

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

team in order to make available to persons receiving services those services that are otherwise not obtainable, in the following order of priority:

A. Those persons receiving services who are living at home or in unsubsidized foster care who are between 20 and 26 years of age and are not receiving any day program; and

B. All other persons receiving services who are between 20 and 26 years of age and are not receiving an appropriate day program.

All persons receiving services who are served under this program prior to their 26th birthday must be allowed to continue to receive services through the voucher system established by subsection 2.

For purposes of this section, an ~~interdisciplinary~~ planning team includes the person receiving services and a member of the person's family or the guardian of the person receiving services.

Sec. 24. 34-B MRSA §5609, sub-§2, as amended by PL 1995, c. 560, Pt. K, §61, is further amended to read:

2. Payment for service. The department shall establish a voucher system to allow the ~~interdisciplinary~~ planning team to incorporate only those services determined critical and otherwise unavailable into a program, including work, habilitation and other services designated in subsection 1, when appropriate. The department shall establish a limit on the amount of transitional services available to persons receiving services eligible for services under this section.

Sec. 25. 34-B MRSA §6252, sub-§4, ¶A, as enacted by PL 1985, c. 503, §12, is amended to read:

A. When considered necessary by an ~~interdisciplinary~~ planning team and with the consent of the director, persons may be admitted to the Elizabeth Levinson Center short-term evaluation program for a period of 40 program days, excluding weekends, without certification.

See title page for effective date.

CHAPTER 390

S.P. 530 - L.D. 1571

An Act Concerning Technical Changes to the Tax Laws

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

Sec. 1. 36 MRSA §191, sub-§2, ¶R, as amended by PL 2001, c. 714, Pt. CC, §2 and affected by §8, is further amended to read:

R. The disclosure to the Department of Human Services or the Department of Behavioral and Developmental Services of information relating to the administration and collection of the tax imposed by chapter 373 ~~and chapter 375~~;

Sec. 2. 36 MRSA §191, sub-§2, ¶Y, as amended by PL 2001, c. 439, Pt. L, §7, is further amended to read:

Y. The disclosure by the State Tax Assessor, upon request in writing of any individual against whom an assessment has been made pursuant to section 177, subsection 1, of the following information:

- (1) Information regarding the underlying tax liability to the extent necessary to apprise the individual of the basis of the assessment;
- (2) The name of any other individual against whom an assessment has been made for the same underlying tax debt; and
- (3) The general nature of any steps taken by the assessor to collect the underlying tax debt from any other individuals and the amount collected; ~~and~~

Sec. 3. 36 MRSA §191, sub-§2, ¶Z, as enacted by PL 2001, c. 439, Pt. L, §8, is amended to read:

Z. The disclosure to the Treasurer of State when necessary for the performance of the Treasurer of State's official duties as administrator under Title 33, chapter 41 of the following information:

- (1) The current mailing address for a taxpayer for purposes of returning unclaimed or abandoned property to the rightful owner or heir; and
- (2) The names and mailing addresses of all Maine corporate income tax filers in an electronic medium prescribed by the State Tax Assessor;

Sec. 4. 36 MRSA §191, sub-§2, ¶¶AA and BB are enacted to read:

AA. The disclosure by employees of the bureau to designated representatives of the Finance Authority of Maine of information required to ensure that recipients of certain benefits under Title 20-A, chapter 417-E are eligible to receive such benefits; and

BB. The disclosure to an authorized representative of the Department of Human Services, Office of Head Start and Child Care of taxpayer information directly relating to the certification of investments eligible for or the eligibility of a taxpayer for the quality child care investment credit provided by section 5219-Q.

Sec. 5. 36 MRSA §191, sub-§3-A is enacted to read:

3-A. Additional restrictions for proprietary information provided to assessor. Information and materials provided in confidence to the assessor and used by the bureau for the purpose of preparing legislation or legislative analysis, including the preparation of fiscal estimates for the Office of Fiscal and Program Review, are to be accorded the same confidentiality as established by this section for tax information.

Sec. 6. 36 MRSA §1752, sub-§9 is repealed.

Sec. 7. 36 MRSA §1752, sub-§11, ¶B, as repealed and replaced by PL 1999, c. 708, §23, is amended to read:

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;
- (4) The sale, to a person engaged in the business of renting audio or video ~~tapes~~ media and audio or video equipment, of audio or video ~~tapes~~ media or audio or video equipment for rental;
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;
- (6) The sale, to a person engaged in the business of providing cable television services, of cable converter boxes and remote-control units for rental or lease; or

(7) The sale, to a person engaged in the business of renting furniture, of furniture for rental.

Sec. 8. 36 MRSA §1752, sub-§17-A, ¶K, as amended by PL 2001, c. 396, §22, is further amended to read:

K. Rental of furniture, audio ~~tapes~~ media and audio equipment pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105.

Sec. 9. 36 MRSA §1754-A, as enacted by PL 1991, c. 780, Pt. CCC, §2, is amended to read:

§1754-A. Registration of owners of space temporarily rented as retail space

A person who rents or leases ~~property and has space to~~ more than 4 persons ~~renting or leasing space~~ at one location for less than a 12-month period for the purpose of retail sales shall register with the State Tax Assessor. The form for application for registration and the registration certificates must be prescribed and furnished free of charge by the ~~State Tax Assessor assessor~~. For each location where more than 4 persons rent or lease space for less than 12 months from the same person, the ~~State Tax Assessor assessor~~ shall issue a registration certificate, which must be conspicuously displayed at that location. ~~The person shall provide the State Tax Assessor by~~ By the 15th of each month following any month in which rental or lease activity has occurred, the person shall provide to the assessor the names, addresses and sales tax registration certificate numbers of those persons who have rented space during the previous month. ~~Informational~~ Information returns must be prescribed and furnished free of charge by the ~~State Tax Assessor assessor~~. Returns required under this section must be treated as returns filed under this Title and are subject to section ~~187~~ 187-B.

Sec. 10. 36 MRSA §1760, sub-§23-C, ¶A, as enacted by PL 1999, c. 759, §2 and affected by §5, is amended to read:

A. Motor vehicles, except automobiles rented for a period of less than one year, all-terrain vehicles as defined in Title 12, section 7851 and snowmobiles as defined in Title 12, section 7821;

Sec. 11. 36 MRSA §1814, sub-§1, as enacted by PL 1977, c. 316, §1, is amended to read:

1. Tax liability. Whenever the tax collected by a retailer for any period exceeds that provided by law, whether the excess is attributable to the collection of tax on exempt or nontaxable transactions or erroneous computation, the total amount collected, excluding

only that portion of the excess ~~which that~~ has been returned or credited to the person or persons from whom it was collected, ~~shall constitute~~ constitutes a tax liability of the retailer ~~and shall that must be~~ reported and paid at the time and in the manner provided by sections ~~4954~~ 1951-A and 1952.

Sec. 12. 36 MRSA §1952, as amended by PL 1981, c. 364, §27, is further amended to read:

§1952. Payment of tax

The taxes imposed by chapters 211 to 225 ~~shall be on sales of tangible personal property and taxable services are~~ due and payable at the time of the sale; ~~or, in the case of tax on rental for living quarters or rental of automobiles rented on a short term basis, at the time the rental is payable.~~ Upon such terms and conditions as the State Tax Assessor may prescribe, ~~he~~ the assessor may permit a postponement of payment to a date not later than the date ~~when on which~~ the sales so taxed are required to be reported. ~~For cause, the State Tax Assessor may abate all or any part of the taxes.~~

Sec. 13. 36 MRSA §2902, sub-§4, as enacted by PL 1967, c. 94, §4, is repealed.

Sec. 14. 36 MRSA §2909, as amended by PL 1965, c. 479, §1, is repealed and the following enacted in its place:

§2909. Refund of entire tax paid by certain common carriers

A person engaged in furnishing common carrier passenger service under an operating authority license issued pursuant to Title 29-A, section 552 is entitled to reimbursement of the tax paid on internal combustion engine fuel used by that person in locally encouraged vehicles. For purposes of calculating reimbursement due pursuant to this section, internal combustion engine fuel used in a person's locally encouraged vehicles is presumed to bear the same proportional relationship to internal combustion engine fuel used in all of the person's passenger vehicles that the person's commutation fare revenue derived from service provided by locally encouraged vehicles bears to the person's total passenger fare revenue. "Commutation fare revenue" means revenue attributable to fares of 60¢ or less and fares paid for commutation or season tickets for single trips of less than 30 miles or for commutation tickets for one month or less. "Total passenger fare revenue" means all revenue attributable to the claimant's passenger operations. "Locally encouraged vehicles" means buses upon which no excise tax is collected under section 1483, subsection 13.

Applications for refunds must be filed with the State Tax Assessor, on a form prescribed by the

assessor and accompanied by the original invoices showing those purchases, within 9 months from the date of purchase. A refund may not be issued under this section unless the claimant's commutation fare revenue derived during the calendar quarter for which the refund is claimed is at least 60% of the claimant's total passenger fare revenue derived during that calendar quarter.

Sec. 15. 36 MRSA §3203-C, as enacted by PL 2001, c. 688, §7, is amended to read:

§3203-C. Inventory tax

On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all distillates that are held in inventory by a ~~distributor~~ supplier or retail dealer as of the end of the day prior to that date on which the tax imposed by section 3203, subsection 1 has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. ~~Distributors~~ Suppliers and retail dealers that hold such tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the ~~distributor~~ supplier or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor.

Sec. 16. 36 MRSA §3215, as amended by PL 1985, c. 127, §1, is repealed and the following enacted in its place:

§3215. Refund of taxes for certain common carriers

A person engaged in furnishing common carrier passenger service under an operating authority license issued pursuant to Title 29-A, section 552 is entitled to reimbursement of the tax paid on special fuel used by that person in locally encouraged vehicles. For purposes of calculating reimbursement due pursuant to this section, special fuel used in a person's locally encouraged vehicles is presumed to bear the same proportional relationship to special fuel used in all of the person's passenger vehicles that the person's commutation fare revenue derived from service provided by locally encouraged vehicles bears to the person's total passenger fare revenue. "Commutation fare revenue" means revenue attributable to fares of 60¢ or less and fares paid for commutation or season tickets for single trips of less than 30 miles or for commutation tickets for one month or less. "Total passenger fare revenue" means all revenue attributable to the claimant's passenger operations. "Locally encouraged vehicles" means buses upon which no

excise tax is collected under section 1483, subsection 13.

Applications for refunds must be filed with the State Tax Assessor, on a form prescribed by the assessor and accompanied by the original invoices showing those purchases, within 9 months from the date of purchase. A refund may not be issued under this section unless the claimant's commutation fare revenue derived during the calendar quarter for which the refund is claimed is at least 60% of the claimant's total passenger fare revenue derived during that calendar quarter.

Sec. 17. 36 MRSA §3218, as amended by PL 1985, c. 127, §1, is repealed and the following enacted in its place:

§3218. Refund of tax in certain cases, time limit

A person who purchases and uses special fuel for any use other than operation of a registered motor vehicle on the highways of this State, and who has paid the tax imposed by this chapter on that fuel, is entitled to reimbursement in the amount of the tax paid, less 1¢, upon presenting to the State Tax Assessor a sworn statement accompanied by the original invoices or other evidence as the assessor may require. The statement must show the total amount of special fuel so purchased and used by that person other than in the operation of registered motor vehicles on the highways of this State and in the operation of aircraft. Applications for refunds must be filed with the assessor within 15 months from the date of purchase.

A monthly refund application on a form prescribed by the assessor may be filed at the close of any month to claim a refund pursuant to this section. Interest must be paid at the rate determined pursuant to section 186, calculated from the date of receipt of the monthly claim, for all proper claims not paid within 30 days of receipt. Nothing in this paragraph may be construed to relieve the applicant from filing quarterly reports as prescribed in section 3209.

All fuel qualifying for a refund under this section is subject to the use tax imposed by chapter 215.

Sec. 18. 36 MRSA §3219-A, sub-§1, ¶C, as enacted by PL 1995, c. 271, §11, is amended to read:

C. Inspect the books and records of any supplier, user, ~~distributor~~ retailer or importer;

Sec. 19. 36 MRSA §3235, as amended by PL 1999, c. 414, §32, is further amended to read:

§3235. Tax a debt; recovery; preference

The taxes, interest and penalties imposed by chapters 7, 451, ~~453~~ and 459, from the time ~~the same~~ they are due, are 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 have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment obtained must be paid to the State Tax Assessor.

Sec. 20. 36 MRSA §4070, as amended by PL 1991, c. 546, §28, is repealed and the following enacted in its place:

§4070. Extension of time for filing return

1. General. The State Tax Assessor may grant a reasonable extension of time for filing a return required by this chapter, on terms and conditions the assessor may require, as long as payment reasonably estimating the tax due has been made on or before the original payment due date. Except as provided in subsection 2, an extension for filing any return may not exceed 8 months.

2. Federal extension. When an extension of time is granted within which to file a federal estate tax return, the due date for filing the Maine estate tax return is automatically extended for an equivalent period, as long as payment reasonably estimating the tax due has been made on or before the original payment due date.

Sec. 21. 36 MRSA §4071, sub-§1, ¶E, as enacted by PL 1981, c. 451, §7, is amended to read:

E. The amount of the federal credit for state death taxes allowable to the decedent's estate.

Sec. 22. 36 MRSA §4831, sub-§§2-A and 2-B, as enacted by PL 1989, c. 927, §3, are repealed.

Sec. 23. 36 MRSA §4832, sub-§1, as amended by PL 1989, c. 927, §5, is further amended to read:

1. Imposition. A fee is imposed on the retail sale in this State of new tires; and new lead-acid batteries; ~~new major appliances, new major furniture items, new bathtubs and new mattresses.~~ The fee is in the amount of \$1 per tire or lead-acid battery ~~and \$5 for major appliances, major furniture items, bathtubs and mattresses.~~ Additionally, a fee in the same amount is imposed on the storage, use or other consumption in this State of tires; and lead-acid batteries, major appliances, major furniture items, bathtubs and mattresses purchased new in this State by the user or purchased out of outside the State by the user unless either of the fees fee imposed by this section has been paid.

Sec. 24. 36 MRSA §4832, sub-§1-A, as enacted by PL 1995, c. 368, Pt. NN, §2, is repealed.

Sec. 25. 36 MRSA §4833, 2nd ¶, as amended by PL 1989, c. 927, §5, is repealed.

Sec. 26. 36 MRSA §5121, as amended by PL 1995, c. 281, §26, is further amended to read:

§5121. Maine taxable income

The Maine taxable income of a resident individual ~~of this State~~ is equal to the individual's federal adjusted gross income as defined by ~~federal law~~, the Code with the modifications; and less the deductions and personal exemptions provided in this chapter.

Sec. 27. 36 MRSA §5122, sub-§1, ¶A, as corrected by RR 1991, c. 2, §136, is amended to read:

A. Interest or dividends on obligations or securities of any state other than this State, or of a political subdivision or authority of any state other than this State ~~and its political subdivisions and authorities~~, to the extent that interest or those dividends are not included in the recipient's federal adjusted gross income;

Sec. 28. 36 MRSA §5122, sub-§1, ¶D, as amended by PL 1983, c. 855, §15, is further amended to read:

D. ~~The~~ For income tax years beginning before January 1, 2002, the amount of any net operating loss in the taxable year ~~which that~~ has been carried back to previous years pursuant to the ~~United States Internal Revenue Code~~, Section 172;

Sec. 29. 36 MRSA §5122, sub-§1, ¶J, as amended by PL 2001, c. 559, Pt. GG, §8 and affected by §26, is further amended to read:

J. The amount claimed as a ~~business expense deduction~~ in determining federal adjusted gross income that is included in the investment credit base for the high-technology investment tax credit;

Sec. 30. 36 MRSA §5122, sub-§2, ¶A, as amended by PL 2001, c. 177, §1, is further amended to read:

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; to the extent ~~includable~~ that interest or those dividends are included in federal adjusted gross income for federal income tax purposes; but exempt from state income taxes under the laws of the United States, ~~provided that~~ the. The amount subtracted ~~is~~ must be decreased

by any expenses incurred in the production of the interest or dividend income to the extent that ~~these those~~ expenses, including amortizable bond premiums, are ~~deductible~~ deducted in determining federal adjusted gross income;

Sec. 31. 36 MRSA §5122, sub-§2, ¶B, as amended by PL 1997, c. 127, §2, is further amended to read:

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

Sec. 32. 36 MRSA §5122, sub-§2, ¶H, as amended by PL 2001, c. 559, Pt. J, §2, is further amended to read:

H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value of the net operating loss arising from tax years beginning on or after January 1, 1989, but before January 1, 1993, and the absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 2002, for which federal adjusted gross income was increased in accordance with subsection 1, paragraph H and that pursuant to the Code, Section 172 was carried back for federal income tax purposes, less the absolute value of loss used in the taxable year of loss to offset any addition modification required by subsection 1, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over; and
- (3) The amount has not been previously used as a modification pursuant to this subsection;

Sec. 33. 36 MRSA §5122, sub-§2, ¶J, as amended by PL 2001, c. 559, Pt. GG, §11 and affected by §26, is further amended to read:

J. To the extent included in federal adjusted gross income, any amount constituting a qualified ~~withdrawal~~ distribution from an account established pursuant to Title 20-A, chapter 417-E and used for paying higher education expenses of the designated beneficiary of that account;

Sec. 34. 36 MRSA §5125, as amended by PL 1999, c. 708, §37, is further amended to read:

§5125. Itemized deductions

1. General. ~~If an~~ An individual who has claimed itemized deductions from federal adjusted

gross income in determining the individual's federal taxable income for the taxable year, ~~the individual is entitled in determining the tax under this Part to may claim an itemized deduction amount consistent with deductions from Maine adjusted gross income as provided in this section.~~

2. Spouses. Spouses, both of whom are required to file returns under this Part, are allowed to claim itemized deductions from Maine adjusted gross income only if both do so. ~~The Their~~ total of itemized deductions allowable for determining from federal income tax adjusted gross income, as adjusted modified by ~~this section~~ subsection 3, may be taken by either spouse or divided between them, as they may elect, if their federal income tax is determined on a joint return but their tax ~~pursuant to~~ under this Part is determined on separate returns.

3. Amount. The sum of an individual's ~~allowable federal~~ allowable federal itemized deductions from federal adjusted gross income must be:

A. Reduced by any amount ~~representing~~ attributable to income taxes imposed by this State or any other taxing jurisdiction ~~and interest or expenses incurred in the production of income exempt from tax under this Part;~~

B. Increased by any amount of interest or expense incurred in the production of income taxable under this Part but exempt from federal income tax, ~~and which has that was~~ that was not been deducted in determining the individual's federal adjusted gross taxable income; ~~and~~

C. Reduced by any amount of deduction ~~related~~ attributable to income taxable to financial institutions under chapter 819-;

D. Reduced by any amount attributable to interest or expenses incurred in the production of income exempt from tax under this Part; and

E. Reduced by the amount attributable to any contribution that qualified for and was actually utilized as a credit under section 5216-C.

Sec. 35. 36 MRSA §5160, as amended by PL 1993, c. 395, §19, is further amended to read:

§5160. Imposition of tax

The tax is imposed, at the rates provided by section 5111 for ~~resident~~ single individuals, upon the Maine taxable income of estates and trusts. The tax must be paid by the fiduciary.

Sec. 36. 36 MRSA §5163, as enacted by P&SL 1969, c. 154, §F1, is amended to read:

§5163. Maine taxable income of resident estate or trust

The Maine taxable income of a resident estate or trust ~~means is equal to~~ is equal to its federal taxable income modified by the addition or subtraction, ~~as the case may be,~~ of its share of the fiduciary adjustment determined under section 5164.

Sec. 37. 36 MRSA §5175, as enacted by P&SL 1969, c. 154, §F1, is amended to read:

§5175. Maine taxable income of a nonresident estate or trust

1. General rules. For purposes of this chapter:

A. Items of income, gain, loss and deduction mean those derived from or connected with sources in this State-;

B. Items of income, gain, loss and deduction entering into the definition of federal distributable net income ~~includes~~ include such items from another estate or trust of which the first estate or trust is a beneficiary-; and

C. The source of items of income, gain, loss or deduction ~~shall~~ must be determined under regulations prescribed by the assessor in accordance with the general rules in section 5142 as if the estate or trust were a nonresident individual.

2. Determination of Maine taxable income.

The Maine taxable income of a nonresident estate or trust ~~consists of:~~ is equal to its share of items of income, gain, loss and deduction that enter into the federal definition of distributable net income increased or reduced by the amount of any items of income, gain, loss or deduction that are recognized for federal income tax purposes but excluded from the federal definition of distributable net income of the estate or trust less the amount of the deduction for its federal exemption.

A. ~~Its share of items of income, gain, loss and deduction which enter into the federal definition of distributable net income;~~

B. ~~Increased or reduced by the amount of any items of income, gain, loss or deduction which are recognized for federal income tax purposes but excluded from the federal definition of distributable net income of the estate or trust;~~

C. ~~Less the amount of the deduction for its federal exemption.~~

Sec. 38. 36 MRSA §5200-A, sub-§1, ¶B, as amended by PL 1987, c. 504, §18, is further amended to read:

B. ~~The~~ For income tax years beginning before January 1, 2002, the amount of any net operating loss in the taxable year ~~which that~~ has been carried back to previous taxable years pursuant to the Code, Section 172;

Sec. 39. 36 MRSA §5200-A, sub-§1, ¶I, as amended by PL 1997, c. 746, §7 and affected by §24, is further amended to read:

I. Interest or dividends on obligations or securities of any state other than this State, or of a political subdivision or authority; of any state other than this State and its political subdivisions and authorities, to the extent that interest or those dividends are not included in the taxpayer's federal taxable income;

Sec. 40. 36 MRSA §5200-A, sub-§1, ¶K, as amended by PL 2001, c. 559, Pt. GG, §13 and affected by §26, is further amended to read:

K. The amount claimed as a ~~business expense deduction in determining federal taxable income~~ that is included in the investment credit base for the high-technology investment tax credit;

Sec. 41. 36 MRSA §5200-A, sub-§2, ¶A, as enacted by PL 1981, c. 704, §4, is amended to read:

A. Income ~~which~~ included in the taxpayer's federal taxable income that, under the laws of the United States, is exempt from taxation by states;

Sec. 42. 36 MRSA §5200-A, sub-§2, ¶C, as amended by PL 2001, c. 177, §3, is further amended to read:

C. An amount equal to the taxpayer's federal ~~new jobs credit or~~ work opportunity credit as determined under the laws of the United States;

Sec. 43. 36 MRSA §5200-A, sub-§2, ¶F, as amended by PL 1989, c. 880, Pt. G, §7, is further amended to read:

F. Income this State is prohibited from taxing under the Constitution of Maine or the United States Constitution; ~~provided that the~~ to the extent that it is included in the taxpayer's federal taxable income. The amount subtracted must be decreased by any expenses incurred in production of that income ~~to the extent that these expenses are deductible were deducted~~ in determining federal taxable income;

Sec. 44. 36 MRSA §5200-A, sub-§2, ¶H, as amended by PL 2001, c. 559, Pt. J, §4, is further amended to read:

H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value

of the net operating loss arising from tax years beginning on or after January 1, 1989 but before January 1, 1993 and the absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 2002 that, pursuant to the Code, Section 172, was carried back for federal income tax purposes, less the absolute value of loss used in the taxable year of loss to offset any addition modification required by subsection I, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over; and
- (3) The amount has not been previously used as a modification pursuant to this subsection;

Sec. 45. 36 MRSA §5200-A, sub-§2, ¶J, as amended by PL 2001, c. 559, Pt. GG, §16 and affected by §26, is further amended to read:

J. An amount equal to an income tax refund to the taxpayer by this State or another state of the United States that is included in that taxpayer's federal taxable income for the taxable year under the Code, but only to the extent that:

- (1) Maine net income is not reduced below zero; and
- (2) The amount to be refunded from this State or another state of the United States has not been previously used as a modification pursuant to this subsection.

If this modification ~~amount~~ results in Maine net income that is less than zero for the taxable year, the ~~excess~~ negative modification amount may be carried ~~back or~~ forward in the same manner as a net operating loss deduction ~~carry back or carry forward~~ to a taxable year that is within the allowable federal period for ~~a carry-back or carry-forward~~ carrying forward net operating losses, subject to the above limitations;

Sec. 46. 36 MRSA §5219-A, sub-§2, as enacted by PL 1999, c. 521, Pt. B, §7 and affected by §11, is amended to read:

2. Nonresident taxpayer. A nonresident ~~or part-year resident~~ individual is allowed a credit against the tax otherwise due under this Part equal to 20% of any credit the individual received for the same taxable year under the Code, Section 22 multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the ~~nonresident's~~ individual's entire federal adjusted

gross income, as modified by section 5122. In no case may this credit reduce the Maine income tax to less than zero.

Sec. 47. 36 MRSA §5219-A, sub-§3 is enacted to read:

3. Part-year resident taxpayer. An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part equal to 20% of any credit the individual received for the same taxable year under the Code, Section 22 multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident, and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122. In no case may this credit reduce the Maine income tax to less than zero.

Sec. 48. 36 MRSA §5219-N, sub-§§1 and 3, as enacted by PL 1997, c. 557, Pt. E, §1 and affected by §2 and Pt. G, §1, are amended to read:

1. Generally. Except as ~~otherwise provided by this section in subsection 2~~, an individual whose state Maine taxable income determined as if the individual were a resident individual for the entire year is \$2,000 or less is allowed a credit equal to ~~the amount of~~ the tax otherwise imposed on that individual by this Part. In no case may ~~the this credit allowed by this section reduce an individual's state the Maine income tax liability~~ to less than zero.

3. Returns not required. Notwithstanding section 5220 or any other provision of law, an individual who is eligible for this credit is not required to file a state Maine income tax return.

Sec. 49. 36 MRSA §5231, sub-§1, as amended by PL 1989, c. 871, §19, is further amended to read:

1. General. The ~~assessor~~ State Tax Assessor may grant a reasonable extension of time for payment of tax or estimated tax or any installment, or for filing any return, declaration, statement or other document required pursuant to this Part, on terms and conditions the assessor may require. Except as provided in subsection 1-A or for a taxpayer who is outside the United States, an extension for filing any return, declaration, statement or document may not exceed 8 months.

Sec. 50. 36 MRSA §5231, sub-§1-A, as amended by PL 1997, c. 404, §9 and affected by §10, is further amended to read:

1-A. Federal extension. When an individual estate or trust is granted an extension of time within which to file a federal income tax return for any taxable year, the due date for filing the taxpayer's income tax return with respect to the tax imposed by this Part is automatically extended for an equivalent period. When a taxable corporation or a financial institution subject to the tax imposed by chapter 819 is granted an extension of time within which to file its federal income tax return for any taxable year, the due date for filing the taxpayer's income tax or franchise tax return with respect to the tax imposed by this Part is automatically extended for an equivalent period plus 30 days.

Sec. 51. 36 MRSA §5316, as amended by PL 1971, c. 622, §132, is repealed.

Sec. 52. P&SL 1999, c. 53 is repealed.

Sec. 53. Application. Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 5122, subsection 1, paragraph D and subsection 2, paragraph H and section 5200-A, subsection 1, paragraph B and subsection 2, paragraphs H and J apply to tax years beginning on or after January 1, 2002.

Sec. 54. Application. That section of this Act that repeals Private and Special Law 1999, chapter 53 applies to persons applying for participation in the elderly low-cost drug program after December 31, 2002.

Sec. 55. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 36, section 191, subsection 2, paragraph R, as amended by Public Law 2001, chapter 714, Part CC, section 2, takes effect when the provisions in Public Law 2001, chapter 714, Part CC, section 8 are met.

See title page for effective date, unless otherwise indicated.

CHAPTER 391

H.P. 1075 - L.D. 1470

An Act To Make Minor Substantive Changes to the Tax Laws

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

Sec. 1. 36 MRSA §1861-A, as amended by PL 2001, c. 583, §12, is further amended to read: