



128th MAINE LEGISLATURE

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Legislative Document

No. 1212

S.P. 406

In Senate, March 28, 2017

**An Act To Amend the Definition of "Eligible Business Equipment"
for the Purposes of the Business Equipment Tax Exemption
Program**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator KATZ of Kennebec.
Cosponsored by Representative SPEAR of South Thomaston and
Senators: GRATWICK of Penobscot, MIRAMANT of Knox.

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

2 **Sec. 1. 36 MRSA §652, sub-§1, ¶K,** as amended by PL 2009, c. 425, §1, is
3 repealed.

4 **Sec. 2. 36 MRSA §691, sub-§1, ¶A,** as amended by PL 2009, c. 571, Pt. II, §1
5 and affected by §5, is further amended to read:

6 A. "Eligible business equipment" means qualified property that, in the absence of
7 this subchapter, would first be subject to assessment under this Part on or after April
8 1, 2008. "Eligible business equipment" includes, without limitation, repair parts,
9 replacement parts, replacement equipment, additions, accessions and accessories to
10 other qualified business property that first became subject to assessment under this
11 Part before April 1, 2008 if the part, addition, equipment, accession or accessory
12 would, in the absence of this subchapter, first be subject to assessment under this Part
13 on or after April 1, 2008. "Eligible business equipment" also includes inventory
14 parts. For property tax years beginning on or after April 1, 2017, "eligible business
15 equipment" includes the personal property leased by a benevolent and charitable
16 organization that is exempt from taxation under section 501 of the Code and the
17 primary purpose of which is the operation of a hospital licensed by the Department of
18 Health and Human Services, a health maintenance organization or a blood bank.

19 "Eligible business equipment" does not include:

20 (1) Office furniture, including, without limitation, tables, chairs, desks,
21 bookcases, filing cabinets and modular office partitions;

22 (2) Lamps and lighting fixtures used primarily for the purpose of providing
23 general purpose office or worker lighting;

24 (3) Property owned or used by an excluded person;

25 (4) Telecommunications personal property subject to the tax imposed by section
26 457;

27 (5) Gambling machines or devices, including any device, machine, paraphernalia
28 or equipment that is used or usable in the playing phases of any gambling activity
29 as that term is defined in Title 8, section 1001, subsection 15, whether that
30 activity consists of gambling between persons or gambling by a person involving
31 the playing of a machine. "Gambling machines or devices" includes, without
32 limitation:

33 (a) Associated equipment as defined in Title 8, section 1001, subsection 2;

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

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

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

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

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

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

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

13 (c) "Retail sales facility" means a structure used to serve customers who are
14 physically present at the facility for the purpose of selecting and purchasing
15 goods or services at retail or for renting tangible personal property. "Retail
16 sales facility" does not include a separate structure that is used as a
17 warehouse or call center facility;

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

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

23 **Sec. 3. Application.** That section of this Act that repeals the Maine Revised
24 Statutes, Title 36, section 652, subsection 1, paragraph K applies to tax years beginning
25 on or after April 1, 2017.

26 SUMMARY

27 This bill changes the statutory location of the tax exemption for personal property
28 occupied or used solely for its own purposes by an incorporated benevolent and
29 charitable organization that is exempt from taxation under section 501 of the Code and
30 the primary purpose of which is the operation of a hospital licensed by the Department of
31 Health and Human Services, a health maintenance organization or a blood bank. This bill
32 moves the exemption from the statutes regarding exemption of real and personal
33 property, since the exemption no longer applies to real property, to the definition of
34 "eligible business equipment" for the purposes of defining personal property that is
35 exempt from property tax under the business equipment tax exemption, or "BETE,"
36 program.