



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1440

S.P. 446

In Senate, April 12, 2011

### An Act To Amend the Nonresident Income Tax Filing Requirements

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Taxation suggested and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator WOODBURY of Cumberland.

Cosponsored by Senator: TRAHAN of Lincoln, Representatives: BENNETT of Kennebunk, BERRY of Bowdoinham, BICKFORD of Auburn, FLEMINGS of Bar Harbor, HARMON of Palermo, KNIGHT of Livermore Falls, PILON of Saco.

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

2 **Sec. 1. 36 MRSA §5142, sub-§8-A**, as enacted by PL 2005, c. 332, §22 and  
3 affected by §30, is repealed.

4 **Sec. 2. 36 MRSA §5142, sub-§8-B** is enacted to read:

5 **8-B. Minimum taxability threshold; exemptions.** Minimum taxability thresholds  
6 for nonresidents are governed by this subsection.

7 A. Compensation for personal services performed in the State as an employee is  
8 Maine-source income subject to taxation under this Part if the nonresident taxpayer is  
9 present in the State performing personal services for more than 12 days during that  
10 taxable year and directly earns or derives more than \$3,000 in gross income during  
11 the year in the State from all sources.

12 B. A nonresident individual who is present for business in the State on other than a  
13 systematic or regular basis, either directly or through agents or employees, has  
14 Maine-source income derived from or effectively connected with a trade or business  
15 in the State and subject to taxation under this Part only if the nonresident individual  
16 was present in the State for business more than 12 days during the taxable year and  
17 earns or derives more than \$3,000 of gross income during the taxable year from  
18 contractual or sales-related activities.

19 C. Performance of the following personal services for 24 days during a calendar year  
20 may not be counted toward the 12-day threshold under paragraph A:

21 (1) Personal services performed in connection with presenting or receiving  
22 employment-related training or education;

23 (2) Personal services performed in connection with a site inspection, review,  
24 analysis of management or any other supervision of a facility, affiliate or  
25 subsidiary based in the State by a representative from a company, not  
26 headquartered in the State, that owns that facility or is the parent company of the  
27 affiliate or subsidiary;

28 (3) Personal services performed in connection with research and development at  
29 a facility based in the State or in connection with the installation of new or  
30 upgraded equipment or systems at that facility; or

31 (4) Personal services performed as part of a project team working on the  
32 attraction or implementation of new investment in a facility based in the State.

33 **Sec. 3. 36 MRSA §5220, sub-§2**, as amended by PL 2005, c. 332, §23, is further  
34 amended to read:

35 **2. Nonresident individuals.** Every nonresident individual who, pursuant to this  
36 Part, has a Maine individual income tax liability for the taxable year. An individual  
37 whose only Maine-source income is ~~compensation for personal services performed in~~  
38 ~~Maine that is~~ excluded from Maine adjusted gross income by the threshold contained in  
39 section 5142, subsection ~~8-A~~ 8-B is not subject to taxation under this Part and need not  
40 file a return;

