

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

—
S.P. 339 - L.D. 1130

**An Act To Amend the Laws Regarding the Determination of Domicile Based
on the Geographic Location of an Individual's Bank**

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

Whereas, current income tax law may provide an incentive for part-time residents and nonresidents to remove capital from financial institutions in Maine; 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 §5102, sub-§5, as amended by PL 2005, c. 519, Pt. G, §1 and affected by §2, is further amended to read:

5. Resident individual. "Resident individual" means an individual:

A. Who is domiciled in Maine, unless:

- (1) The individual does not maintain a permanent place of abode in this State, maintains a permanent place of abode elsewhere and spends in the aggregate not more than 30 days of the taxable year in this State; or
- (2) Within any period of 548 consecutive days, the individual:
 - (a) Is present in a foreign country or countries for at least 450 days;
 - (b) Is not present in this State for more than 90 days;
 - (c) Does not maintain a permanent place of abode in this State at which a minor child of the individual or the individual's spouse is present for more than 90 days, unless the individual and the individual's spouse are legally separated; and

(d) During the nonresident portion of the taxable year with which, or within which, such period of 548 consecutive days begins and the nonresident portion of the taxable year with which, or within which, such period ends, is present in this State for a number of days that does not exceed an amount that bears the same ratio to 90 as the number of days contained in such portion of the taxable year bears to 548; or

B. Who is not domiciled in Maine, but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State, unless the individual is in the Armed Forces of the United States.

The geographic location of a political organization or political candidate that receives one or more contributions from the individual is not in and of itself determinative on the question of whether the individual is domiciled in Maine. The geographic location of a professional advisor retained by an individual or the geographic location of a financial institution with an active account or loan of an individual may not be used to determine whether or not an individual is domiciled in Maine. For purposes of this subsection, "professional advisor" includes, but is not limited to, a person that renders medical, financial, legal, accounting, insurance, fiduciary or investment services. Charitable contributions may not be used to determine whether or not an individual is domiciled in Maine.

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

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor