MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

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S.P. 823 January 15, 2008

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.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PERRY of Penobscot.
Cosponsored by Representative PIOTTI of Unity.

Printed on recycled paper

Sec. 13. 36 MRSA §551, as amended by PL 1975, c. 252, §14, is further amended to read:

§551. Real estate; defined

Real estate, for the purposes of taxation under this Part, ~~shall include~~ includes all lands in the State and all buildings, mobile homes, camper trailers and other things that are affixed to ~~the same, such as, but not limited to, camp trailers~~ land, together with ~~the~~ any appurtenant water power, shore privileges and rights, forests and mineral deposits ~~appertaining thereto~~; interests and improvements in land, the fee of which is in the State; interests by contract or otherwise in real estate exempt from taxation; and lines of electric light and power companies. Buildings, mobile homes, camper trailers and other things that are affixed to ~~the land, on~~ leased land or ~~on~~ land not owned by the owner of the buildings~~, shall be considered~~ must be taxed as real estate ~~for purposes of taxation and shall be taxed~~ in the place where ~~said~~ that land is located. Mobile homes, except stock in trade, ~~shall be~~ are considered real estate for purposes of taxation under this Part.

Sec. 14. 36 MRSA §574-A, as amended by PL 1989, c. 508, §9, is further amended to read:

§574-A. Ineligibility

The Legislature finds that when the value of a recreational use lease of forest land exceeds the value of the tree growth ~~which~~ that can be extracted from that land on a sustained basis per acre as determined pursuant to section 576, then the land is no longer primarily used for the continuous growth of forest products. This finding is sufficient cause to remove from taxation under this subchapter those parcels that are more valuable ~~in terms of recreation~~ for recreational use and are being leased on that basis. Therefore, notwithstanding sections 573 ~~or 574~~ and 574-B, ~~this subchapter shall not apply to any~~ a parcel of forest land that is leased for consideration to any ~~individual or group of individuals~~ person to use for recreational purposes does not qualify for taxation under this subchapter if that parcel of land exceeds 100 acres and if the consideration for that lease per acre exceeds the value of the growth ~~which~~ that can be extracted on a sustained basis per acre as determined pursuant to section 576. The owner of the leased parcels shall submit a copy of the lease or leases on land subject to ~~the provisions of~~ taxation under this ~~subsection~~ subchapter to the State Tax Assessor for land in the unorganized territory and to the municipal assessors for land in ~~organized~~ municipalities. The State Tax Assessor or the municipal assessor shall determine ~~if~~ whether the value of the lease exceeds the sustained growth value. If the value of the lease is determined to exceed the sustained growth value, the owner of the forest land ~~shall have~~ has 60 days from the date of ~~notification~~ receipt of notice of that determination to either terminate the lease, amend the lease to comply with the requirements of this section or withdraw the land covered by the lease from ~~the tree growth~~ taxation under this subchapter. ~~In the case of~~ A withdrawal~~, such action shall be~~ pursuant to this section is subject to the provisions of section 581 ~~of this subchapter~~.

Sec. 15. 36 MRSA §575, amended by PL 1985, c. 785, Pt. A, §109, is repealed and the following enacted in its place:

§575. Administration; rules

The State Tax Assessor may adopt rules necessary to carry out this subchapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 16. 36 MRSA §581, as amended by PL 2007, c. 425, §1 and repealed and replaced by c. 438, §18, is repealed and the following enacted in its place:

§581. Withdrawal

1. Assessor determination; owner request. If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor must withdraw the land from taxation under this subchapter. Before withdrawing a parcel from taxation under this subchapter, if the sole reason the land does not meet the requirements of this subchapter is that the owner failed to file the sworn statement required under section 574-B, the assessor shall provide the owner with written notice by regular mail of the deadline to file the sworn statement and permit the owner at least 60 days to respond to that notice. An owner of land subject to taxation under this subchapter may at any time request withdrawal of that land from taxation under this subchapter by certifying in writing to the assessor that the land is no longer to be classified under this subchapter.

2. Withdrawal of portion. In the case of withdrawal of a portion of a parcel, the owner, as a condition of withdrawal, shall file with the assessor a plan showing the area withdrawn and the area remaining subject to taxation under this subchapter. In the case of withdrawal of a portion of a parcel, the resulting portions must be treated after the withdrawal as separate parcels under section 708.

3. Penalty. If land is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner. The penalty is the greater of:

A. An amount equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal. That amount must be reduced by all taxes paid on that land over the preceding 5 years, or any lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable; and

B. An amount computed by multiplying the amount, if any, by which the just value of the land on the date of withdrawal exceeds the 100% valuation of the land pursuant to this subchapter on the preceding April 1st by the following rates.

(1) If the land was subject to valuation under this subchapter for 10 years or less prior to the date of withdrawal, the rate is 30%.

(2) If the land was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is that percentage obtained by subtracting 1% from 30% for each full year beyond 10 years that the land was

subject to valuation under this subchapter prior to the date of withdrawal, except that the minimum rate is 20%.

For purposes of this subsection, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

4. Assessment and collection of penalties. The penalties for withdrawal under this section must be paid upon withdrawal to the tax collector as additional property taxes. Penalties may be assessed and collected as supplemental assessments in accordance with section 713-B.

5. Eminent domain. A penalty may not be assessed under this section for a withdrawal occasioned by a transfer to an entity holding the power of eminent domain if the transfer results from the exercise or threatened exercise of that power.

6. Relief from requirements. Upon withdrawal under this section, the land is relieved of the requirements of this subchapter immediately and is returned to taxation under chapter 105, subchapter 2 beginning the following April 1st.

7. Reclassification as farmland or open space land. A penalty may not be assessed upon the withdrawal of land from taxation under this subchapter if the owner applies for classification of that land as farmland or open space land under subchapter 10 and that application is accepted. If a penalty is later assessed under section 1112, the period of time that the land was taxed as forest land under this subchapter is included for purposes of establishing the amount of the penalty.

8. Report of penalty. A municipality that receives a penalty for the withdrawal of land from taxation under this subchapter must report the total amount received in that reporting year to the State Tax Assessor on the municipal valuation return form described in section 383.

Sec. 17. 36 MRSA §581-B, as enacted by PL 1973, c. 308, §13, is amended to read:

§581-B. Reclassification and withdrawal in unorganized territory

~~In the case or reclassification or withdrawal of~~ If forest land in the unorganized territory is reclassified or withdrawn from taxation under this subchapter, the State Tax Assessor shall make ~~such~~ supplementary assessments or abatements as ~~may be~~ necessary to carry out the provisions of this subchapter.

Sec. 18. 36 MRSA §603, sub-§2, as amended by PL 1973, c. 592, §§8 to 10, is repealed.

Sec. 19. 36 MRSA §603, sub-§2-A is enacted to read:

2-A. Enumeration. The following personal property must be taxed in the place where it is situated:

A. Portable mills;

Sec. 95. 36 MRSA §6651, sub-§1, as amended by PL 2007, c. 372, §1 and c. 437, §21, is repealed and the following enacted in its place:

1. Eligible property. "Eligible property" means qualified business property first placed in service in the State, or constituting construction in progress commenced in the State, after April 1, 1995 but does not include property that is eligible business equipment as defined in section 691, subsection 1. "Eligible property" includes, without limitation, repair parts, replacement parts, additions, accessions and accessories to other qualified business property placed in service on or before April 1, 1995 if the part, addition, accession or accessory is first placed in service, or constitutes construction in progress, in the State after April 1, 1995, unless that property is eligible business equipment as defined in section 691, subsection 1. "Eligible property" includes used qualified business property if the qualified business property was first placed in service in the State, or constituted construction in progress commenced in the State, after April 1, 1995 but does not include property that is eligible business equipment as defined in section 691, subsection 1. "Eligible property" also includes inventory parts.

Sec. 96. Retroactivity. Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 1752, subsection 11, paragraph B and section 1765 apply retroactively to September 20, 2007. That section of this Act that repeals and replaces Title 36, section 1811, first paragraph, applies retroactively to September 20, 2007. That section of this Act that repeals and replaces Title 36, section 2521-A applies to tax periods beginning on or after January 1, 2007. Those sections of this Act that reenact Title 36, section 5211, subsections 9 to 13 apply retroactively to June 7, 2007.

SUMMARY

This bill makes various changes and corrections to the laws governing taxation, including repealing superfluous or redundant definitions and effective dates, updating references to the Internal Revenue Code and correcting grammar, punctuation and internal cross-references. In addition, this bill also:

1. Clarifies the effect of a determination by the State Tax Assessor that collection of a tax will be jeopardized by delay;

2. Relocates a provision relating to service charges imposed by municipalities for municipal services provided with respect to certain tax-exempt property that is inappropriately located in a statute providing exemptions for property of certain institutions and organizations;

3. Replaces the imprecise term "camp trailer" with the defined term "camper trailer";

4. Corrects a conflict created by Public Law 2007, chapters 425 and 438, which affected the same provision of law, by incorporating changes made by both laws;

5. Eliminates certain defunct organizations from a list of exempt institutions and organizations;

6. Eliminates a reference to the Commissioner of Finance, an office that no longer exists;

7. Clarifies the computation of "property tax revenue lost" for purposes of determining the reimbursement to municipalities with respect to the business equipment tax exemption;

8. Amends the excise tax law to reflect the fact that licensing of common carriers has been transferred from the Public Utilities Commission to the Department of Transportation;

9. Clarifies certain requirements relating to payment of excise taxes on aircraft;

10. Clarifies that the same definition of "automobile" applies throughout the sales and use tax law and relocates the definition of "loaner vehicle" to the definitions section;

11. Clarifies that repair parts used in the performance of repair services under certain extended warranty contracts are not deemed to be "sold" for purposes of the sales and use tax law;

12. Clarifies requirements relating to payment of use tax on property registered for use in this State;

13. Clarifies requirements relating to furnishing of bonds by certain taxpayers;

14. Clarifies that the sales tax exemption for property delivered outside the State does not apply to subsequent use of the property in the State. The proposed change reflects current Maine Revenue Services administrative policy;

15. Restores a trade-in credit that was inadvertently repealed by legislation enacted in the First Regular Session of the 123rd Legislature;

16. Clarifies the responsibilities of a surplus lines producer under the insurance company tax law. The proposed changes reflect current Maine Revenue Services administrative policy;

17. Clarifies that the annual return filed by risk retention groups is to be filed with the State Tax Assessor rather than the Treasurer of State and that the due date of the return is March 15th rather than March 1st. The proposed changes make the requirements similar to those for other insurance taxes and reflect current Maine Revenue Services administrative policy;

18. Corrects a conflict created by Public Law 2007, chapters 240 and 437, which affected the same provision of law, by incorporating changes made by both laws;

19. Amends provisions of the service provider tax law relating to telecommunications services to reflect current telecommunications technology;

20. Clarifies the meaning of "international flight" for purposes of exempting certain fuel used in international flights from the gasoline tax;

21. Clarifies provisions of the special fuel tax law by adding definitions;

22. Corrects a conflict created by Public Law 2007, chapters 440 and 444, which affected the same provision of law, by incorporating changes made by both laws;

24. Corrects a conflict created by Public Law 2007, chapters 372 and 437, which affected the same provision of law, by incorporating changes made by both laws;

25. Clarifies the authority of the State Tax Assessor to include in the establishment of the applicable tax mill rate in the unorganized territory the costs of payments that the unorganized territory district is obligated to make under a tax increment financing agreement and clarifies that the Treasurer of State is authorized to make the payments obligated under an unorganized territory tax increment financing agreement after the tax increment financing taxes are paid;

26. Clarifies that the premium charged for motor vehicle oil changes is not included in the sale price for purposes of the sales tax; and

27. Reenacts definitions that were repealed mistakenly in Public Law 2007, chapter 240.