

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Amend the Maine Tax Laws

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

### PART A

**Sec. A-1. 5 MRSA §1710-J**, as amended by PL 2001, c. 652, §1, is repealed and the following enacted in its place:

#### **§ 1710-J. Access to information**

The Department of Administrative and Financial Services shall provide certain information and data to the committee in order to assist the committee in performing its statutory duties. The committee members and staff are subject to the provisions governing confidentiality of tax information described in Title 36, section 191 with regard to disclosures made pursuant to this section.

**1. Statistical data.** The Associate Commissioner for Tax Policy shall provide to the committee upon request any statistical tax data that may be published pursuant to Title 36, section 191, subsection 2, paragraph B.

**2. Capital gains data.** The Associate Commissioner for Tax Policy shall provide information annually to the committee before the committee's December 1st report pursuant to section 1710-F concerning the amount of actual capital gains and losses experienced by resident taxpayers filing income tax returns in the State under Title 36, Part 8 for tax years ending in the calendar year 2 years prior. Data reported concerning capital gains and losses may be distributed by decile or quartile. In the absence of actual data, the Associate Commissioner for Tax Policy may provide estimates of the capital gains or losses experienced.

**3. Confidential tax information.** Consistent with Title 36, section 191, subsection 2, paragraph CCC, the Associate Commissioner for Tax Policy may provide to the committee any additional tax information, including confidential tax information, that will assist the committee in performing its statutory duties. Any confidential tax information must be disclosed in only oral or paper form; any disclosure in paper form must be returned to the State Tax Assessor or destroyed once the committee chair determines that the committee has completed its use of the information. The committee shall discuss disclosed confidential tax information in a manner that preserves the confidentiality of that information, including meeting in executive session not open to the public in accordance with Title 1, section 405.

**Sec. A-2. 36 MRSA §175-A, sub-§1**, as amended by PL 1999, c. 699, Pt. D, §26 and affected by §30, is further amended to read:

**1. Filing.** ~~Before August 1, 2017, if~~ any tax imposed by this Title or imposed by any other provision of law and authorized to be collected by the bureau is not paid when due and no further administrative or judicial review of the assessment is available pursuant to law, the assessor may file in the registry of deeds of any county, with respect to real property, or in the office of the Secretary of State, with respect to property of a type a security interest in which may be perfected by a filing in such office under Title 11, Article 9-A, a notice of lien specifying the amount of the tax, interest, penalty and costs due, the name and last known address of the person liable for the amount and, in the case of a tax imposed by this Title, the fact that the assessor has complied with all the provisions of this Title in the assessment of the tax. The lien arises at the time the assessment becomes final and constitutes a lien upon all property, whether real or personal, then owned or thereafter acquired by that person in the period before the expiration of the lien. The lien imposed by this section is not valid against any mortgagee, pledgee, purchaser, judgment creditor or holder of a properly recorded security interest until notice of the lien has been filed by the assessor, with respect to real property, in the registry of deeds of the county where such property is located and, with respect to personal property, in the office in which a financing statement for such personal property is normally filed. Notwithstanding this subsection, a tax lien upon personal property does not extend to those types of personal property not subject to perfection of a security interest by means of the filing in the office of the Secretary of State. The lien is prior to any mortgage or security interest recorded, filed or otherwise perfected after the notice, other than a purchase money security interest perfected in accordance with Title 11, Article 9-A. In the case of any mortgage or security interest properly recorded or filed prior to the notice of lien that secures future advances by the mortgagee or secured party, the lien is junior to all advances made within 45 days after filing of the notice of lien, or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien. Subject to the limitations in this section, the lien provided in this ~~section~~ subsection has the same force, effect and priority as a judgment lien and continues for 10 years from the date of recording unless sooner released or otherwise discharged. The lien may, within the 10-year period, or within 10 years from the date of the last extension of the lien in the manner provided in this subsection, be extended by filing for record in the appropriate office a copy of the notice and, from the time of filing, that lien must be extended for 10 years unless sooner released or otherwise discharged.

This subsection applies to assessments made before August 1, 2017.

**Sec. A-3. 36 MRSA §175-A, sub-§1-A** is enacted to read:

**1-A. Filing of tax lien.** Beginning August 1, 2017, if any tax imposed by this Title or any tax imposed by any other provision of law and authorized to be collected by the bureau is not paid when due and no further administrative or judicial review of the assessment is available pursuant to law, the amount of the assessment, including the tax, interest, penalties and costs, is a lien in favor of the assessor. The lien arises at the time the assessment is made and constitutes a lien upon all property, whether real or personal, owned by the person liable for the assessment at the time the lien arises or acquired by that person in the period after the lien arises until the expiration of the lien. The assessor may file in the registry of deeds of any county, with respect to real property, or in the office of the Secretary of State, with respect to property of a type for which a security interest may be perfected by a filing in such office under Title 11, Article 9-A, a notice of lien specifying the amount of the tax, interest, penalties and costs due, the name and last known address of the person liable for the amount and, in the case of a tax imposed by this Title, the fact

that the assessor has complied with all the provisions of this Title in the assessment of the tax. Filing of the lien by the assessor constitutes notice of lien for, and secures payment of, both the original assessment and all subsequent assessments of tax against the same person, until such time as the lien is released or otherwise discharged as provided for in this section. The lien imposed by this section is not valid against any mortgagee, pledgee, purchaser, judgment creditor or holder of a properly recorded security interest until notice of the lien has been filed by the assessor, with respect to real property, in the registry of deeds of the county where such property is located and, with respect to personal property, in the office in which a financing statement for such personal property is normally filed. Notwithstanding this subsection, a tax lien upon personal property does not extend to those types of personal property not subject to perfection of a security interest by means of the filing in the office of the Secretary of State. The lien is prior to any mortgage or security interest recorded, filed or otherwise perfected after the notice, other than a purchase-money security interest perfected in accordance with Title 11, Article 9-A and except as provided in Part 2. In the case of any mortgage or security interest properly recorded or filed prior to the notice of lien that secures future advances by the mortgagee or secured party, the lien is junior to all advances made within 45 days after filing of the notice of lien, or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien. Subject to the limitations in this section, the lien provided in this subsection has the same force, effect and priority as a judgment lien and continues for 10 years from the date of recording unless sooner released or otherwise discharged. The lien may, within the 10-year period, or within 10 years from the date of the last extension of the lien in the manner provided in this subsection, be extended by filing for record in the appropriate office a copy of the notice and, from the time of filing, that lien must be extended for 10 years unless sooner released or otherwise discharged. If the lien is extended within the 10-year period, or within 10 years from the date of the last extension of the lien as provided for in this subsection, the extended lien relates back to the date the lien was first filed.

This subsection applies to assessments made on or after August 1, 2017.

**Sec. A-4. 36 MRSA §175-A, sub-§3**, as amended by PL 1997, c. 526, §10, is further amended to read:

**3. Enforcement.** The lien provided for by subsection 1 or 1-A may be enforced at any time after the tax liability with respect to which the lien arose becomes collectible under section 173, subsection 1 by a civil action brought by the Attorney General in the name of the State in the Superior Court of the county in which the property is located to subject any property, of whatever nature, in which the taxpayer has any right, title or interest, to the payment of such tax or liability. The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved in the action and finally determine the merits of all claims to and liens upon the property and, in all cases where a claim or interest of the State therein is established, may decree a sale of the property by the proper officer of the court and a distribution of the proceeds of such sale according to the findings of the court. If the property is sold to satisfy a lien held by the State, the State may bid at the sale such sum, not exceeding the amount of that lien plus expenses of sale, as the assessor directs.

**Sec. A-5. 36 MRSA §175-A, sub-§4**, as corrected by RR 1997, c. 1, §28, is amended to read:

**4. Recording fees part of tax liability.** Fees paid by the assessor to registrars of deeds for recording notices of lien pursuant to subsection 1 or 1-A and notices of release of a lien pursuant to subsection 2 may be added to the tax liability that gave rise to the lien and, in the case of a tax imposed by this Title, may be collected by all the methods provided for in chapter 7. In the case of other obligations owed to the State and authorized to be collected by the bureau, the fees may be collected by any collection method authorized by this section or section 176-A.

**Sec. A-6. 36 MRSA §186, first ¶**, as amended by PL 2009, c. 625, §3, is further amended to read:

A person who fails to pay any tax, other than a tax imposed pursuant to chapter 105, on or before the last date prescribed for payment is liable for interest on the tax, calculated from that date and compounded monthly. The rate of interest for any calendar year equals the highest prime rate as published in the Wall Street Journal on the first day of September of the preceding calendar year or, if the first day of September falls on a weekend or holiday, on the next succeeding business day, rounded up to the next whole percent plus 3 percentage points. The rate of interest for any calendar year beginning on or after January 1, 2018 equals the prime rate as published in the Wall Street Journal on the first day of September of the preceding calendar year or, if the first day of September falls on a weekend or holiday, on the next succeeding business day, rounded up to the next whole percent plus one percentage point. For purposes of this section, the last date prescribed for payment of tax must be determined without regard to any extension of time permitted for filing a return. A tax that is upheld on administrative or judicial review bears interest from the date on which payment would have been due in the absence of review. Any amount that has been erroneously refunded and is recoverable by the assessor bears interest at the rate determined pursuant to this section from the date of payment of the refund. A credit or reimbursement that has been allowed or paid pursuant to this Title and is recoverable by the assessor bears interest at the rate determined pursuant to this section from the date it was allowed or paid. Interest accrues automatically, without being assessed by the assessor, and is recoverable by the assessor in the same manner as if it were a tax assessed under this Title. If the failure to pay a tax when required is explained to the satisfaction of the assessor, the assessor may abate or waive the payment of all or any part of that interest.

**Sec. A-7. 36 MRSA §191, sub-§2, ¶I**, as amended by PL 1985, c. 764, §3, is further amended to read:

I. The disclosure of information acquired pursuant to Part 2 and chapter 367, except for information identified as confidential within those provisions;

**Sec. A-8. 36 MRSA §191, sub-§2, ¶R**, as amended by PL 2005, c. 332, §6, is further amended to read:

R. The disclosure to the Department of Health and Human Services and to the Department of Administrative and Financial Services, Division of Financial and Personnel Services of information relating to the administration and collection of the taxes imposed by chapter 358, chapter 373, chapter 375 and chapter 377 for the purposes of administration of those taxes and the financial accounting and revenue forecasting of those taxes;

**Sec. A-9. 36 MRSA §191, sub-§2, ¶CCC** is enacted to read:

CCC. The disclosure of information to the Revenue Forecasting Committee or its staff under Title 5, section 1710-J, by or at the direction of the Associate Commissioner for Tax Policy when pertinent to the associate commissioner's duties of providing revenue forecasting analysis to the committee. The information may be disclosed only in oral or paper form and only after notice to the State Tax Assessor of the intended disclosure. The associate commissioner shall apprise the committee members of the provisions regarding confidentiality of such information, of the continuing confidential nature of the disclosed information and the provision in Title 5, section 1710-J, allowing discussion of the information by the committee meeting in executive session not open to the public.

**Sec. A-10. 36 MRSA §691, sub-§1, ¶A,** as amended by PL 2009, c. 571, Pt. II, §1 and affected by §5, is further amended to read:

A. "Eligible business equipment" means qualified property that, in the absence of this subchapter, would first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became subject to assessment under this Part before April 1, 2008 if the part, addition, equipment, accession or accessory would, in the absence of this subchapter, first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" also includes inventory parts.

"Eligible business equipment" does not include:

- (1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;
- (2) Lamps and lighting fixtures used primarily for the purpose of providing general purpose office or worker lighting;
- (3) Property owned or used by an excluded person;
- (4) Telecommunications personal property subject to the tax imposed by section 457;
- (5) Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:
  - (a) Associated equipment as defined in Title 8, section 1001, subsection 2;

(b) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;

(c) An electronic video machine as defined in Title 17, section 1831, subsection 4;

(d) Equipment used in the playing phases of lottery schemes; and

(e) Repair and replacement parts of a gambling machine or device;

(6) Property located at a retail sales facility and used primarily in a retail sales activity unless the property is owned by a business that operates a retail sales facility in the State exceeding 100,000 square feet of interior customer selling space that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue on a calendar year basis from sales that are made at a retail sales facility located in the State. For purposes of this subparagraph, the following terms have the following meanings:

(a) "Primarily" means more than 50% of the time;

(b) "Retail sales activity" means an activity associated with the selection and retail purchase of goods or services or the rental of tangible personal property. "Retail sales activity" does not include production as defined in section 1752, subsection 9-B; and

(c) "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selectingselection and purchasingretail purchase of goods or services at retail or for rentingrental of tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility;

(7) Property that is not entitled to an exemption by reason of the additional limitations imposed by subsection 2; or

(8) Personal property that would otherwise be entitled to exemption under this subchapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457.

**Sec. A-11. 36 MRSA §§696 and 697**, as enacted by PL 2005, c. 623, §1, are amended to read:

**§ 696. Supplemental assessment**

If the assessor makes a determination under section 695 or the bureau makes a determination pursuant to section 697 that property receiving an exemption under this subchapter was not entitled to an exemption under this subchapter, the assessor shall by means of a supplemental assessment assess the property for which the exemption was improperly received, plus costs and interest. The taxpayer may contest a supplemental assessment under this subchapter either by using the procedures provided in subchapter 8 or by pursuing such other actions or proceedings by which other property tax exemptions under this chapter may be reviewed or adjudicated. The supplemental assessment must be assessed and collected pursuant to section 713. The bureau shall deduct the amount of the portion of the supplemental assessment that pertains to any funds previously reimbursed to the municipality under section 694 from the next reimbursement issued to the municipality.

### **§ 697. Audits; determination of bureau**

The bureau may audit the records of a municipality to ensure compliance with this subchapter. The bureau may independently review the records of a municipality to determine if exemptions have been properly approved. If the bureau determines that an exemption was improperly approved for any of the 3 years immediately preceding the determination, the bureau shall ensure, by setoff against other payments due the municipality under this subchapter or subchapter 4-B, that the municipality is not reimbursed for the exemption. A municipality that is aggrieved by a determination of the bureau under this subchapter may appeal pursuant to section 151.

**Sec. A-12. 36 MRSA §698**, as enacted by PL 2005, c. 623, §1, is repealed.

**Sec. A-13. 36 MRSA §1504, sub-§9, ¶D**, as enacted by PL 1987, c. 196, §9, is amended to read:

~~D. Each marina or boat yard~~Any person leasing, selling or otherwise providing for consideration storage space or leasing, mooring or docking spaces for 10 or more consecutive days during the period from April 15th of any year and April 15th of the next year to watercraft not registered in the State shall ~~maintain~~must contain, with respect to each watercraft:

- (1) The name of the vessel;
- (2) The name and address of the owner of the watercraft;
- (3) The state of registration or port of hail;
- (4) The approximate length of the vessel; and
- (5) The type of vessel.

~~These lists shall be made available by marinas and boat yards.~~ A person required by this section to maintain a list of watercraft must retain the list for 3 years and must make the list available for inspection during normal business hours by law enforcement officers and by municipal officials. Marina and boat yard owners must retain these lists for 3 years.

**Sec. A-14. 36 MRSA §6652, sub-§1-C, ¶B**, as amended by PL 2001, c. 396, §47, is further amended to read:

B. Except as provided in paragraph C, reimbursement may not be made for property used to produce or transmit energy primarily for sale. Energy is primarily for sale if during the property tax year immediately preceding the property tax year for which a claim is being made 2/3 or more of the useful energy is directly or indirectly sold and transmitted through the facilities of a transmission and distribution utility as defined in Title 35-A, section 102, subsection 20-B.

## PART B

**Sec. B-1. 35-A MRSA §7104-C, sub-§2, ¶F**, as enacted by PL 2011, c. 600, §7 and affected by §10, is amended to read:

F. Prepaid wireless fees collected by sellers must be remitted to the State Tax Assessor. Prepaid wireless fees must be remitted at the times and in the manner provided for the remittance of ~~sales~~the service provider tax under Title 36, section ~~1951-A2554~~ and rules adopted pursuant to that section for the remittance of ~~sales~~the service provider tax on an other than monthly basis. ~~The State Tax Assessor shall establish registration and payment procedures that substantially coincide with registration and payment procedures as provided in Title 36, section 1754-B and related provisions.~~

**Sec. B-2. 36 MRSA §1760, sub-§33**, as repealed and replaced by PL 1977, c. 238, is amended to read:

**33. Diabetic supplies.** All equipment and supplies, whether medical or otherwise, used in the diagnosis or treatment of human diabetes;

**Sec. B-3. 36 MRSA §1760, sub-§101** is enacted to read:

**101. Certain sales by civic, religious or fraternal organizations.** Sales of prepared food by a civic, religious or fraternal organization, including an auxiliary of such an organization, at a public or member-only event, except when alcoholic beverages are available for sale at the event. This exemption is limited to the first 24 days during which such sales are made in a calendar year and does not apply to sales made at private functions such as weddings.

**Sec. B-4. 36 MRSA §1812, sub-§1**, as amended by PL 2015, c. 267, Pt. OOOO, §6 and affected by §7 and amended by c. 300, Pt. A, §26, is repealed.

**Sec. B-5. 36 MRSA §1812, sub-§1-A** is enacted to read:

**1-A. Computation.** Every retailer shall add the sales tax imposed by section 1811 to the sale price on all sales of tangible personal property and taxable services that are subject to tax under this Part. The tax when so added is a debt of the purchaser to the retailer until it is paid and is recoverable at law by the retailer from the purchaser in the same manner as the sale price. When the sale price involves a fraction of a dollar, the tax computation must be carried to the 3rd decimal place, then rounded down to the next whole cent whenever the 3rd decimal place is one, 2, 3 or 4 and rounded up to the next whole cent whenever the 3rd decimal place is 5, 6, 7, 8 or 9.

**Sec. B-6. 36 MRSA §1812, sub-§2**, as amended by PL 1991, c. 846, §24, is further amended to read:

**2. Several items.** When several purchases are made together and at the same time, the tax ~~must~~ may be computed on each item individually or on the total amount of the several items, as the retailer may elect, except that purchases taxed at different rates must be separately totaled.

**Sec. B-7. 36 MRSA §1812, sub-§3**, as enacted by PL 1987, c. 402, Pt. A, §181, is repealed.

**Sec. B-8. 36 MRSA §1813**, as amended by PL 1991, c. 546, §24, is further amended to read:

### **§ 1813. Illegal collection of sales tax prohibited**

Any retailer who knowingly charges or collects as the sales tax due on the sale price of any tangible personal property or taxable service an amount in excess of that provided by section 1812 commits a Class E crime.

**Sec. B-9. 36 MRSA §2910-B**, as enacted by PL 2005, c. 457, Pt. AAA, §3, is amended to read:

### **§ 2910-B. Refund to government agencies and political subdivisions**

Any ~~government agency of this State and any political subdivision of this State~~ government agency that buys and uses internal combustion engine fuel and that has paid a tax as provided by this chapter must be reimbursed in the amount of the tax paid upon presenting to the State Tax Assessor a statement accompanied by the original invoices showing the purchases. By contractual agreement, ~~an agency of this State or a political subdivision of this State~~ a government agency may assign to another person its right to receive refunds under this section. Applications for refunds must be filed with the assessor within 12 months from the date of purchase. For the purposes of this section, "government agency" means the State, or any political subdivision of the State, or the Federal Government.

**Sec. B-10. 36 MRSA §3208-A**, as amended by PL 2007, c. 438, §79, is further amended to read:

### **§ 3208-A. Refund to government agencies and political subdivisions**

Any ~~political subdivision of the State~~ government agency that buys and uses special fuel and that has paid a tax as provided by this chapter on that fuel is eligible for reimbursement in the amount of the tax paid. By contractual agreement, ~~any agency of this State or political subdivision of this State~~ a government agency may assign to another person its right to receive funds under this section. A refund application on a form prescribed by the State Tax Assessor must be filed to claim a refund pursuant to

this section. Applications for refunds must be filed with the ~~State Tax Assessor~~assessor within 12 months from the date of purchase. For the purposes of this section, "government agency" means the State, or any political subdivision of the State, or the Federal Government.

**Sec. B-11. Application.** That section of this Part that amends the Maine Revised Statutes, Title 35-A, section 7104-C, subsection 2, paragraph F applies to sales occurring on or after January 1, 2018. Those sections of this Part that repeal Title 36, section 1812, subsections 1 and 3, that amend Title 36, section 1812, subsection 2 and enact Title 36, section 1812, subsection 1-A are effective January 1, 2018. That section of this Part that enacts Title 36, section 1760, subsection 101 applies to sales occurring on or after October 1, 2017.

## PART C

**Sec. C-1. 36 MRSA §2535** is enacted to read:

### **§ 2535. Credit for educational opportunity**

A taxpayer is allowed a credit against the tax otherwise due under this chapter as determined under section 5217-D.

**Sec. C-2. Application.** That section of this Part that enacts the Maine Revised Statutes, Title 36, section 2535 applies to tax years beginning on or after January 1, 2017.

## PART D

**Sec. D-1. 36 MRSA §5122, sub-§1, ¶KK,** as enacted by PL 2015, c. 490, §7, is repealed.

**Sec. D-2. 36 MRSA §5125, sub-§3, ¶C,** as amended by PL 2015, c. 494, Pt. A, §45, is further amended to read:

C. Reduced by any amount of deduction attributable to income taxable to financial institutions under chapter 819; and

**Sec. D-3. 36 MRSA §5125, sub-§3, ¶D,** as repealed and replaced by PL 2015, c. 494, Pt. A, §46, is amended to read:

D. Reduced by any amount attributable to interest or expenses incurred in the production of income exempt from tax under this Part; ~~and.~~

**Sec. D-4. 36 MRSA §5125, sub-§3, ¶G,** as enacted by PL 2015, c. 340, §3 and affected by §5, is repealed.

**Sec. D-5. 36 MRSA §5206-F,** as amended by PL 2003, c. 588, §17, is further amended to read:

### **§ 5206-F. Time for filing returns**

The franchise tax return required by section 5220, subsection 6 must be filed on or before the 15th day of the ~~3rd~~4th month following the end of the financial institution's fiscal year.

**Sec. D-6. 36 MRSA §5219-KK, sub-§1, ¶A,** as enacted by PL 2013, c. 551, §3, is amended to read:

A. "Benefit base" means property taxes paid by a resident individual during the tax year on the resident individual's homestead in this State or rent constituting property taxes paid by the resident individual during the tax year on a homestead in the State not exceeding the following amounts:

- (1) For persons filing as single individuals, \$2,000;
- (2) For persons filing joint returns or as heads of households that claim no more than 2 personal exemptions, \$2,600; and
- (3) For persons filing joint returns or as heads of households that claim 3 or more personal exemptions, \$3,200; and
- (4) ~~For married individuals filing separate returns, 1/2 of the amount under subparagraph (2) or (3), whichever would apply if the individual had filed a joint return for the taxable year with the individual's spouse.~~

**Sec. D-7. 36 MRSA §5219-KK, sub-§2,** as enacted by PL 2013, c. 551, §3, is amended to read:

**2. Credit.** A resident individual is allowed a credit against the taxes imposed under this Part in an amount equal to 50% of the amount by which the benefit base for the resident individual exceeds 6% of the resident individual's income. The credit may not exceed \$600 for resident individuals under 65 years of age as of the last day of the taxable year or \$900 for resident individuals 65 years of age and older as of the last day of the taxable year. In the case of married individuals filing a joint return, only one spouse is required to be 65 years of age or older to qualify for the \$900 credit limitation. ~~In the case of resident married individuals filing separate returns, each of whom claims the credit on the same homestead, the credit for each spouse may not exceed \$300 if, for the taxable year, neither spouse was a resident individual 65 years of age or older or \$450 if, for the taxable year, at least one spouse was 65 years of age or older. Married taxpayers filing separate returns do not qualify for the credit under this section.~~

**Sec. D-8. 36 MRSA §5219-NN,** as enacted by PL 2015, c. 388, Pt. A, §15; c. 490, §8; and c. 503, §1, is repealed and the following enacted in its place:

**§ 5219-NN. Maine capital investment credit for 2015 and after**

**1. Credit allowed.** A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during a taxable year that begins on or after January 1, 2015 is allowed a credit as follows:

A. A taxable corporation is allowed a credit against the taxes imposed by this Part in an amount equal to 9% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5200-A, subsection 1, paragraph CC, subparagraph (1) with respect to that property, except for excluded property under subsection 2; or

B. An individual is allowed a credit against the taxes imposed by this Part in an amount equal to:

(1) For taxable years beginning in 2015, 8% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2; and

(2) For taxable years beginning on or after January 1, 2016, 7% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

**2. Certain property excluded.** The following property is not eligible for the credit under this section:

A. Property owned by a public utility as defined by Title 35-A, section 102, subsection 13;

B. Property owned by a person that provides radio paging services as defined by Title 35-A, section 102, subsection 15;

C. Property owned by a person that provides mobile telecommunications services as defined by Title 35-A, section 102, subsection 9-A;

D. Property owned by a cable television company as defined by Title 30-A, section 2001, subsection 2;

E. Property owned by a person that provides satellite-based direct television broadcast services;

F. Property owned by a person that provides multichannel, multipoint television distribution services; and

G. Property that is not in service in the State for the entire 12-month period following the date it is placed in service in the State.

**3. Limitations; carry-forward.** The credit allowed under subsection 1 may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 20 years.

**4. Recapture.** The credit allowed under this section must be fully recaptured to the extent claimed by the taxpayer if the property forming the basis of the credit is not used in the State for the entire 12-month period following the date it is placed in service in the State. The credit must be recaptured by filing an amended return in accordance with section 5227-A for the tax year in which that property was used to calculate the credit under this section. The amended return must reflect the credit disallowed and the income modifications required by section 5122, subsection 1, paragraph KK and section 5200-A, subsection 1, paragraph CC with respect to that property.

**Sec. D-9. 36 MRSA §5219-00** is enacted to read:

**§ 5219-00. Credit for disability income protection plans in the workplace**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Disability income protection plan" or "plan" has the same meaning as in Title 24-A, section 2804-B.

B. "Elimination period" means the time period during which an employee is unable to work due to a covered sickness or injury but is not yet eligible for disability benefits under the plan.

C. "Employee" means an individual who performs services for an employing unit and is eligible to enroll in a qualified short-term disability income protection plan or a qualified long-term disability income protection plan under the terms and conditions of the disability income protection plan.

D. "Employing unit" has the same meaning as in Title 26, section 1043, subsection 10.

E. "Qualified long-term disability income protection plan" means an employer-sponsored disability income protection plan that replaces at least 50% of predisability earnings prior to any applicable offsets, offers benefits for at least 24 months, has an elimination period of no greater than 185 days and is either:

(1) A plan established after January 1, 2017 that allows for employees to opt out of enrollment;  
or

(2) An existing plan that is reopened for enrollment and allows for employees to opt out of enrollment.

F. "Qualified short-term disability income protection plan" means an employer-sponsored disability income protection plan that replaces income of at least \$200 per week, offers benefits for at least 6 months, has an elimination period of no more than 30 days and is either:

(1) A plan established after January 1, 2017 that allows for employees to opt out of enrollment;  
or

(2) An existing plan that is reopened for enrollment and allows for employees to opt out of enrollment.

**2. Credit allowed.** A taxpayer constituting an employing unit is allowed a credit against the tax imposed by this Part for each taxable year beginning on or after January 1, 2017 for either a qualified short-term disability income protection plan or a qualified long-term disability income protection plan.

**3. Limit.** The total annual credit for a taxpayer under this section is limited to an amount equal to \$30 for each employee enrolled after January 1, 2017 in either a qualified short-term disability income protection plan or a qualified long-term disability income protection plan, as long as the employee enrolled in a qualified short-term disability income protection plan or a qualified long-term disability income protection plan was not covered under a disability income protection plan offered by the employing unit in the tax year immediately preceding the year the employer is first eligible for the credit. The credit must be claimed by a taxpayer in the first tax year during which the taxpayer is eligible to claim the credit and may be taken for no more than 3 consecutive tax years.

**4. Carry over; carry back.** The amount of the credit that may be used by a taxpayer may not exceed the amount of the tax otherwise due. Any unused credit may not be carried over or carried back by a taxpayer.

**Sec. D-10. 36 MRSA §5219-PP** is enacted to read:

**§ 5219-PP. Credit for certain homestead modifications**

**1. Credit allowed.** An individual with federal adjusted gross income not exceeding \$55,000 who makes qualified expenditures for the purpose of making all or any portion of an existing homestead, as defined in section 5219-II, subsection 1, paragraph C, accessible to an individual with a disability or physical hardship who resides or will reside in the homestead is allowed a credit against the tax otherwise imposed under this Part in an amount equal to the applicable percentage of the qualified expenditures or \$9,000, whichever is less.

**2. Qualified expenditures.** An individual claiming a credit under this section must demonstrate to the Maine State Housing Authority that the homestead modifications for which the expenditures were incurred comply with applicable building standards governing home accessibility in the jurisdiction where the homestead is located and are consistent with standards adopted by the authority. The authority may adopt rules consistent with this section to identify the types of homestead modifications that will enable accessibility for individuals with disabilities or physical hardships. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Certification.** The Maine State Housing Authority shall certify to the State Tax Assessor the total qualified expenditures made by an individual seeking to claim a credit under this section. The authority may contract with a public or private entity to make the certification required under this subsection.

**4. Limitations; carry-forward.** The credit under this section must be taken in the taxable year in which the qualified expenditures were incurred. The credit allowed under this section may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 4 years.

**5. Applicable percentage.** For the purposes of this section, "applicable percentage" means:

- A. For taxpayers with a federal adjusted gross income of up to \$25,000, 100%;
- B. For taxpayers with a federal adjusted gross income over \$25,000 but not over \$30,000, 90%;
- C. For taxpayers with a federal adjusted gross income over \$30,000 but not over \$35,000, 80%;
- D. For taxpayers with a federal adjusted gross income over \$35,000 but not over \$40,000, 70%;
- E. For taxpayers with a federal adjusted gross income over \$40,000 but not over \$45,000, 60%; and
- F. For taxpayers with a federal adjusted gross income over \$45,000 but not over \$55,000, 50%.

**Sec. D-11. 36 MRSA §5231, sub-§1-A,** as amended by PL 2003, c. 390, §50, is further amended to read:

**1-A. Federal extension.** When an individual, estate or trust is granted an extension of time within which to file a federal income tax return for any taxable year, the due date for filing the taxpayer's income tax return with respect to the tax imposed by this Part is automatically extended for an equivalent period. When a taxable corporation or a financial institution subject to the tax imposed by chapter 819 is granted an extension of time within which to file its federal income tax return for any taxable year, the due date for filing the taxpayer's income tax or franchise tax return with respect to the tax imposed by this Part is automatically extended for an equivalent period ~~plus 30 days~~.

**Sec. D-12. 36 MRSA §5242,** as amended by PL 1995, c. 639, §23, is further amended to read:

### **§ 5242. Information returns**

The State Tax Assessor may require returns of information to be made and filed on or before ~~February 28th~~ January 31st of each year by a person making payment or crediting in a calendar year the amounts of \$600 or more ~~(, or \$10 or more in the case of interest or dividends),~~ to a person who may be subject to the tax imposed under this Part. The returns may be required of a person, including lessees or mortgagors of real or personal property, fiduciaries, employers and all officers and employees of this State, or of a municipal corporation or political subdivision of this State, having the control, receipt, custody, disposal or payment of dividends, interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits or income, except interest coupons payable to bearer. A duplicate of the statement as to tax withheld on wages, required to be furnished by an employer to an employee, constitutes the return of information required to be made under this section with respect to those wages.

**Sec. D-13. 36 MRSA §5276-A, sub-§7,** as amended by PL 1991, c. 564 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**7. Priority.** In the event that claims from more than one agency are received by the State Tax Assessor with respect to one taxpayer, the ~~State Tax Assessor~~assessor shall set off against the refund due the taxpayer as many claims of the agencies as is possible in the following order of priority:

A. Liquidated child support debts owed to the Department of Health and Human Services;

A-1. Court-ordered restitution obligations;

B. Fines and fees owed to any of the courts; and

C. All other claims in the order of their receipt by the ~~State Tax Assessor~~assessor.

**Sec. D-14. Application.** Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 5206-F, section 5219-KK, subsection 1, paragraph A and subsection 2 and section 5231, subsection 1-A and that repeal Title 36, section 5219-NN as amended by Public Law 2015, chapter 490 and Public Law 2015, chapter 503 and enact Title 36, sections 5219-OO and 5219-PP apply to tax years beginning on or after January 1, 2017. The section of this Part that amends Title 36, section 5242 applies to returns of information filed for calendar years beginning on or after January 1, 2017.

## PART E

**Sec. E-1. 5 MRSA §13070-J, sub-§4, ¶A,** as amended by PL 2001, c. 481, §2, is repealed.

**Sec. E-2. 36 MRSA §194, sub-§3,** as enacted by PL 2009, c. 213, Pt. TTTT, §1, is repealed.

**Sec. E-3. 36 MRSA §194-A,** as enacted by PL 2011, c. 503, §1, is amended to read:

### **§ 194-A. Review of certain changes in the application of sales and use tax law**

**1. Consultation.** Before implementing a significant change in policy, practice or interpretation of the sales and use tax law that would result in additional revenue, the ~~bureau~~State Tax Assessor shall consult with the Office of the Attorney General ~~to determine if the change should be reviewed by the appropriate legislative committee of oversight. If the consultation results in an agreement that a proposed change in policy, practice or interpretation of the sales and use tax law is a significant change that would result in additional revenue and should be reviewed by the appropriate legislative committee of oversight,~~ the ~~bureau~~ shall notify the appropriate legislative committee of oversight pursuant to subsection 2.

**2. Notification and review.** If, pursuant to the consultation required by subsection 1, the Office of the Attorney General and the ~~bureau~~assessor agree that a proposed change in policy, practice or interpretation of the sales and use tax law is a significant change that would result in additional revenue and should be reviewed by the appropriate legislative committee of oversight, the ~~bureau~~assessor shall notify the chairs of the appropriate legislative committee of oversight of the results of the consultation at least 45 days prior to implementation of the change ~~in policy, practice or interpretation of the sales and~~

~~use tax law~~, if reasonably practicable. The chairs of the legislative committee of oversight shall notify all committee members in writing of the proposed change in policy, practice or interpretation of the sales and use tax law and may schedule a time for committee review and discussion.

**3. Report.** ~~The bureau shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the consultation process and, consistent with attorney-client privilege and any other legal privilege and legal confidentiality requirements, provide a brief summary of the issues for which a consultation was sought and the results of each consultation.~~

**4. Assessment validity.** ~~The provisions of this~~This section ~~establish~~establishes a procedural consultation and ~~reporting~~notification requirement to assist routine legislative oversight. ~~It~~and does not affect the validity of any assessment or tax liability ~~issued pursuant to or arising~~ under this Title.

**Sec. E-4. 36 MRSA §199-B, sub-§1**, as enacted by PL 2001, c. 652, §7, is amended to read:

**1. Report.** The bureau shall submit a report regarding tax expenditures to the committee by ~~January 5th~~February 15th of each odd-numbered year. The report must contain:

- A. A summary of each tax expenditure in the laws administered by the bureau;
- B. A description of the purpose and background of the tax expenditure and the groups likely to benefit from the tax expenditure;
- C. An estimate of the cost of the tax expenditure for the current biennium;
- D. Any issues regarding tax expenditures that need to be considered by the Legislature; and
- E. Any recommendation regarding the amendment, repeal or replacement of the tax expenditure; and
- F. The total amount of reimbursement paid to each person claiming a reimbursement for taxes paid on certain business property under chapter 915.

**Sec. E-5. 36 MRSA §200, sub-§1**, as amended by PL 2005, c. 218, §8, is further amended to read:

**1. Impact of taxes on individuals.** The bureau shall submit to the joint standing committee of the Legislature having jurisdiction over taxation matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report containing the information required by this subsection by ~~July 1, 1999 and by January 1st~~February 15th of each odd-numbered year thereafter.

A. Part 1 of the report must describe the overall incidence of all state, local and county taxes. The report must present information on the distribution of the tax burden:

- (1) For the overall income distribution, using a measure of system-wide incidence that appropriately measures equality and inequality;

(2) By income classes, including, at a minimum, deciles of the income distribution; and

(3) By other appropriate taxpayer characteristics.

B. Part 2 of the report must describe the impact of the tax system on business and industrial sectors. The report must:

(1) Describe the impact of taxes on major sectors of the business and industrial economy relative to other sectors; and

(2) Describe the relative impact of each tax on business and industrial sectors.

C. When determining the overall incidence of taxes under this subsection, the bureau shall reduce the amount of taxes collected by the amount of taxes that are returned directly to taxpayers through tax relief programs.

**Sec. E-6. 36 MRSA §208-A, sub-§6**, as enacted by PL 2007, c. 322, §2, is amended to read:

**6. Report.** By February 1st, annually, the State Tax Assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters identifying all requests for adjustment of equalized valuation under this section during the ~~previous calendar~~ most recently completed fiscal year, the assessor's determination regarding each request and the amount of any payments made by the Commissioner of Education under subsection 5, paragraph A.

**Sec. E-7. 36 MRSA §2863, sub-§7**, as enacted by PL 1981, c. 711, §10, is repealed.

**Sec. E-8. 36 MRSA §6664**, as amended by PL 2007, c. 693, §35, is repealed.

**Sec. E-9. Effective date.** That section of this Part that amends the Maine Revised Statutes, Title 36, section 194-A takes effect January 1, 2018.

## SUMMARY

Part A does the following.

1. It adds a tax information confidentiality exception to allow disclosures by the Maine Revenue Services to the Revenue Forecasting Committee in order to make available relevant tax information in support of the committee's statutory duties.

2. It amends tax lien provisions beginning August 1, 2017 to increase the State's ability to be first in line in priority ahead of certain other creditors for payment on a tax debt. The changes also clarify that the new lien provision does not affect liens related to municipal property taxes.

3. It amends the general provision for the annual calculation of the interest rate applicable to the Maine Revised Statutes, Title 36 tax underpayments and overpayments, effectively reducing the applicable interest rate.

4. It adds an exclusion to allow the public disclosure of information, except when the statute specifically designates the information as confidential.

5. It broadens an existing authorization for disclosure of confidential tax information to allow disclosures to the Department of Administrative and Financial Services, Division of Financial and Personnel Services, as well as to the Department of Health and Human Services, for purposes of financial accounting and revenue forecasts in order to make available relevant tax information in support of statutory duties of the Department of Administrative and Financial Services with respect to financial accounting and revenue forecasts with respect to the specific taxes.

6. It removes services from the definitions of retail sales activity and retail sales facility under the business equipment tax exemption laws to make the amended definitions match the same definitions in the business equipment tax reimbursement laws. Aligning the definitions for the 2 programs will eliminate confusion over eligibility for certain personal property.

7. It aligns the business equipment tax exemption laws taxpayer appeal procedures with that of those of the Maine resident homestead property tax exemption program and allows municipalities that are aggrieved by an audit determination of the bureau to appeal in the same manner as persons requesting reconsideration.

8. It adds boat clubs and associations leasing storage, mooring or docking space to the list of entities required to maintain information on watercraft related to the lease. It also adds selling as an activity triggering the information collection requirement.

9. It changes, under the business equipment tax reimbursement laws, the year upon which to calculate energy primarily for sale from the year immediately preceding the property tax year for which a claim is made to the property tax year for which a claim is made.

Part B does the following.

1. It requires the prepaid wireless fee to be remitted in the same manner as the service provider tax.

2. It provides that diabetic supplies are exempt from sales tax only when sold for use by human beings.

3. It provides a sales tax exemption for sales of prepared food by a civic, religious or fraternal organization, including an auxiliary of such an organization, at a public or member-only event, except when alcoholic beverages are available for sale at the event or it is a private function, for up to 24 days during a calendar year.

4. It replaces the bracket system for calculating sales tax with a conventional rounding algorithm, effective January 1, 2018.

5. It provides that refunds of the gasoline tax and special fuel tax may be made to the Federal Government.

Part C allows businesses subject to the Maine insurance premiums tax to be eligible for the educational opportunity tax credit, consistent with the credit allowed to taxpayers subject to the Maine income tax. The credit applies to tax years beginning on or after January 1, 2017.

Part D does the following.

1. It repeals the addition modification for a taxpayer's expenses for a qualified long-term disability income protection plan or qualified short-term disability protection plan in order to maintain consistency with the treatment of expenses for taxable corporations and to promote simplification.

2. It repeals the adjustment to itemized deductions for expenses included in the base for the adult dependent care credit tax.

3. It moves the due date for filing Maine financial institution franchise tax returns from the 15th day of the 3rd month to the 15th day of the 4th month following the end of the tax year in conformity with recent federal changes to the filing due date for C corporation income tax returns. The change applies to tax years beginning on or after January 1, 2017.

4. It corrects a conflict created when 3 public laws enacted the Maine Revised Statutes, Title 36, section 5219-NN, all substantively different from each other. The conflict is corrected by repealing the versions enacted by Public Law 2015, chapter 490 and Public Law 2015, chapter 503 and enacting them as Title 36, section 5219-OO and section 5219-PP, respectively, with the following changes:

A. The employer credit for disability protection plans is limited to employees who were not covered under a disability protection plan offered by the employing unit in the tax year immediately preceding the year the employer is first eligible for the credit. The credit applies to eligible employees enrolled in a qualified disability plan after January 1, 2017; and

B. The tax credit for making a portion of an existing homestead accessible to an individual with a disability or physical hardship is clarified to specify that it applies to individuals, not businesses, making qualified expenditures, that the credit is nonrefundable and that an individual with negative federal adjusted gross income qualifies for the credit. Also, the aggregate annual cap of \$1,000,000 applicable to the credit is removed. The changes all apply to tax years beginning on or after January 1, 2017.

The version of Title 36, section 5219-NN as enacted by Public Law 2015, c. 388 regarding the Maine capital investment credit for 2015 and after remains as section 5219-NN.

5. It prohibits, for tax years beginning on or after January 1, 2017, married individuals filing separate income tax returns from claiming the property tax fairness credit. The change is consistent with a similar restriction under the sales tax fairness credit.

6. It repeals the additional extension of 30 days beyond the federal extension due date for filing Maine income tax returns for corporations and financial institutions. This change applies to tax years beginning on or after January 1, 2017.

7. It changes the date an information return, such as a Form W-2, must be filed with Maine Revenue Services from February 28th to January 31st following the calendar year to which the information return relates. The change in the due date applies to information returns filed for calendar years beginning on or after January 1, 2017.

8. It provides that court-ordered restitution obligations are afforded a priority for setoff from state income tax refunds pursuant to Title 36, section 5276-A that is just above the priority given to court fines and fees.

Part E does the following.

1. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature identifying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives.

2. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature on the costs incurred in creating and maintaining, and the tax revenues collected by using, the data warehouse authorized by the Maine Revised Statutes, Title 36, section 194.

3. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature regarding the consultation process required by Title 36, section 194-A and the issues involved with, and results of, each such consultation.

4. It requires that information regarding reimbursements of property taxes paid on certain business property made pursuant to Title 36, chapter 915 be added to the tax expenditure report submitted to the Legislature by the State Tax Assessor and changes the due date of that report from January 5th to February 15th of each odd-numbered year.

5. It changes the due date of the tax incidence report submitted to the Legislature by the State Tax Assessor from January 1st to February 15th of each odd-numbered year.

6. It specifies that the report submitted to the Legislature by the State Tax Assessor no later than February 1st annually identifying all requests for an adjustment of equalized valuation under Title 36, section 208-A pertains to the most recently completed fiscal year rather than the previous calendar year.

7. It repeals a requirement that the Commissioner of Administrative and Financial Services submit an annual report to the Legislature regarding the Mining Impact Assistance Fund.

8. It repeals a requirement that the State Tax Assessor submit an annual report to the Legislature containing information that includes a list of persons receiving reimbursement for property taxes both under the business equipment tax reimbursement program and under a tax increment financing agreement.