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An Act To Amend the Reporting Requirements for the Business Equipment Tax Exemption

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, changes made by the First Regular Session of the 126th Legislature to the business equipment tax exemption program will affect the reporting of information by taxpayers beginning April 1, 2014; and

Whereas, some of the information that taxpayers claiming an exemption under the program are required to report is proprietary information that could subject the taxpayers to financial harm if released publicly; and

Whereas, this legislation protects that proprietary information and needs to take effect as soon as possible to prevent harm to businesses; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 36 MRSA §693, sub-§1, as amended by PL 2013, c. 368, Pt. O, §7 and affected by §12 and c. 385, §§2 and 3, is further amended to read:

1. Reporting. On or before May 1st of each year, a taxpayer claiming an exemption under this section shall file a report with the assessor of the taxing jurisdiction in which the property would otherwise be subject to taxation on April 1st of that year. The report must identify the property for which exemption is claimed that would otherwise be subject to taxation on April 1st of that year and must be made on a form prescribed by the State Tax Assessor or substitute form approved by the State Tax Assessor. ~~When the valuation of all property assessed to the taxpayer exceeds 2% of the total taxable valuation of the municipality for the prior tax year, the report must also include sufficient information, including income and expense information as necessary, to allow the assessor to determine the just value of the property owned by the taxpayer that is claiming the exemption as well as the property exempted under this subchapter.~~ The State Tax Assessor shall furnish copies of the form to each municipality in the State and the form must be made available to taxpayers prior to April 1st annually. The assessor of the taxing jurisdiction may require the taxpayer to sign the form and make oath to its truth. If the report is not filed by April 1st, the filing deadline is automatically extended to May 1st without the need for the taxpayer to request or the assessor to grant that extension. Upon written request, the assessor may at any time grant further extensions of time to file the report. If a taxpayer fails to file the report in a timely manner, including any extensions of time, the taxpayer may not obtain an exemption for that property under this subchapter for that tax year. The assessor of the taxing jurisdiction may require in writing that a taxpayer answer in writing all reasonable inquiries as to the property for which exemption is requested. A taxpayer

has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. The answer to any such inquiry is not binding on the assessor. Information provided by the taxpayer in response to the inquiries that is proprietary information is confidential and is exempt from the provisions of Title 1, chapter 13. An assessor of the taxing jurisdiction may not allow the inspection of or otherwise release such proprietary information to anyone other than the State Tax Assessor, who shall treat such proprietary information as subject to section 191, subsection 1. As used in this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available.

All notices and requests provided pursuant to this subsection must be made by personal delivery or certified mail and must conspicuously state the consequences of the taxpayer's failure to respond to the notice or request in a timely manner.

If an exemption has already been accepted and the State Tax Assessor subsequently determines that the property is not entitled to exemption, a supplemental assessment must be made within 3 years of the original assessment date with respect to the property in compliance with section 713, without regard to the limitations contained in that section regarding the justification necessary for a supplemental assessment.

~~If the taxpayer fails to provide sufficient information as may be required under this subsection, the taxpayer may not obtain an exemption under this subchapter for that tax year.~~

Sec. 2. 36 MRSA §693, sub-§4, as enacted by PL 2013, c. 368, Pt. O, §8 and affected by §12 and c. 385, §§2 and 3, is repealed.

Sec. 3. 36 MRSA §694, sub-§1, as amended by PL 2013, c. 368, Pt. O, §9 and affected by §12 and c. 385, §§2 and 3, is further amended to read:

1. Examination and identification. The assessor shall examine each report pursuant to section 693 that is timely filed, determine whether the property identified in the report is entitled to an exemption under this subchapter and determine the just value of the property. ~~The assessor also shall certify to the State Tax Assessor that the taxpayer has provided sufficient information necessary for the proper valuation of the property and that the assessor has considered that information in the valuation and exemption determinations. Failure to provide this certification to the State Tax Assessor disqualifies the municipality from reimbursement pursuant to subsection 2, paragraphs B and C.~~

Sec. 4. Application. This Act applies to property tax years beginning on or after April 1, 2014.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill amends the reporting requirements for the business equipment tax exemption program in the following ways:

1. It eliminates the requirement that a taxpayer seeking an exemption on property exceeding 2% of the total taxable valuation of the municipality provide annually to the municipality income and expense information that is sufficient for the municipal assessor to determine the value of all property owned by the taxpayer located in the municipality as well as the property for which exemption is sought;

2. Current law specifies that a taxpayer applying for an exemption that fails to provide sufficient information to the assessor is ineligible for the exemption. This bill eliminates that restriction;

3. It repeals a provision of law regarding confidential information and enacts a new provision to specify that proprietary information, such as trade secrets or otherwise not publicly available information, that is part of a taxpayer's application for the exemption is confidential information, exempt from the Freedom of Access Act;

4. It eliminates the requirement that the municipal assessor certify to the State Tax Assessor that the municipal assessor has received the taxpayer's income and expense information and has considered that information in the valuation and exemption determination; and

5. It specifies that the changes apply to property tax years beginning on or after April 1, 2014.