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Legislative Document

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S.P. 607

In Senate, January 12, 2016

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

(EMERGENCY)

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 203.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.
Cosponsored by Representative GOODE of Bangor.

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

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

6 **Whereas,** legislative action is immediately necessary to ensure timely and efficient
7 administration of the state income and sales taxes; and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

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

13 **Sec. 1. 5 MRSA §1518-A, sub-§1-A,** as enacted by PL 2011, c. 692, §1, is
14 amended to read:

15 **1-A. Implementation.** By September 1, ~~2014~~ 2016 and annually thereafter, ~~if the~~
16 ~~State Controller determines that the benefits required under the Circuitbreaker Program~~
17 ~~under Title 36, chapter 907 have been fully funded,~~ the State Controller shall inform the
18 State Tax Assessor of the amount available in the fund for the purposes of subsection 1.

19 A. By November 1st annually, the State Tax Assessor shall calculate the amount by
20 which the income tax rates under Title 36, section 5111, subsections ~~1-C, 2-C and~~
21 ~~3-C~~ 1-F, 2-F and 3-F may be reduced during the subsequent tax year using the
22 amount available from the fund. Bracket rate reductions must be a minimum of 0.2
23 percentage points in the first year in which reductions are made and a minimum of
24 0.1 percentage points in subsequent years. If sufficient funds are not available to pay
25 for the minimum reduction, a rate reduction may not be made until the amount in the
26 fund is sufficient to pay for the reduction. When the amount is sufficient to pay for
27 the reduction, the reduction must first be applied equally to each bracket under Title
28 36, section 5111, subsections ~~1-C, 2-C and 3-C~~ 1-F, 2-F and 3-F until the lower
29 bracket reaches 4%. Funds available from the fund in subsequent years must be
30 applied to reduce the higher bracket rates until there is a single bracket with a rate of
31 4%, after which future tax relief may be identified.

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

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

37 **Sec. 2. 36 MRSA §683, sub-§§3 and 4,** as amended by PL 2015, c. 267, Pt. J,
38 §2, are further amended to read:

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

9 **4. Property tax rate.** ~~Fifty percent~~ For property tax years beginning before April 1,
10 2017, 50% of the just value of all the homestead exemptions under subsection 1 and, for
11 additional exemptions under subsection 1-B, 50% of the just value of the exemptions for
12 property tax years beginning on April 1, 2016 and 75% this subchapter must be included
13 in the total municipal valuation used to determine the municipal tax rate. For property tax
14 years beginning on or after April 1, 2017, 62.5% of the just value of all the homestead
15 exemptions for subsequent property tax years under this subchapter must be included in
16 the total municipal valuation used to determine the municipal tax rate. The municipal tax
17 rate as finally determined may be applied to only the taxable portion of each homestead
18 qualified for that tax year.

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

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

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

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

28 **Sec. 5. 36 MRSA §1752, sub-§11, ¶B,** as repealed and replaced by PL 2013, c.
29 156, §1, is amended to read:

30 B. "Retail sale" does not include:

- 31 (1) Any casual sale;
- 32 (2) Any sale by a personal representative in the settlement of an estate unless the
33 sale is made through a retailer or the sale is made in the continuation or operation
34 of a business;
- 35 (3) The sale, to a person engaged in the business of renting automobiles, of
36 automobiles, integral parts of automobiles or accessories to automobiles, for
37 rental or for use in an automobile rented for a period of less than one year. For
38 the purposes of this subparagraph, "automobile" includes a pickup truck or van
39 with a gross vehicle weight of less than 26,000 pounds;
- 40 (4) The sale, to a person engaged in the business of renting video media and
41 video equipment, of video media or video equipment for rental;

- 1 (5) The sale, to a person engaged in the business of renting or leasing
2 automobiles, of automobiles for rental or lease for one year or more;
- 3 (6) The sale, to a person engaged in the business of providing cable or satellite
4 television services or satellite radio services, of associated equipment for rental or
5 lease to subscribers in conjunction with a sale of ~~extended~~ cable or ~~extended~~
6 satellite television services or satellite radio services;
- 7 (7) The sale, to a person engaged in the business of renting furniture or audio
8 media and audio equipment, of furniture, audio media or audio equipment for
9 rental pursuant to a rental-purchase agreement as defined in Title 9-A, section
10 11-105;
- 11 (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant
12 to Title 29-A, section 953;
- 13 (9) The sale of automobile repair parts used in the performance of repair services
14 on an automobile pursuant to an extended service contract sold on or after
15 September 20, 2007 that entitles the purchaser to specific benefits in the service
16 of the automobile for a specific duration;
- 17 (10) The sale, to a retailer that has been issued a resale certificate pursuant to
18 section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in
19 the form of tangible personal property, except resale as a casual sale;
- 20 (11) The sale, to a retailer that has been issued a resale certificate pursuant to
21 section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except
22 resale as a casual sale;
- 23 (12) The sale, to a retailer that is not required to register under section 1754-B,
24 of tangible personal property for resale outside the State in the form of tangible
25 personal property, except resale as a casual sale;
- 26 (13) The sale, to a retailer that is not required to register under section 1754-B,
27 of a taxable service for resale outside the State, except resale as a casual sale;
- 28 (14) The sale of repair parts used in the performance of repair services on
29 telecommunications equipment as defined in section 2551, subsection 19
30 pursuant to an extended service contract that entitles the purchaser to specific
31 benefits in the service of the telecommunications equipment for a specific
32 duration;
- 33 (15) The sale of positive airway pressure equipment and supplies for rental for
34 personal use to a person engaged in the business of renting positive airway
35 pressure equipment;
- 36 (16) The sale, to a person engaged in the business of renting or leasing motor
37 homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of
38 motor homes or camper trailers for rental; or
- 39 (17) The sale of truck repair parts used in the performance of repair services on a
40 truck pursuant to an extended service contract that entitles the purchaser to
41 specific benefits in the service of the truck for a specific duration.

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

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

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

6 **4. Application.** Except for the unused credit carried over pursuant to subsection 3, a
7 tax credit is not allowed under this section for tax years beginning on or after January 1,
8 2016.

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

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

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

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

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

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

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

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

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

- 1 (b) "Individual retirement account" means an individual retirement account
2 under Section 408 of the Code, a Roth IRA under Section 408A of the Code,
3 a simplified employee pension under Section 408(k) of the Code or a simple
4 retirement account for employees under Section 408(p) of the Code.
- 5 (c) "Military retirement plan" means retirement plan benefits received as a
6 result of service in the active or reserve components of the Army, Navy, Air
7 Force, Marines or Coast Guard.
- 8 (d) "Pension deduction amount" means \$10,000 ~~for tax years beginning in~~
9 ~~2014~~.
- 10 (e) "Primary recipient" means the individual upon whose earnings or
11 contributions the retirement plan benefits are based or the surviving spouse of
12 that individual.
- 13 (f) "Retirement plan benefits" means employee retirement plan benefits,
14 except pick-up contributions for which a subtraction is allowed under
15 paragraph E, reported as pension or annuity income for federal income tax
16 purposes and individual retirement account benefits reported as individual
17 retirement account distributions for federal income tax purposes.
18 "Retirement plan benefits" does not include distributions that are subject to
19 the tax imposed by the Code, Section 72(t);

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

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

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

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

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

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

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

1

SUMMARY

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

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

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

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

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

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

20 6. It specifies that Maine itemized deductions are capped at \$28,350 for tax years
21 beginning in 2015. The cap is adjusted annually for inflation for tax years beginning after
22 2015. It further clarifies that the annual cost-of-living adjustment is based on the most
23 recently published Chained Consumer Price Index, which is published monthly by the
24 United States Department of Labor, Bureau of Labor Statistics, at the time the annual
25 cost-of-living adjustment is required to be made.