

## TITLE 36: TAXATION

### TITLE 36 TAXATION

#### PART 4 BUSINESS TAXES

#### CHAPTER 361 RAILROAD COMPANIES

##### **§2623. EXCISE TAX; PAYMENT TO CITIES AND TOWNS ONE PERCENT ON STOCK HELD THEREIN**

Every corporation, person or association operating any railroad in the State under lease or otherwise shall pay to the State Tax Assessor, for the use of the State, an annual excise tax for the privilege of exercising its franchises and the franchises of its leased roads in the State, which, with the tax provided for in section 561, is in place of all taxes upon the property of such railroad.

##### **§2624. AMOUNT OF TAX**

The amount of the annual excise tax on railroads shall be ascertained as follows: The amount of the gross transportation receipts for the year ended on the 31st day of December preceding the levying of the tax shall be compared with the net railway operating income for that year. When the net railway operating income does not exceed 10% of the gross transportation receipts, the tax shall be an amount equal to 3 1/4% of the gross transportation receipts. When the net railway operating income exceeds 10% of the gross transportation receipts but does not exceed 15%, the tax shall be an amount equal to 3 3/4% of the gross transportation receipts. When the net railway operating income exceeds 15% of the gross transportation receipts but does not exceed 20%, the tax shall be an amount equal to 4 1/4% of such gross transportation receipts. When the net railway operating income exceeds 20% of the gross transportation receipts but does not exceed 25%, the tax shall be an amount equal to 4 3/4% of the gross transportation receipts. When the net railway operating income exceeds 25% of the gross transportation receipts, the tax shall be an amount equal to 5 1/4% of the gross transportation receipts. The tax shall be decreased by the amount by which 5 3/4% of operating investment exceeds net railway operating income but shall in no event be decreased below a minimum amount equal to 1/2 of 1% of gross transportation receipts. In the case of railroads operating not over 50 miles of road, the tax shall not exceed 1 3/4% of the gross transportation receipts.

When a railroad lies partly within and partly without the State, or is operated as a part of a line or system extending beyond the State, the tax shall be equal to the same proportion of the gross transportation receipts in the State, and its amount shall be determined as follows: The gross transportation receipts of such railroad, line or system, as the case may be, over its whole extent, within and without the State, shall be divided by the total number of miles operated to obtain the average gross transportation receipts per mile, and the gross transportation receipts in the State shall be taken to be the average gross transportation receipts per mile multiplied by the number of miles operated within the State, and the net railway operating income within the State shall be similarly determined.

The State Tax Assessor, after notice and hearing, may determine the accuracy of any returns required of any railroad, and if found inaccurate, may order proper corrections to be made therein.

The tax calculated pursuant to this section, for any taxable year, shall be decreased by a tax credit as defined in section 2621-A, subsection 3, calculated for that same taxable year. At no time may a tax credit be utilized to decrease the tax below the minimum tax imposed by this section.

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### CHAPTER 367 COMMERCIAL FORESTRY EXCISE TAX

#### §2721. LEGISLATIVE FINDINGS

The Legislature finds that engaging in commercial forestry is a privilege that results in costs as well as benefits to the State and that persons enjoying that privilege should be subject to the tax imposed by this chapter.

The Legislature further finds that the persons owning 500 acres or more of forest land are typically engaged in commercial forest activity. Historically, that amount of land has been used for administrative efficiency and to delineate the amount of land indicative of management for commercial activity, especially for purposes of the Maine Tree Growth Tax Law and the spruce budworm tax. The activity of growing commercially valuable trees is one which occupies a very long cycle. It is not uncommon that 40 years must pass between the planting of a seedling and the time when the tree will be harvested for commercial use. During that interim, it may at times be difficult to discern any obvious commercial activity taking place on the land. In many instances, the best accepted commercial practice with regard to that forest land is to do nothing other than to allow the trees to follow the natural course of maturation. Experience has shown that it is almost inevitable that a large amount of land containing commercially valuable trees will at some point be harvested for commercial purposes. Owners of such large amounts of land will receive the financial benefit of commercial activity either through the sale of the forest product or through the increased value that the forest product adds to the land when the land is transferred.

#### §2722. ANNUAL TAX

An excise tax is imposed upon the privilege of using one's land in commercial forestry enterprise in this State. The tax shall be levied upon owners of commercial forest land and shall be apportioned according to the formula specified in section 2723-A. The State, municipalities and the Federal Government are not subject to this tax.

#### §2723. COMPUTATION OF THE TAX [Repealed]

##### §2723-A. COMPUTATION OF TAX

**1. Calculation of fire control net costs.** Annually by September 1 beginning in 1987, the Commissioner of Agriculture, Conservation and Forestry shall certify to the State Tax Assessor the amount appropriated from the General Fund by the Legislature for the current fiscal year, including funds appropriated or allocated for capital improvements and repairs and the amounts proposed and budgeted to be spent in any federal and dedicated accounts for forest fire protection activities in the same fiscal year. The commissioner shall certify the amounts of all projected revenues resulting from forest fire protection activities for the same fiscal year, including federal revenues and dedicated revenues from the sale of buildings, vehicles and other equipment; fees and other miscellaneous revenues; and revenues estimated to be received from municipalities and the unorganized territory pursuant to Title 12, sections 9204, 9205 and 9205-A.

**2. Preceding fiscal year net costs.** The commissioner shall certify to the State Tax Assessor actual expenditures and revenues for forest fire protection for the preceding fiscal year for the same categories of information required in subsection 1 and provide the net amount resulting from subtracting revenues from expenditures.

**3. Roll forward amount from preceding fiscal year.** The State Tax Assessor shall subtract the amount in subsection 2 from the amount determined for the preceding fiscal year under subsection 4. If the resulting amount is positive, it shall be treated as a revenue and deducted from current year

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estimated expenditures. If the amount is negative, it shall be treated as an expenditure and added to current year estimated expenditures.

**4. Computing current year costs.** The State Tax Assessor shall add all projected expenditures for the current fiscal year, including general, federal and dedicated funds. From this amount shall be subtracted all revenues projected to be received in the current fiscal year, as identified in accordance with subsection 1. From this amount shall be added or subtracted, as appropriate, the net roll forward amount from the prior fiscal year as determined in subsection 3.

### **5. Computing the tax.** [Repealed]

**5-A. Computing tax.** This amount must be multiplied by 40% and the sum must then be divided by the total number of adjusted acres of commercial forest land, rounded to the nearest 1/10 of a cent and multiplied by the number of adjusted acres of commercial forest land owned by each taxpayer to determine the amount of tax for which each owner of commercial forest land is liable.

**6. Minimum tax.** If the amount calculated under this chapter is less than \$5, the amount assessed shall be \$5.

## **§2724. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Adjusted acres.** "Adjusted acres" means the total number of acres of commercial forest land owned by a person throughout the State reduced by 500 acres. Cotenants of property, whether joint tenants or tenants in common, shall be treated as one person and shall collectively be entitled to only one 500-acre reduction.

**2. Commercial forest land.** "Commercial forest land" means land that is classified or that is eligible for classification as forest land pursuant to the Maine Tree Growth Tax Law, chapter 105, subchapter II-A, except that "commercial forest land" does not include land described in section 573, subsection 3, paragraph B or C when all commercial harvesting of forest products is prohibited. In determining whether land not classified under the Maine Tree Growth Tax Law is eligible for classification under that law, all facts and circumstances must be considered, including whether the landowner is engaged in the forest products business and the land is being used in that business or there is a forest management plan for commercial use of the land or a particular parcel of land has been harvested for commercial purposes within the preceding 5 years.

## **§2725. DUE DATE**

This excise tax is due May 1, 1986, and each subsequent May 1st.

## **§2726. ADMINISTRATION**

**1. Returns.** The State Tax Assessor shall prescribe and make available the required tax return. All owners of more than 500 acres of forested land, whether or not that land is commercial forest land, shall complete and file tax returns with the State Tax Assessor no later than February 1st.

**2. Date of ownership.** The ownership and use of forested land for purposes of this chapter shall be determined as of April 1st preceding the date that the tax return is due.

**3. Notice.** The State Tax Assessor shall notify all landowners subject to this tax of the tax assessed against them no later than 30 days before the date that the tax is due. Failure to notify a landowner shall not relieve the obligation to pay the tax when due.

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**4. Supplemental assessments.** Supplemental assessments may be made in accordance with section 141, subsection 1, except that the following limitations apply:

A. If a landowner who has failed to file a return under this chapter signs and files with the assessor an affidavit stating that the landowner did not know of the requirement to file a return under this chapter, a supplemental assessment may be made only for the 3 preceding years. Interest and penalties must be waived or abated if the tax is paid within 30 days after receipt of notice of the supplemental assessment as provided in a manner prescribed in section 111, subsection 2; and

B. If a landowner knew of the requirement to file a return under this chapter or if the assessor determines that the affidavit under paragraph A was falsely filed, the supplemental assessment may be made for the 6 preceding years plus interest and penalties.

**5. Interest and penalties.** Taxes remaining unpaid after the due date are subject to interest and penalty as provided in chapter 7.

**6. Enforcement.** The tax imposed by this chapter may be enforced by the enforcement and collection procedures provided in chapter 7.

**§2727. CREDIT; REFUND** [Repealed]

### **§2728. REPORT ON OWNERSHIP OF COMMERCIAL FOREST LAND BY SIZE OF OWNERSHIP**

On or before September 1st of each year, the State Tax Assessor shall provide the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry with information on the number of landowners filing tax returns in accordance with this chapter, including a breakdown of the number of landowners by acreage categories. The State Tax Assessor shall consult with the Director of the Bureau of Forestry in determining the acreage categories and shall provide the information in a consistent format to facilitate comparison from year to year.

## **CHAPTER 371 MINING EXCISE TAX**

### **§2851. PREAMBLE**

It is the Legislature's belief that mining for metallic minerals is an acceptable and necessary activity in the State. Mining results in economic benefits to the locality where it occurs, as well as to the entire State and the Nation. Those who conduct mining do so by their own initiative and by investing their capital. When mining is conducted, investments of the State are also made to provide public facilities and services. Aesthetic costs and the permanent loss of valuable assets also result from mining. It is the Legislature's intent that the mining excise tax be fairly related to the services provided by the State and its subdivisions, as well as account for the costs of mining and the permanent loss of valuable assets.

### **§2852. FINDINGS**

The Legislature makes the following findings.

**1. Mineral resources fundamental.** Mineral resources are fundamental to modern civilization.

**2. Mineral resources as economic wealth.** Mineral resources have historically been a primary source of economic wealth, are valuable and, once removed, are forever lost as an economic asset to the State.

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**3. Development of mineral resources.** Development of this country's mineral resources has involved only a small portion of its land area and may be expected to involve a similarly small portion of the land area of Maine.

**4. Excise tax.** The tax established by this chapter is not a property tax. It is an excise tax imposed on those engaged in and enjoying the privilege of conducting mining in the State.

**5. Creation of additional costs to government by mining.** The activity of mining may create additional costs to the State and its political subdivisions for government services, such as environmental monitoring and education and for highways, sewers, schools and other improvements which are necessary to accommodate the development of a mining industry.

**6. Effect of mining on environment and other qualities.** The activity of mining may have permanent and often damaging effects on the environment and recreational and aesthetic qualities of the State. These effects constitute a cost to the State.

**7. Quality of life.** The activity of mining may significantly alter the quality of life in communities affected by mining.

**8. Size of mining operation.** As the size of a mining operation increases, the cost to the State and its political subdivisions may increase, as do the effects on the environment. As the size of a mining operation increases, the mining company benefits from economies of scale in the mining operation.

**9. Long-term and short-term economic costs.** The State and its political subdivisions incur long-term and short-term economic costs as a result of mining. A fund, in which is deposited a portion of the excise tax revenues, assures that money will be available for long-term and short-term costs associated with social, educational, environmental and economic impacts of mining.

**10. Impact of mining tax laws on mining industry.** Mining tax laws may have a significant impact on the profitability of mining and the industry's ability to enter into and sustain production.

### §2853. PURPOSE

It is the policy of the State to encourage the sound and orderly development of Maine's mineral resources. The object of this policy is to assure that the actions associated with development of these resources will:

**1. Expansion and diversification of economy.** Encourage expansion and diversification of the state's economy and create new employment opportunities for the state's people;

**2. Land use; environmental, safety and health regulations.** Adhere to sound and effective land use, environmental, safety and health regulations administered through appropriate public agencies;

**3. Assistance to municipalities and counties.** Provide planning and development assistance to municipalities, counties and the unorganized territory if significantly affected by mineral resource development; and

**4. Scheme of taxation.** Establish a practical scheme of taxation on mining companies which will:

A. Permit these companies to profitably operate mines within the State;

B. Encourage the economically efficient extraction of minerals;

C. Permit the State to derive a benefit from the extraction of a nonrenewable resource; and

D. Compensate the State and its political subdivisions for present and future costs incurred or to be incurred as a result of the mining activity.

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### §2854. EXCISE TAX IN LIEU OF PROPERTY TAXES

**1. Annual excise tax.** A mining company shall pay to the State Tax Assessor, for the use set forth in this chapter, an annual excise tax for the privilege of conducting mining within the State.

**2. Property tax exemption.** The excise tax imposed by this chapter shall be in lieu of all property taxes on or with respect to mining property, except for the real property taxes on the following:

- A. Buildings, excluding fixtures and equipment; and
- B. Land, excluding the value of minerals or mineral rights.

### §2865. MINE SITE AND VALUATION DETERMINATIONS

**1. Mine site.** The State Tax Assessor shall determine the area of a mine site, taking into account all relevant information, including, but not limited to, plans or permits approved under the site location of development law, Title 38, chapter 3, subchapter 1, Article 6. The assessor shall give notice to the mining company and to the municipality in which the mine site is located of the determination. The assessor's determination is reviewable under section 151.

**2. Valuation.** If a mine site is located in a municipality, the assessor shall determine the valuation of mining property and the percentage of that valuation represented by land and buildings that are not exempt from property taxes. That valuation of land and buildings must be applied in determining the property taxes. The municipality in which the mine site is located may appeal that determination to the State Board of Property Tax Review as provided in chapter 101, subchapter 2-A.