



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 141

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H.P. 97

House of Representatives, January 21, 2021

### An Act To Make Technical Changes to the Tax Laws

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Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Received by the Clerk of the House on January 19, 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 "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative TERRY of Gorham.

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

2 **PART A**

3 **Sec. A-1. 36 MRSA §191, sub-§2, ¶MMM** is enacted to read:

4 MMM. The disclosure of information to the Finance Authority of Maine necessary for  
5 the administration of the seed capital investment tax credit in section 5216-B.

6 **Sec. A-2. 36 MRSA §2536, first ¶**, as enacted by PL 2017, c. 474, Pt. H, §1, is  
7 amended to read:

8 For tax years beginning on or after January 1, 2018, a person is allowed a credit against  
9 the tax otherwise due under this chapter in an amount equal to the federal employer credit  
10 for paid family and medical leave allowed to that person under the Code, Section 45S as a  
11 result of wages paid to employees based in the State during the taxable year. For purposes  
12 of this section, "employees based in the State" means employees that perform more than  
13 50% of employee-related activities for the employer at a location in the State.

14 **Sec. A-3. 36 MRSA §5164, sub-§2**, as enacted by P&SL 1969, c. 154, Pt. F, §1,  
15 is amended to read:

16 **2. Shares of fiduciary adjustment.** The respective shares of an estate or trust and its  
17 beneficiaries, including, solely for the purpose of this allocation, nonresident beneficiaries,  
18 in the fiduciary adjustment ~~shall~~ must be in proportion to their respective shares of federal  
19 distributable net income of the estate or trust. If the estate or trust has no federal  
20 distributable net income for the taxable year, the share of each beneficiary in the fiduciary  
21 adjustment ~~shall~~ must be in proportion to ~~his~~ the beneficiary's share of the estate or trust  
22 income for ~~such that~~ that year, under local law or the terms of the instrument, ~~which that~~  
23 is required to be distributed currently and any other amounts of such income distributed in  
24 ~~such that~~ that year. Any balance of the fiduciary adjustment ~~shall~~ must be allocated to ~~to~~  
25 the estate or trust.

26 **Sec. A-4. 36 MRSA §5204**, as amended by PL 2011, c. 548, §29, is repealed.

27 **Sec. A-5. 36 MRSA §5204-A**, as amended by PL 2011, c. 380, Pt. N, §16 and  
28 affected by §19, is repealed.

29 **Sec. A-6. 36 MRSA §5219-UU, first ¶**, as enacted by PL 2017, c. 474, Pt. H, §2,  
30 is amended to read:

31 For tax years beginning on or after January 1, 2018, a person is allowed a credit against  
32 the tax otherwise due under this Part in an amount equal to the federal employer credit for  
33 paid family and medical leave allowed to that person under the Code, Section 45S as a  
34 result of wages paid to employees based in the State during the taxable year. For purposes  
35 of this section, "employees based in the State" means employees that perform more than  
36 50% of employee-related activities for the employer at a location in the State.

37 **Sec. A-7. 36 MRSA §5220, sub-§4, ¶B**, as amended by PL 2005, c. 618, §15 and  
38 affected by §22, is further amended to read:

39 B. Gross Both distributable net income derived from or connected with sources in this  
40 State as determined in accordance with section 5142 as if the estate or trust were a

1 nonresident individual and gross income of \$10,000 or more, regardless of the amount  
2 of Maine taxable income; or

3 **Sec. A-8. 36 MRSA §5221**, as amended by PL 1985, c. 783, §§39 and 40, is further  
4 amended to read:

5 **§5221. Joint returns by ~~husband and wife~~ spouses**

6 **1. General.** ~~A husband and wife~~ Spouses may make a joint return with respect to the  
7 tax imposed by this Part even though one of the spouses has neither gross income nor  
8 deductions except that:

9 A. ~~No~~ A joint return ~~shall~~ may not be made under this ~~part~~ Part if the spouses are not  
10 permitted to file a joint federal income tax return;

11 B. If the federal income tax liability of either spouse is determined on a separate federal  
12 return, their income tax liabilities under this Part ~~shall~~ must be determined on separate  
13 returns;

14 C. Except as provided in subsection 2, if the federal income tax liabilities of ~~husband~~  
15 ~~and wife~~ the spouses are determined on a joint federal return, they shall file a joint  
16 return under this Part and their tax liabilities ~~shall be~~ are joint and several; ~~and~~

17 D. If neither spouse is required to file a federal income tax return and either or both  
18 are required to file an income tax return under this Part, they may elect to file separate  
19 or joint returns and pursuant to such election their liabilities ~~shall be~~ are separate or  
20 joint and several.

21 **2. Nonresidents.** If both ~~husband and wife~~ spouses are nonresidents and one has no  
22 Maine-source income, the spouse having Maine-source income shall file a separate Maine  
23 nonresident income tax return, as a single individual, in which event ~~his~~ the spouse's tax  
24 liability ~~shall be~~ is separate; but they may elect to determine their joint taxable income as  
25 nonresidents, in which case their liabilities ~~shall be~~ are joint and several.

26 If ~~either husband or wife~~ one spouse is a resident and the other is a nonresident, they shall  
27 file separate Maine income tax returns as single individuals, in which event their tax  
28 liabilities ~~shall be~~ are separate; but they may elect to determine their joint taxable income  
29 as if both were residents and, in that case, their liabilities ~~shall be~~ are joint and several.

30 **Sec. A-9. 36 MRSA §5228, sub-§6**, as repealed and replaced by PL 1985, c. 691,  
31 §§35 and 48, is amended to read:

32 **6. Joint estimated tax payment.** If they are eligible to do so for federal tax purposes,  
33 ~~a husband and wife~~ spouses may jointly estimate tax as if they were one taxpayer, in which  
34 case the liability with respect to the estimated tax ~~shall be~~ is joint and several. If joint  
35 estimate payment is made, but ~~husband and wife~~ the spouses elect to determine their taxes  
36 under this chapter separately, the estimated tax for the year may be treated as the estimated  
37 tax of either ~~husband or wife~~ spouse, or may be divided between them, as they may elect.

38 **Sec. A-10. Application; retroactivity.** Those sections of this Part that amend the  
39 Maine Revised Statutes, Title 36, sections 2536, first paragraph and 5219-UU, first  
40 paragraph apply retroactively to tax years beginning on or after January 1, 2018.

41 **PART B**





1 permitted to a sheriff. Any such fees and charges collected by that agent ~~shall~~ must be  
2 remitted promptly to the State.

3 **Sec. D-3. 36 MRSA §199-E**, as enacted by IB 2015, c. 1, §28, is repealed.

#### 4 **SUMMARY**

5 This bill makes technical changes to the tax laws.

6 For changes to the income tax law, Part A:

7 1. Authorizes the Department of Administrative and Financial Services, Maine  
8 Revenue Services to disclose information to the Finance Authority of Maine necessary for  
9 the administration of the seed capital investment tax credit in the Maine Revised Statutes,  
10 Title 36, section 5216-B. The authority is responsible for certifying investments that are  
11 eligible for the credit;

12 2. Amends Title 36, section 5164, subsection 2, a provision of the Maine fiduciary  
13 income tax law, to incorporate gender-neutral terms, delete a duplicate word and make  
14 other technical textual changes;

15 3. Repeals the additional tax on lump-sum retirement plan distributions, which does  
16 not apply to tax years beginning after 2012;

17 4. Repeals the additional tax on early distributions from qualified retirement plans,  
18 which does not apply to tax years beginning after 2012;

19 5. Clarifies that, for both the tax imposed on insurance companies pursuant to Title 36,  
20 chapter 357 and on persons pursuant to Title 36, Part 8, for purposes of the employer credit  
21 for family and medical leave, "employees based in the State" means employees that  
22 perform more than 50% of employee-related activities for the employer at a location in  
23 Maine. This change reflects administrative practice since implementation of the credit;

24 6. Clarifies that a nonresident estate or trust that does not have Maine taxable income  
25 or a Maine income tax liability must nonetheless file a Maine income tax return if the estate  
26 or trust has distributable net income derived from or connected with sources in Maine and  
27 gross income of \$10,000 or more. This change reflects long-standing administrative  
28 practice; and

29 7. Amends Title 36, sections 5221 and 5228 to incorporate gender-neutral terms.

30 For changes to the sales tax law, Part B:

31 1. Amends the diabetic supplies exemption to require use by the purchaser;

32 2. Includes in Title 36 the effective date of 3 sales tax exemptions enacted in the First  
33 Regular Session of the 129th Legislature that did not take effect until after the adjournment  
34 of the Second Regular Session of the 129th Legislature and repeals conflicting public law  
35 provisions;

36 3. Clarifies the exemption for nonprofit worldwide charitable organizations; and

37 4. Removes the Mayo Regional Hospital in Dover-Foxcroft from the hospital tax  
38 definition of "municipally funded hospital."

39 For changes to the property tax law, Part C:

1           1. Clarifies that the local assessor qualifying examination and individual examination  
2 results are confidential and thus not producible under a Freedom of Access Act request;  
3 and

4           2. Clarifies that enhanced business equipment tax exemption reimbursement only  
5 applies to tax increment financing exempt business equipment when the reimbursement is  
6 used to fund a tax increment financing development program.

7           For general changes to tax law, Part D:

8           1. Updates Title 36, section 173, concerning collection by warrant, to clarify the intent  
9 and make technical changes; and

10          2. Repeals a provision that required the joint standing committee of the Legislature  
11 having jurisdiction over taxation matters to report out a bill permanently eliminating  
12 corporate tax expenditures totaling \$6,000,000 per biennium by February 6, 2016.