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H.P. 308

House of Representatives, February 11, 2021

An Act To Prevent Tax Haven Abuse

Received by the Clerk of the House on February 9, 2021. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TEPLER of Topsham.
Cosponsored by Senator CHIPMAN of Cumberland and
Representatives: COLLINGS of Portland, GRAMLICH of Old Orchard Beach, MATLACK of
St. George, Senator: DAUGHTRY of Cumberland.

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

2 **Sec. 1. 36 MRSA §5200, sub-§5**, as enacted by PL 2005, c. 457, Pt. FFF, §1 and
3 affected by §2, is repealed and the following enacted in its place:

4 **5. Net income.** For purposes of this section, "net income" means for any taxable year
5 the total of the following as modified by section 5200-A:

6 A. The taxable income of the taxpayer for that taxable year under the laws of the
7 United States; and

8 B. The taxable income or loss of any corporation that is a member of a unitary group
9 and that is incorporated in any of the following jurisdictions: the Principality of
10 Andorra, Anguilla, Antigua and Barbuda, Aruba, the Commonwealth of the Bahamas,
11 the Kingdom of Bahrain, Barbados, Belize, Bermuda, the British Virgin Islands, the
12 Cayman Islands, the Cook Islands, Curacao, the Republic of Cyprus, the
13 Commonwealth of Dominica, Gibraltar, Grenada, the Bailiwick of Guernsey, the
14 Republic of Ireland, the Isle of Man, the Bailiwick of Jersey, the Republic of Liberia,
15 the Principality of Liechtenstein, the Grand Duchy of Luxembourg, the Republic of
16 Malta, the Republic of the Marshall Islands, the Republic of Mauritius, the Principality
17 of Monaco, Montserrat, the Republic of Nauru, the Kingdom of the Netherlands, the
18 Caribbean Netherlands, Niue, the Republic of Panama, the Independent State of
19 Samoa, the Republic of San Marino, the Republic of Seychelles, the Republic of
20 Singapore, Sint Maarten, the Federation of St. Christopher and Nevis, St. Lucia, St.
21 Vincent and the Grenadines, Switzerland, the Turks and Caicos Islands, the United
22 States Virgin Islands and the Republic of Vanuatu.

23 The State Tax Assessor shall review annually the list of jurisdictions in paragraph B and
24 report to the joint standing committee of the Legislature having jurisdiction over taxation
25 matters whether any jurisdictions should be added to or deleted from the list based on
26 whether the jurisdiction taxes no or only nominal income, the jurisdiction lacks effective
27 exchange of information with other taxing authorities, the jurisdiction lacks governmental
28 transparency and the jurisdiction protects business with no substantial activity.

29 **Sec. 2. Rules.** The State Tax Assessor shall adopt rules to determine the income or
30 loss for a corporation that is a member of a unitary group that is not otherwise required to
31 file a consolidated federal return and to prevent double taxation or double deduction of any
32 amount included in the computation of net income under the Maine Revised Statutes, Title
33 36, section 5200, subsection 5. Rules adopted pursuant to this section are major substantive
34 rules as described in Title 5, chapter 375, subchapter 2-A.

35 **Sec. 3. Application.** This Act applies to tax years beginning on or after January 1,
36 2022.

37 **SUMMARY**

38 This bill requires corporations that file unitary income tax returns in Maine to include
39 income from certain jurisdictions outside the United States in net income when
40 apportioning income among tax jurisdictions. The State Tax Assessor is required to adopt
41 major substantive rules to determine the income or loss attributable to such corporations
42 and to prevent double taxation or deduction of income. The assessor is required to submit
43 an annual report to the joint standing committee of the Legislature having jurisdiction over

- 1 taxation matters regarding whether jurisdictions should be added to or deleted from the list
- 2 of tax havens based on specified criteria.