

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 Repeal the Service Provider Tax

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

Sec. 1. 25 MRSA §2927, sub-§1-E, ¶C, as enacted by PL 2009, c. 400, §9 and affected by §15, is amended to read:

C. The place of residence of cellular or wireless telecommunications service customers who are not prepaid wireless telecommunications service consumers must be determined according to the sourcing rules for mobile telecommunications services as set forth in former Title 36, section 2556.

Sec. 2. 30-A MRSA §5681, sub-§5, as amended by PL 2015, c. 267, Pt. K, §1, is further amended to read:

5. Transfers to funds. No later than the 10th day of each month, the State Controller shall transfer to the Local Government Fund 5% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, ~~and Title 36, section 2552, subsection 1, paragraphs A to F and L,~~ and credited to the General Fund without any reduction, except that for fiscal years 2015-16, 2016-17, 2017-18 and 2018-19 the amount transferred is 2% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, ~~and Title 36, section 2552, subsection 1, paragraphs A to F and L,~~ and credited to the General Fund without any reduction, and except that the postage, state cost allocation program and programming costs of administering state-municipal revenue sharing may be paid by the Local Government Fund. A percentage share of the amounts transferred to the Local Government Fund each month must be transferred to the Disproportionate Tax Burden Fund and distributed pursuant to subsection 4-B as follows:

- C. For months beginning on or after July 1, 2009 but before July 1, 2010, 15%;
- D. For months beginning on or after July 1, 2010 but before July 1, 2011, 16%;
- E. For months beginning on or after July 1, 2011 but before July 1, 2012, 17%;
- F. For months beginning on or after July 1, 2012 but before July 1, 2013, 18%;
- G. For months beginning on or after July 1, 2013 but before July 1, 2014, 19%; and
- H. For months beginning on or after July 1, 2014, 20%.

Sec. 3. 35-A MRSA §7308, sub-§1, as enacted by PL 2007, c. 511, §1, is amended to read:

1. Definition. For purposes of this section, "prepaid calling service" ~~has the same meaning as in Title 36, section 2551, subsection 9~~ means the right to access exclusively telecommunications services that must be paid for in advance and that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed, and that is sold in predetermined units or dollars, the number of which declines with use in a known amount.

Sec. 4. 36 MRSA §182, sub-§1, as amended by PL 2007, c. 437, §2, is further amended to read:

1. Generally. The State Tax Assessor may, through the Attorney General, file an action in Superior Court applying for an order to enjoin from doing business any person who has:

A. Failed to register with the assessor when the person is required to register by any provision of Part 3, ~~chapter 358~~ or Part 5 or by any rule adopted pursuant to this Title, as long as the assessor has provided written notice and the person continues to fail to register 15 days after receiving notice from the assessor of such failure;

B. Failed to file with the assessor any overdue return required by Part 3, ~~chapter 358~~ or Part 5 within 15 days after receiving notice from the assessor of such failure;

C. Failed to pay any tax required by Part 3, ~~chapter 358~~ or Part 5 when the tax is shown to be due on a return filed by that person, or that is otherwise conceded by that person to be due, or has been determined by the assessor to be due and that determination has become final;

D. Knowingly filed a false return required by Part 3, ~~chapter 358~~ or Part 5; or

E. Failed to deduct and withhold, or truthfully account for or pay over or make returns of, income taxes in violation of the provisions of chapter 827.

Sec. 5. 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 of information relating to the administration and collection of the taxes imposed by ~~chapter 358~~, chapter 373, chapter 375 and chapter 377;

Sec. 6. 36 MRSA §191, sub-§2, ¶EE, as amended by PL 2007, c. 438, §10, is further amended to read:

EE. The disclosure by the State Tax Assessor of the fact that a person has or has not been issued a certificate of exemption pursuant to section 1760, ~~or 2013 or 2557~~, a provisional resale certificate pursuant to section 1754-B, subsection 2-B or a resale certificate pursuant to section 1754-B, subsection 2-C;

Sec. 7. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2015, c. 390, §5, 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 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 cable or 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. 8. 36 MRSA §1752, sub-§18-E is enacted to read:

18-E. Telecommunications equipment. "Telecommunications equipment" means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. "Telecommunications equipment" includes all transmission media that are used or capable of being used in the provision of 2-way interactive communications, including, without limitation, copper wire, coaxial cable and optical fiber, except those transmission media designed and primarily used to transmit electricity. "Telecommunications equipment" does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information.

Sec. 9. 36 MRSA c. 358, as amended, is repealed.

Sec. 10. Effective date. This Act takes effect October 1, 2017.

SUMMARY

This bill repeals the service provider tax effective October 1, 2017.