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An Act To Make Additional Technical Changes to Recently Enacted Tax Legislation

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

Whereas, certain tax laws need to be updated before the 90-day period expires to ensure the timely preparation and publication of tax administration guidance to taxpayers for tax periods beginning in 2015 and 2016; and

Whereas, legislative action is immediately necessary to ensure timely and efficient administration of the state income and sales taxes; 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. 5 MRSA §1518-A, sub-§1-A, as enacted by PL 2011, c. 692, §1, is amended to read:

1-A. Implementation. By September 1, ~~2014~~2016 and annually thereafter, if the State Controller determines that the benefits required under the Circuitbreaker Program under Title 36, chapter 907 have been fully funded, the State Controller shall inform the State Tax Assessor of the amount available in the fund for the purposes of subsection 1.

A. By November 1st annually, the State Tax Assessor shall calculate the amount by which the income tax rates under Title 36, section 5111, subsections ~~1-C, 2-C and 3-C~~1-F, 2-F and 3-F may be reduced during the subsequent tax year using the amount available from the fund. Bracket rate reductions must be a minimum of 0.2 percentage points in the first year in which reductions are made and a minimum of 0.1 percentage points in subsequent years. If sufficient funds are not available to pay for the minimum reduction, a rate reduction may not be made until the amount in the fund is sufficient to pay for the reduction. When the amount is sufficient to pay for the reduction, the reduction must first be applied equally to each bracket under Title 36, section 5111, subsections ~~1-C, 2-C and 3-C~~1-F, 2-F and 3-F until the lower bracket reaches 4%. Funds available from the fund in subsequent years must be applied to reduce the higher bracket rates until there is a single bracket with a rate of 4%, after which future tax relief may be identified.

B. The State Tax Assessor shall provide public notice of new bracket rates calculated under this subsection by November 15th annually.

C. New bracket rates calculated under this subsection apply beginning with tax years that begin on or after January 1st of the calendar year following the determinations made under this subsection.

Sec. 2. 36 MRSA §683, sub-§§3 and 4, as amended by PL 2015, c. 267, Pt. J, §2, are further amended to read:

3. Effect on state valuation. ~~Fifty percent~~For property tax years beginning before April 1, 2017, 50% of the just value of all the homestead exemptions under subsection 1 and, for additional exemptions under subsection 1-B, 50% of the just value of the exemptions for property tax years beginning April 1, 2016 and ~~75%~~this subchapter must be included in the annual determination of state valuation under sections 208 and 305. For property tax years beginning on or after April 1, 2017, 62.5% of the just value of all the homestead exemptions for subsequent property tax years under this subchapter must be included in the annual determination of state valuation under sections 208 and 305.

4. Property tax rate. ~~Fifty percent~~For property tax years beginning before April 1, 2017, 50% of the just value of all the homestead exemptions under subsection 1 and, for additional exemptions under subsection 1-B, 50% of the just value of the exemptions for property tax years beginning on April 1, 2016 and ~~75%~~this subchapter must be included in the total municipal valuation used to determine the municipal tax rate. For property tax years beginning on or after April 1, 2017, 62.5% of the just value of all the homestead exemptions for subsequent property tax years under this subchapter must be included in the total municipal valuation used to determine the municipal tax rate. The municipal tax rate as finally determined may be applied to only the taxable portion of each homestead qualified for that tax year.

Sec. 3. 36 MRSA §685, sub-§2, ¶A, as enacted by PL 2015, c. 267, Pt. J, §4, is amended to read:

A. ~~Fifty percent~~For property tax years beginning before April 1, 2017, 50% of the taxes lost by reason of the exemptions under section 683, ~~subsections~~subsections 1 and 1-B; and

Sec. 4. 36 MRSA §685, sub-§2, ¶B, as enacted by PL 2015, c. 267, Pt. J, §4, is repealed and the following enacted in its place:

B. For property tax years beginning on or after April 1, 2017, 62.5% of the taxes lost by reason of the exemptions under section 683, subsections 1 and 1-B.

Sec. 5. 36 MRSA §1752, sub-§11, ¶B, as repealed and replaced by PL 2013, c. 156, §1, is 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 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 for a period of less than one year. For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds;
- (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 or satellite radio services, of associated equipment for rental or lease to subscribers in conjunction with a sale of ~~extended~~ cable or ~~extended~~ satellite television services or satellite radio services;
- (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;
- (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;
- (9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;
- (10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;
- (11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;
- (12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale;

(14) The sale of repair parts used in the performance of repair services on telecommunications equipment as defined in section 2551, subsection 19 pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the telecommunications equipment for a specific duration;

(15) The sale of positive airway pressure equipment and supplies for rental for personal use to a person engaged in the business of renting positive airway pressure equipment;

(16) The sale, to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of motor homes or camper trailers for rental; or

(17) The sale of truck repair parts used in the performance of repair services on a truck pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the truck for a specific duration.

Sec. 6. 36 MRSA §2524, sub-§5 is enacted to read:

5. Application. Except for the unused credit carried over pursuant to subsection 3, a tax credit is not allowed under this section for tax years beginning on or after January 1, 2016.

Sec. 7. 36 MRSA §2525-A, sub-§4 is enacted to read:

4. Application. Except for the unused credit carried over pursuant to subsection 3, a tax credit is not allowed under this section for tax years beginning on or after January 1, 2016.

Sec. 8. 36 MRSA §5122, sub-§2, ¶M-2, as enacted by PL 2015, c. 267, Pt. DD, §10, is amended to read:

M-2. For tax years beginning on or after January 1, 2016:

(1) For each individual who is a primary recipient of retirement plan benefits, the reduction is the sum of:

(a) ~~Excluding military retirement plan benefits, an amount that is the lesser of the aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income and the pension deduction amount. The amount claimed under this division must be reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0; and;~~

(i) The aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income; and

(ii) The pension deduction amount reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0; and

(b) An amount equal to the aggregate of retirement benefits under military retirement plans included in the individual's federal adjusted gross income; and

(2) For purposes of this paragraph, the following terms have the following meanings.

(a) "Employee retirement plan" means a state, federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary.

(b) "Individual retirement account" means an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a simplified employee pension under Section 408(k) of the Code or a simple retirement account for employees under Section 408(p) of the Code.

(c) "Military retirement plan" means retirement plan benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.

(d) "Pension deduction amount" means \$10,000 for tax years beginning in 2014.

(e) "Primary recipient" means the individual upon whose earnings or contributions the retirement plan benefits are based or the surviving spouse of that individual.

(f) "Retirement plan benefits" means employee retirement plan benefits, except pick-up contributions for which a subtraction is allowed under paragraph E, reported as pension or annuity income for federal income tax purposes and individual retirement account benefits

reported as individual retirement account distributions for federal income tax purposes. "Retirement plan benefits" does not include distributions that are subject to the tax imposed by the Code, Section 72(t);

Sec. 9. 36 MRSA §5125, sub-§4, as amended by PL 2013, c. 595, Pt. T, §1 and affected by §2, is further amended to read:

4. Limitation. The total itemized deductions from Maine adjusted gross income claimed on a return may not exceed ~~\$27,500~~**\$28,350**, except the limitation does not apply to medical and dental expenses included in an individual's itemized deductions from federal adjusted gross income.

Sec. 10. 36 MRSA §5402, sub-§1, as amended by PL 2013, c. 368, Pt. Q, §9, is further amended to read:

1. Chained Consumer Price Index. "Chained Consumer Price Index" means the average over a 12-month period of the most recently published Chained Consumer Price Index, not seasonally adjusted, published monthly by the Bureau of Labor Statistics, United States Department of Labor designated as the "Chained Consumer Price Index for All Urban Consumers-United States City Average:" as of the date the assessor determines the cost-of-living adjustment pursuant to section 5403.

Sec. 11. Application. That section of this Act that amends the Maine Revised Statutes, Title 36, section 5125, subsection 4 applies to tax years beginning on or after January 1, 2015.

Sec. 12. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 36, section 5402, subsection 1 applies retroactively to June 30, 2015.

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

SUMMARY

This bill makes the following changes to the Maine tax laws.

1. It removes an obsolete reference to the Circuitbreaker Program and updates references to the recently enacted individual income tax rate schedules that apply to tax years beginning on or after January 1, 2017.

2. It revises, for purposes of simplification, the municipal reimbursement and state valuation calculations for the homestead property tax exemption.

3. It clarifies the application of the Maine sales tax exclusion with respect to the rental or lease of equipment associated with the provision of cable services, satellite television services and satellite radio services.

4. It eliminates, beginning with the 2016 tax year, the credits for employer-assisted day care and employer-provided long-term care benefits to bring the insurance premiums tax law in line with the elimination of the same credits in the income tax law by the biennial budget, Public Law 2015, chapter 267. Carry-over of unused credit amounts is still allowed.

5. It specifies that, in calculating the pension income deduction for tax years beginning on or after January 1, 2016, the offset is limited to social security and railroad retirement benefits, rather than also applying the offset to a taxpayer's retirement plan benefits.

6. It specifies that Maine itemized deductions are capped at \$28,350 for tax years beginning in 2015. The cap is adjusted annually for inflation for tax years beginning after 2015. It further clarifies that the annual cost-of-living adjustment is based on the most recently published Chained Consumer Price Index, which is published monthly by the United States Department of Labor, Bureau of Labor Statistics, at the time the annual cost-of-living adjustment is required to be made.