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An Act To Amend the Tax Laws Concerning Certain Motor Vehicle Dealership Transactions

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

Sec. 1. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2005, c. 218, §15, is further amended to read:

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;
- (4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;
- (6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services; or
- (7) The sale, to a person engaged in the business of renting furniture, or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105; or
- (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953. For purposes of this subparagraph, "loaner vehicle" means an automobile to be provided to the dealer's service customers for short-term use free of charge pursuant to the dealer's franchise, as defined in Title 10, section 1171, subsection 6.

Sec. 2. 36 MRSA §1752, sub-§17-B, as enacted by PL 2003, c. 673, Pt. V, §19 and affected by §29, is amended to read:

17-B. Taxable service. "Taxable service" means the rental of living quarters in a hotel, rooming house, tourist or trailer camp; the transmission and distribution of electricity; the rental or lease of an automobile; the sale of an extended service contract on an automobile that entitles the purchaser to specific benefits in the service of the automobile for a specific duration; and the sale of prepaid calling service.

Sec. 3. 36 MRS §1760, sub-§21-A is enacted to read:

21-A. Certain loaner vehicles. The use of a loaner vehicle provided by a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, to a service customer pursuant to a manufacturer's or dealer's warranty. For purposes of this subsection, "loaner vehicle" has the same meaning as in section 1752, subsection 11, paragraph B, subparagraph (8).

Sec. 4. 36 MRS §1760, sub-§23-D is enacted to read:

23-D. Certain vehicles purchased or leased by qualifying resident businesses. The sale or lease of a motor vehicle, except an automobile rented for a period of less than one year or an all-terrain vehicle or snowmobile as defined in Title 12, section 13001, to a qualifying resident business if the vehicle is intended to be driven or transported outside the State immediately upon delivery and intended to be used exclusively in the qualifying resident business's out-of-state business activities.

For purposes of this subsection, "qualifying resident business" includes any individual, association, society, club, general partnership, limited partnership, limited liability company, trust, estate, corporation or any other legal entity that:

- A. Is organized under the laws of this State or has its principal place of business in this State; and
- B. Conducts business activities from a fixed location or locations outside the State.

If the vehicle is not used exclusively in the qualifying resident business's out-of-state business activities or is registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price.

Sec. 5. 36 MRS §1811, first ¶, as amended by PL 2001, c. 439, Pt. TTTT, §2 and as affected by §3, is further amended to read:

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. The rate of tax is 7% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; 7% on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; 10% on the value of rental for a period of less than one year of an automobile, including a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; 7% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services. Value is measured by the sale price, except as otherwise provided. As used in this section "loaner vehicle" has the same meaning as in section 1752, subsection 11, paragraph B, subparagraph (8).

Sec. 6. Retroactivity; application. This Act applies to amounts charged or collected on loaner vehicles as defined in the Maine Revised Statutes, Title 36 or short-term rentals provided to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty on or after November 1, 2002, except that a person who has paid sales or use tax on those loaner vehicles or short-term rentals on or after November 1, 2002 but prior to the effective date of this Act is not entitled to a refund of the sales or use tax paid unless that person filed an administrative or judicial appeal pursuant to Title 36, section 151 and that administrative or judicial remedy has not been exhausted.

Effective September 20, 2007