

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1398

6
7 H.P. 1054 House of Representatives, March 30, 1983

8 Submitted by the Department of Finance and Administration pursuant to
9 Joint Rule 24.

10 Referred to the Committee on Taxation. Sent up for concurrence and
ordered printed. Ordered sent forthwith.

EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.

11 Cosponsors: Senator Twitchell of Oxford and Representative Kilcoyne of
Gardiner.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT Providing for Administrative
18 Changes in Maine Tax Laws.
19

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

22 Sec. 1. 36 MRSA §581, 3rd ¶, as amended by PL
23 1979, c. 445, §2, is further amended to read:

24 In either case, and except when the change is
25 occasioned by a transfer to the State or other entity
26 holding the power of eminent domain, resulting from
27 the exercise or threatened exercise of that power,
28 withdrawal shall impose a penalty upon the owner
29 which shall be the greater of (a) an amount equal to
30 the taxes which would have been assessed on the first
31 day of April for the 5 tax years, or any lesser
32 number of tax years starting with the year in which
33 the property was first classified, preceding such
34 withdrawal had such real estate been assessed in each

1 of those years at its fair market value on the date
2 of withdrawal less all taxes paid on said real estate
3 over the preceding 5 years, and interest at the legal
4 rate from the date or dates on which said amounts
5 would have been payable or (b) an amount computed by
6 multiplying the amount, if any, by which the fair
7 market value of the real estate on the date of with-
8 drawal exceeds the 100% valuation of the real estate
9 pursuant to this subchapter on the preceding April
10 1st, by the following rates: 10% from April 1, 1973
11 to March 31, 1978, 20% from April 1, 1978 to March
12 31, 1983 and 30% after March 31, 1983. Fair market
13 value at the time of withdrawal is the assessed just
14 value of comparable property in the municipality ad-
15 justed by the municipality's certified assessment
16 ratio.

17 Sec. 2. 36 MRSA §609 is repealed.

18 Sec. 3. 36 MRSA §610 is repealed

19 Sec. 4. 36 MRSA §1760, sub-§42 is enacted to
20 read:

21 42. Certain property purchased outside the
22 State. Sales of property purchased and used by the
23 present owner outside the State more than 6 months
24 before being brought into the State. For the pur-
25 poses of this subsection, "use" does not include
26 storage, but means actual utilization of the property
27 for a purpose consistent with its design. Property
28 which is required to be registered for use in this
29 State does not qualify for exemption unless it was
30 registered by its present owner outside this State
31 more than 6 months prior to its registration in this
32 State.

33 Sec. 5. 36 MRSA §2013, sub-§2, as amended by PL
34 1981, c. 364, §28, is further amended to read:

35 2. Credit authorized. Any person, association of
36 persons, firm or corporation who purchases deprecia-
37 ble machinery or equipment for use in commercial
38 agricultural production or commercial fishing shall
39 be refunded the amount of sales tax paid by him by
40 presenting to the State Tax Assessor evidence that
41 the machinery or equipment complies with the defini-

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

- 6 (a) A rotor;
7 (b) Power processing components;
8 (c) Frame; and
9 (d) Controlled components.

10 (3) "Wood furnace" means a wood burning
11 appliance designed to operate as part of a
12 central heating system. The furnace may
13 burn wood solely or in combination with
14 another fuel. "Central heating system"
15 means a system whereby heat is produced in a
16 central combustion chamber and distributed
17 by a series of pipes, ducts or similar
18 physical distribution system throughout a
19 building or group of buildings. "Wood fur-
20 nace" does not include a "fireplace," mean-
21 ing a hearth, fire chamber of similarly pre-
22 pared place with a chimney intended to be
23 useable in an open configuration whether or
24 not it can also be closed or operated
25 closed; or a "wood stove," meaning a wood
26 burning appliance designed primarily for
27 space heating purposes.

28 Sec. 21. 36 MRSA §6104, 2nd ¶, as amended by PL
29 1979, c. 541, Pt. B, §59, is further amended to read:

30 If the claimant was the only member of his house-
31 hold, the claim may be paid to his ~~executor or admin-
32 istrater~~ personal representative, but if neither one
33 is not appointed and qualified within 2 years of the
34 filing of the claim, the amount of the claim shall
35 escheat to the State.

36 STATEMENT OF FACT

37 Section 1 clarifies the procedure to be used in

1 determining the fair market value of forest land
2 withdrawn from the Tree Growth Tax Law.

3 Sections 2 and 3 repeal provisions which have
4 been ruled unconstitutional by the Attorney General.

5 Section 4 provides for the exemption from use tax
6 of tangible personal property which is purchased out-
7 side of Maine and which receives bona fide use for 6
8 months outside of Maine prior to entering Maine.
9 This provision complements the exemption provisions
10 of Title 36, section 1760, subsections 23, 23-A, 25
11 and 27 and is consistent with current administrative
12 practice.

13 Section 5 permits the State Tax Assessor to waive
14 the necessity for annual United States Internal Reve-
15 nue Service filings of depreciation schedules to be
16 submitted for sales tax refunds on depreciable equip-
17 ment used in commercial fishing and agriculture.
18 After the initial presentation of evidence, such
19 proof would only be required if a change in business
20 activity occurs or is suspected.

21 Sections 6 to 12 amend the railroad excise tax to
22 allow returns to be filed before April 15th, to re-
23 quire the railroad to self-assess the tax due, to
24 eliminate obsolete information gathering functions of
25 the Public Utilities Commission and to clarify the
26 tax by transferring definitions to a separate section
27 of the law.

28 Section 13 corrects an obsolete reference to
29 Title 18 which has been recodified by Title 18-A
30 which contains no equivalent of section 853.

31 Section 14 repeals an unnecessary provision since
32 Title 36, section 3681, establishes the tax due dates
33 for the taxes imposed by chapters 551 to 567.

34 Sections 15 and 18 repeal obsolete provisions.

35 Sections 16, 17 and 19 simplify the tax rate
36 schedules for the various classes of individual tax-
37 payers by specifically including the appropriate tax
38 rate tables and eliminating the confusing statutory
39 language relating to married joint and head of house-

1 hold filers.

2 Section 20 clarifies existing language in accor-
3 dance with a recent court decision regarding inter-
4 pretation of the statutory language.

5 Section 21 eliminates an obsolete reference to
6 executors and administrators and uses the language of
7 the new Probate Code.

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