

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 122nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2005

---

Legislative Document

No. 1546

H.P. 1087

House of Representatives, April 4, 2005

### An Act Concerning Technical Changes to the Tax Laws

---

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

Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative WOODBURY of Yarmouth.  
Cosponsored by Senator PERRY of Penobscot.

2 ~~if any, and other supporting documentation that the assessor may~~  
3 ~~require, whenever:~~

4 A. The Code requires that a federal estate tax return be  
5 filed; or

6 B. The federal gross estate, increased by the amount of  
7 adjusted taxable gifts made by the decedent after December  
8 31, 1976 and by the aggregate amount of any specific gift  
9 tax exemption under former Code, Section 2521 used by the  
10 decedent after September 8, 1976 exceed the exclusion and  
11 related unified credit amounts specified in section 4062,  
12 subsection 1-A.

13 The return must be in the form prescribed by the State Tax  
14 Assessor and it must be accompanied by a copy of the federal  
15 estate tax return, if any, and by other supporting documentation  
16 that the assessor may require.

17  
18  
19 **3. No returned required.** In all cases where ~~there is no~~  
20 ~~Maine estate tax liability~~ a Maine estate tax return is not  
21 required to be filed, the personal representative, surviving  
22 joint tenant of real estate or any other person whose real estate  
23 might be subject to a lien for taxes pursuant to this chapter may  
24 at any time file with the assessor in the form prescribed by the  
25 assessor a statement of the value of the federal gross estate.

26  
27 **Sec. 41. 36 MRSA §4365**, as amended by PL 2003, c. 705, §6, is  
28 further amended to read:

29  
30 **§4365. Rate of tax**

31  
32 A tax is imposed on all cigarettes imported into this State  
33 or held in this State by any person for sale at the rate of 47 50  
34 mills for each cigarette. Payment of the tax is evidenced by the  
35 affixing of stamps to the packages containing the cigarettes.

36  
37 **Sec. 42. 36 MRSA §4365-E, sub-§§1 to 3**, as enacted by PL 2001,  
38 c. 439, Pt. SSSS, §2, are amended to read:

39  
40 **1. Stamped rate.** Cigarettes stamped at the rate of 37  
41 mills per cigarette and held for resale after September 30, 2001  
42 are subject to tax at the rate of 47 50 mills per cigarette.

43  
44 **2. Liability.** A person possessing cigarettes for resale is  
45 liable for the difference between the tax rate of 47 50 mills per  
46 cigarette and the tax rate of 37 mills per cigarette in effect  
47 before October 1, 2001. Stamps indicating payment of the tax  
48 imposed by this section must be affixed to all packages of  
49 cigarettes held for resale as of October 1, 2001, except that

2 participation in the Maine Residents Property Tax Program by  
eligible taxpayers. ~~The costs of these outreach activities must~~  
3 ~~be paid from the amounts appropriated for the Maine Residents~~  
4 ~~Property Tax Program.~~

6 **Sec. 61. Application.** That section of this Act that amends the  
Maine Revised Statutes, Title 36, section 5278, subsection 5,  
8 paragraph B applies retroactively to tax years beginning on or  
after January 1, 2002. That section of this Act that repeals and  
10 replaces Title 36, section 6652, subsection 1-B, paragraph C  
applies retroactively to property tax years beginning on or after  
12 April 1, 2004.

## 14 SUMMARY

16 This bill makes the following changes to the laws governing  
18 taxation.

20 1. It corrects the name of the Department of Administrative  
and Financial Services, Bureau of Revenue Services in a statute  
22 relating to state civil service positions.

24 2. It clarifies that the fees established for service of  
tax warrants by sheriffs and deputy sheriffs apply to warrants  
26 for all taxes imposed under the Maine Revised Statutes, Title 36.

28 3. It provides for the assessment and collection of  
liabilities arising from failure of a 3rd party to surrender  
30 property subject to levy in the same manner as other tax  
liabilities and clarifies that the rate of interest imposed on  
32 liabilities arising from failure of a 3rd party to surrender  
property subject to levy is the general rate applicable to unpaid  
34 taxes. The change establishes progressive enforcement procedures  
for collecting these debts and incorporates appropriate taxpayer  
36 protections in the collection process.

38 4. It relocates the substantive provisions of existing  
Title 36, sections 1964 and 3240, which relate to priority of tax  
40 debts, to the general administrative provisions of Title 36.  
These statutes, which apply to any tax, are inappropriately  
42 located in the sales and use tax law and the motor fuel tax law.

44 5. It extends the due date of the tax incidence report by 3  
months from October 1st of each even-numbered year to January 1st  
46 of each odd-numbered year. Extending the deadline will ensure  
that the report is based on the latest economic and revenue  
48 forecasts developed for use in the Governor's biennial budget.

2 25. It repeals a provision relating to priority of taxes  
4 that is being relocated to the uniform administrative provisions  
6 of Title 36. This provision is inappropriately located in the  
motor fuel tax laws since it applies to any tax. The section also  
repeals unnecessary and ineffective provisions relating to  
bankruptcy.

8 26. It repeals a redundant definition of "person" from the  
10 estate tax law. A similar definition exists in the uniform  
administrative provisions that apply to all taxes.

12 27. It combines the cigarette tax imposed by Title 36,  
14 section 4365 and the additional cigarette tax imposed by Title  
36, section 4366-D into a single tax that is equal to the sum of  
the 2 existing taxes.

16 28. It simplifies the tobacco products tax law by deleting  
18 references to tax rates that are no longer in effect.

20 29. It repeals a redundant statute related to giving notice  
22 under the real estate transfer tax law. The uniform  
administrative provisions include a similar provision that is  
applicable to all taxes.

24 30. It repeals unnecessary and ineffective provisions  
26 relating to bankruptcy.

28 31. It clarifies that individual income tax modifications  
30 related to increased federal expense limitations are based on the  
expense actually used in the year the asset is placed in service.

32 32. It clarifies that individual income tax modifications  
34 related to the federal work opportunity credit and the  
empowerment zone employment credit cannot be claimed more than  
once.

36 33. It clarifies that corporate income tax modifications  
38 related to increased federal expense limitations are based on the  
expense actually used in the year the asset is placed in service.

40 34. It clarifies that corporate income tax modifications  
42 related to the federal work opportunity credit and the  
empowerment zone employment credit cannot be claimed more than  
44 once.

46 35. It clarifies the amount of corporate income tax  
48 adjustments relating to federal net operating loss carry-backs.

50 36. It clarifies the statute of limitations regarding  
income tax claims for credit or refund to explicitly state that a