.P. 1407 - L.D. 1990

An Act to Make Technical Corrections to the Laws Regarding Withholding Tax on Real Estate Transfers

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

Whereas, the law governing the withholding of real estate transfer tax was recently amended; and

Whereas, that recent amendment, which is scheduled to take effect January 1, 1992, contains technical problems; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 36 MRSA §5250-A, sub-§1, ¶C, as enacted by PL 1991, c. 591, Pt. Y, §2 and affected by §3, is amended to read:

C. "Resident," when used in reference to an individual, estate or trust, means an individual, estate or trust that has established a domicile in the State as of the date of transfer of the Maine real property, or that was a resident for purposes of the previous income tax year, unless the individual, estate or trust has established a domicile outside of the State as of the date of transfer of the Maine real property. "Resident," when used in reference

to a corporation, means a corporation that, as of the date of transfer of the Maine real property, is incorporated in the State or maintains a permanent place of business in the State. "Resident," when used in reference to a partnership, means a partnership at least 75% of whose ownership interest, as of the date of the transfer of Maine real property, is held by residents of this State.

Sec. 2. 36 MRSA §5250-A, sub-§3-A is enacted to read:

3-A. Foreclosure sales; transfers in lieu of foreclosure. No tax is required to be withheld pursuant to this section by a buyer at a foreclosure sale when the consideration paid does not exceed the debt secured by the property held by a mortgagee or lienholder; if the consideration paid does exceed the secured debt, the amount of tax withheld pursuant to this section must be the lesser of the surplus over the secured debt or the amount otherwise required to be withheld by this section. When a mortgagor conveys the mortgaged property to a mortgagee in lieu of foreclosure and with no additional consideration, the mortgagee is not required to withhold tax pursuant to this section.

Sec. 3. 36 MRSA §5250-A, sub-§5, as enacted by PL 1991, c. 591, Pt. Y, §2 and affected by §3, is amended to read:

5. False certificate. If a buyer has actual knowledge that a certificate furnished under subsection 3, ~~paragraph B~~ is false and the buyer fails to withhold the prescribed amount, the buyer is liable for the amount that should have been withheld and any applicable interest and penalty.

Sec. 4. 36 MRSA §5250-A, sub-§10 is enacted to read:

10. Application of withholding. The amount withheld pursuant to this section is deemed to be a payment against the tax imposed by this Part on income received by the seller.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective December 21, 1991.

CHAPTER 622

H.P. 1402 - L.D. 1985

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of Law