130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

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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.

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: DAUGTRY of Cumberland.

ROBERT B. HUNT
Clerk
Be it enacted by the People of the State of Maine as follows:

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 FFF, §1 and affected by §2, is repealed and the following enacted in its place:

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

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

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

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

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

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

SUMMARY

This bill requires corporations that file unitary income tax returns in Maine to include income from certain jurisdictions outside the United States in net income when apportioning income among tax jurisdictions. The State Tax Assessor is required to adopt major substantive rules to determine the income or loss attributable to such corporations and to prevent double taxation or deduction of income. The assessor is required to submit an annual report to the joint standing committee of the Legislature having jurisdiction over
taxation matters regarding whether jurisdictions should be added to or deleted from the list of tax havens based on specified criteria.