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H.P. 499

House of Representatives, February 28, 2017

**An Act To Use Taxes on Nonmedical Marijuana and Increase the
Tax on Cigarettes To Partially Offset the 3% Income Tax Surcharge**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DENNO of Cumberland.
Cosponsored by Senator BREEN of Cumberland and
Representatives: CARDONE of Bangor, CHACE of Durham, HANDY of Lewiston,
JORGENSEN of Portland, TUELL of East Machias.

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

2 **Sec. 1. 5 MRSA §1523** is enacted to read:

3 **§1523. Surcharge Relief Fund for Maine Residents**

4 **1. Surcharge Relief Fund.** There is created the Surcharge Relief Fund, referred to
5 in this section as "the fund," which must be used to provide tax relief to taxpayers whose
6 income is subject to the 3% surcharge imposed under Title 36, section 5111, subsection 6.
7 The fund consists of all resources transferred to the fund under Title 36, section 1817,
8 subsection 7 and section 4365 and other resources made available to the fund. The fund
9 must be used to reduce the surcharge under Title 36, section 5111, subsection 6.

10 **2. Implementation.** By September 1, 2018 and annually thereafter, the State
11 Controller shall inform the State Tax Assessor of the amount available in the fund for the
12 purposes of subsection 1.

13 A. By November 1st annually, the State Tax Assessor shall calculate the amount by
14 which the income tax surcharge rate under Title 36, section 5111, subsection 6 may
15 be reduced during the subsequent tax year using the amount available from the fund.
16 The rate reduction must be a minimum of 0.1 percentage points. If sufficient funds
17 are not available to pay for the minimum reduction, a rate reduction may not be made
18 until the amount in the fund is sufficient to pay for the reduction.

19 B. The State Tax Assessor shall provide public notice of the new income tax
20 surcharge rate calculated under this subsection by November 15th annually.

21 C. The new income tax surcharge rate calculated under this subsection applies
22 beginning with tax years that begin on or after January 1st of the calendar year
23 following the determinations made under this subsection.

24 **3. Nonlapsing fund.** Any unexpended balance in the fund may not lapse but must
25 be carried forward to be used pursuant to subsection 2.

26 **4. Transfer for income tax reduction.** In the fiscal years immediately following
27 the calculation of the rate reduction under subsection 2, paragraph A, the State Tax
28 Assessor shall certify to the State Controller the amount of the reduction in General Fund
29 revenue by fiscal year, and the State Controller shall transfer from the fund the amount
30 certified for the reduction in revenue attributable to adjustments made under subsection 2
31 to the General Fund unappropriated surplus.

32 **Sec. 2. 36 MRSA §1817, sub-§2,** as enacted by IB 2015, c. 5, §3, is amended to
33 read:

34 **2. Sales tax on retail marijuana and retail marijuana products.** The sales tax on
35 retail marijuana and retail marijuana products is ~~4%~~ 15% and is the only tax charged on
36 the sale of retail marijuana and retail marijuana products at the point of final sale at a
37 retail marijuana store or retail marijuana social club.

1 **Sec. 3. 36 MRSA §1817, sub-§7**, as enacted by IB 2015, c. 5, §3, is amended to
2 read:

3 **7. Application of tax revenues.** ~~All~~ The sales tax revenue collected pursuant to this
4 section that is attributable to sales tax at the rate of 10% must be deposited in the General
5 Fund. Sales tax revenue derived from the sale of retail marijuana and retail marijuana
6 products and deposited in the General Fund may not be used to directly fund any new
7 state programs except that this revenue may be appropriated to the Maine Criminal
8 Justice Academy for the purpose of training law enforcement personnel on retail
9 marijuana and retail marijuana products laws and rules. Funds appropriated to the Maine
10 Criminal Justice Academy pursuant to this subsection may be used only for the actual
11 costs incurred to provide the necessary education and training of law enforcement
12 personnel. The sales tax revenue collected pursuant to this section that is attributable to
13 sales tax at the rate of 5% must be deposited in the Surcharge Relief Fund established in
14 Title 5, section 1523.

15 **Sec. 4. 36 MRSA §4365**, as amended by PL 2005, c. 457, Pt. AA, §1 and affected
16 by §8, is further amended to read:

17 **§4365. Rate of tax**

18 A tax is imposed on all cigarettes imported into this State or held in this State by any
19 person for sale at the rate of ~~400~~ 125 mills for each cigarette. Payment of the tax is
20 evidenced by the affixing of stamps to the packages containing the cigarettes.

21 The revenue attributable to 25 mills of the tax imposed under the section must be
22 deposited monthly in the Surcharge Relief Fund established in Title 5, section 1523.

23 **Sec. 5. 36 MRSA §4365-F**, as enacted by PL 2005, c. 457, Pt. AA, §3 and
24 affected by §8, is repealed.

25 **Sec. 6. 36 MRSA §4365-G** is enacted to read:

26 **§4365-G. Application of cigarette tax rate increase effective October 1, 2017**

27 The following provisions apply to cigarettes held for resale on October 1, 2017.

28 **1. Stamped rate.** Cigarettes stamped at the rate of 100 mills per cigarette and held
29 for resale after October 1, 2017 are subject to tax at the rate of 125 mills per cigarette.

30 **2. Liability.** A person possessing cigarettes for resale is liable for the difference
31 between the tax rate of 125 mills per cigarette and the tax rate of 100 mills per cigarette in
32 effect before October 1, 2017. Stamps indicating payment of the tax imposed by this
33 section must be affixed to all packages of cigarettes held for resale as of October 1, 2017,
34 except that cigarettes held in vending machines as of that date do not require that stamp.

35 **3. Vending machines.** Notwithstanding any other provision of this chapter, it is
36 presumed that all cigarette vending machines are filled to capacity on October 1, 2017
37 and that the tax imposed by this section must be reported on that basis. A credit against

1 this inventory tax must be allowed for cigarettes stamped at the rate of 125 mills per
2 cigarette placed in vending machines before October 1, 2017.

3 **4. Payment.** Payment of the tax imposed by this section must be made to the
4 assessor by January 1, 2018, accompanied by forms prescribed by the assessor.

5 **Sec. 7. 36 MRSA §5111, sub-§6, ¶A**, as enacted by IB 2015, c. 4, §2, is
6 amended to read:

7 A. For tax years beginning on or after January 1, 2017, in addition to any other tax
8 imposed by this chapter, a tax at the rate of 3%, as adjusted under Title 5, section
9 1523, is imposed on that portion of the taxpayer's Maine taxable income in excess of
10 \$200,000.

11 **Sec. 8. Effective date.** This Act takes effect October 1, 2017.

12 SUMMARY

13 This bill increases the sales tax on nonmedical marijuana from 10% to 15% and the
14 tax on cigarettes from \$2.00 per pack of 20 cigarettes to \$2.50 per pack. The bill
15 provides that revenue from these increases is deposited in the newly created Surcharge
16 Relief Fund to be used to reduce the rate of the 3% surcharge on taxable income
17 exceeding \$200,000. The bill contains an effective date of October 1, 2017.