

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

S.P. 412 - L.D. 982

An Act to Establish Equal Tax Treatment for the Mi'kmaq Nation

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

PART A

Sec. A-1. Legislative findings and purpose. The Legislature finds and declares that the changes to the State's tax laws and rules that appear in Parts B to F of this Act will:

1. Improve the economic opportunities available to and the welfare of the Mi'kmaq Nation and its members;
2. Encourage economic development within the lands of the Mi'kmaq Nation, the benefits of which will accrue not only to the nation and its members but also to surrounding communities and the State; and
3. Clarify and simplify the application of the State's tax laws to the Mi'kmaq Nation as well as to its lands and members, in order to reduce the costs of tax compliance to the nation and its members and to reduce the cost to the State of administering its tax laws.

PART B

Sec. B-1. 36 MRSA §111, sub-§1-F is enacted to read:

1-F. Mi'kmaq Nation. "Mi'kmaq Nation" has the same meaning as in Title 30, section 7203, subsection 4.

Sec. B-2. 36 MRSA §111, sub-§1-G is enacted to read:

1-G. Mi'kmaq Nation Trust Land. "Mi'kmaq Nation Trust Land" has the same meaning as in Title 30, section 7203, subsection 6.

Sec. B-3. 36 MRSA §111, sub-§8, as enacted by PL 2021, c. 681, Pt. C, §7, is amended to read:

8. Tribal entity. "Tribal entity" means a business entity:

A. Wholly owned by the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe, the Penobscot Nation, a tribal member or tribal members or some combination thereof. For purposes of determining ownership of an entity, a

married couple including at least one tribal member is treated as one tribal member, regardless of which spouse owns the entity; or

B. ~~Where~~ When 75% of the ownership interests are held in aggregate by the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot Nation and the entity is controlled and managed by the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot Nation, consistent with the requirements of 13 Code of Federal Regulations, Section 124.109(c)(4); as determined by the federal Small Business Administration or the assessor as consistent with 13 Code of Federal Regulations, Section 124.109(c)(4)(i)(A); or as determined by the federal Small Business Administration as consistent with 13 Code of Federal Regulations, Section 124.109(c)(4)(i)(B).

A tribal entity must be a separate and distinct legal entity organized or chartered by federal, state or tribal authorities.

Sec. B-4. 36 MRSA §111, sub-§9, as enacted by PL 2021, c. 681, Pt. C, §8, is amended to read:

9. Tribal land. "Tribal land" means land within the Houlton Band Trust Land, the Mi'kmaq Nation Trust Land, the Passamaquoddy Indian territory or the Penobscot Indian territory.

Sec. B-5. 36 MRSA §111, sub-§10, as enacted by PL 2021, c. 681, Pt. C, §9, is amended to read:

10. Tribal member. "Tribal member" means an enrolled member of the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot Nation.

Sec. B-6. 36 MRSA §194-E, as enacted by PL 2021, c. 681, Pt. C, §10, is amended to read:

§194-E. Tribes deemed as acting in a governmental capacity

For purposes of Parts 3 and 8 of this Title, the Passamaquoddy Tribe and the Penobscot Nation are deemed to act in a governmental capacity as described in Title 30, section 6208, subsection 3 and not in a business capacity. For purposes of Parts 3 and 8 of this Title, the Houlton Band of Maliseet Indians ~~is~~ and the Mi'kmaq Nation are deemed to act in a governmental capacity and not in a business capacity.

Sec. B-7. Application. For the purposes of the Maine Revised Statutes, Title 36, Part 3, this Part applies to sales occurring on or after January 1, 2026. For purposes of Title 36, Part 8, this Part applies to tax years beginning on or after January 1, 2026.

PART C

Sec. C-1. 36 MRSA §1760, sub-§112, as enacted by PL 2021, c. 681, Pt. D, §1, is amended to read:

112. Tribes. Sales to the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot Nation. For purposes of section 1760-C, sales to the tribes identified in this subsection for any purpose are exempt.

Sec. C-2. Application. This Part applies to sales occurring on or after January 1, 2026.

PART D

Sec. D-1. 36 MRSA §191, sub-§2, ¶QQQ, as enacted by PL 2021, c. 681, Pt. E, §1, is amended to read:

QQQ. The disclosure of information to the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot Nation necessary for the administration of sales tax revenue transfers under section 1815.

Sec. D-2. 36 MRSA §1815, sub-§1-C is enacted to read:

1-C. Mi'kmaq Sales Tax Fund. The Mi'kmaq Sales Tax Fund, referred to in this section as "the Mi'kmaq fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Mi'kmaq Nation pursuant to subsections 2 and 3.

Sec. D-3. 36 MRSA §1815, sub-§2, as amended by PL 2021, c. 681, Pt. E, §2, is further amended to read:

2. Monthly transfer. By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under this chapter in the previous month on sales occurring on the Passamaquoddy Indian territory, the Penobscot Indian territory ~~and~~, the Houlton Band Trust Land ~~and the Mi'kmaq Nation Trust Land~~, respectively, reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681. When notified by the assessor, the State Controller shall transfer those amounts to the Passamaquoddy fund, the Penobscot fund ~~and~~, the Maliseet fund ~~and the Mi'kmaq fund~~, respectively.

For purposes of this subsection, a sale occurs on the Passamaquoddy Indian territory, the Penobscot Indian territory ~~or~~, the Houlton Band Trust Land ~~or the Mi'kmaq Nation Trust Land~~ if:

A. The business location of the seller from which the purchase is made is on Passamaquoddy Indian territory, Penobscot Indian territory ~~or~~, Houlton Band Trust Land ~~or Mi'kmaq Nation Trust Land~~, respectively; and

B. The tangible personal property or taxable service is received by the purchaser also on Passamaquoddy Indian territory, Penobscot Indian territory ~~or~~, Houlton Band Trust Land ~~or Mi'kmaq Nation Trust Land~~, respectively. For purposes of this paragraph, "received" has the same meaning as in section 1819.

Sec. D-4. 36 MRSA §1815, sub-§3, as amended by PL 2021, c. 681, Pt. E, §2, is further amended to read:

3. Monthly payment. By the end of each month, the Treasurer of State shall make payments to the Passamaquoddy Tribe from the Passamaquoddy fund, to the Penobscot Nation from the Penobscot fund ~~and~~, to the Houlton Band of Maliseet Indians from the Maliseet fund ~~and to the Mi'kmaq Nation from the Mi'kmaq fund~~ equal to the amounts transferred into the respective fund.

Sec. D-5. 36 MRSA §1815, sub-§4, as enacted by PL 2021, c. 681, Pt. E, §2, is amended to read:

4. Quarterly reconciliation. The monthly payments due under this section must be adjusted by any credit or debit necessary for a quarterly reconciliation of payments and transfers made under this section for any erroneous payment or transfers ~~and~~, any erroneous collection and any corresponding refund and by any subsequent assessment, remittance or refund of sales tax to or by the State.

Sec. D-6. Application. This Part applies to sales occurring on or after January 1, 2026.

PART E

Sec. E-1. 36 MRSA §5102, sub-§6, as amended by PL 2021, c. 681, Pt. G, §2, is further amended by amending the last blocked paragraph to read:

"Corporation" does not include the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or a corporation organized by the Passamaquoddy Tribe, the Penobscot Nation ~~or~~, the Houlton Band of Maliseet Indians or the Mi'kmaq Nation under Section 17 of the federal Indian Reorganization Act, 25 United States Code, Section 5124.

Sec. E-2. Application. This Part applies to tax years beginning on or after January 1, 2026.

PART F

Sec. F-1. Rulemaking. The Department of Administrative and Financial Services, Bureau of Revenue Services may adopt rules to implement Parts A, B, C, D and E. Rules adopted under this section may include, but are not limited to, rules specifying reporting requirements and the maintenance by the Mi'kmaq Nation and provision to the bureau of lists of the nation's tribal land, tribal members, tribal entities and corporations organized under 25 United States Code, Section 5124. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

PART G

Sec. G-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF Revenue Services, Bureau of 0002

Initiative: Provides one-time funding for computer programming costs.

| GENERAL FUND | 2025-26 | 2026-27 |
|---------------------------|-----------------|----------------|
| All Other | \$19,300 | \$0 |
| GENERAL FUND TOTAL | \$19,300 | \$0 |