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TAXATION

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STATE OF MAINE
SENATE
128TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 676, L.D. 1805, Bill, "An Act To Amend the Maine Tax Laws"

Amend the bill by striking out all of Part A and inserting the following:

'PART A

Sec. A-1. 36 MRSA §1752, sub-§11-B is enacted to read:

11-B. Room remarketer. "Room remarketer" means a person who reserves, arranges for, offers, furnishes or collects or receives consideration for the rental of living quarters in this State, whether directly or indirectly, pursuant to a written or other agreement with the owner, manager or operator of a hotel, rooming house or tourist or trailer camp.

Sec. A-2. 36 MRSA §1752, sub-§14, ¶A, as amended by PL 2007, c. 627, §43, is further amended to read:

A. "Sale price" includes:

- (1) Any consideration for services that are a part of a retail sale; and
(2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses; and
(3) All consideration received for the rental of living quarters in this State, including any service charge or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the owner, occupant, manager or operator of the living quarters, by a room remarketer, by a person that operates a transient rental platform or by another person on behalf of any of those persons.

Sec. A-3. 36 MRSA §1752, sub-§20-C is enacted to read:

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1 **20-C. Transient rental platform.** "Transient rental platform" means an electronic
2 or other system, including an Internet-based system, that allows the owner or occupant of
3 living quarters in this State to offer the living quarters for rental and that provides a
4 mechanism by which a person may arrange for the rental of the living quarters in
5 exchange for payment to either the owner or occupant, to the operator of the system or to
6 another person on behalf of the owner, occupant or operator.

7 **Sec. A-4. 36 MRSA §1754-B, sub-§1, ¶F**, as amended by PL 2005, c. 218, §19,
8 is further amended to read:

9 F. Every person that manages or operates in the regular course of business or on a
10 casual basis a hotel, rooming house or tourist or trailer camp in this State or that
11 collects or receives rents ~~from~~ on behalf of a hotel, rooming house or tourist or trailer
12 camp in this State;

13 **Sec. A-5. 36 MRSA §1754-B, sub-§1, ¶¶F-1 and F-2** are enacted to read:

14 F-1. Every person that operates a transient rental platform and reserves, arranges for,
15 offers, furnishes or collects or receives consideration for the rental of living quarters
16 in this State;

17 F-2. Every room remarketer;

18 **Sec. A-6. Application.** Those sections of this Part that enact the Maine Revised
19 Statutes, Title 36, section 1752, subsections 11-B and 20-C and Title 36, section 1754-B,
20 subsection 1, paragraphs F-1 and F-2 and that amend Title 36, section 1752, subsection
21 14, paragraph A apply to sales occurring on or after October 1, 2018.'

22 Amend the bill in Part D in section 4 in subsection 4 in paragraph B in the last line
23 (page 8, line 20 in L.D.) by inserting after the following: "taxpayer" the following: ',
24 stated separately'

25 Amend the bill in Part G by striking out all of section 1 and inserting the following:

26 '**Sec. G-1. 36 MRSA §191, sub-§2, ¶SS**, as amended by PL 2011, c. 548, §11, is
27 further amended to read:

28 SS. The disclosure of information to the Finance Authority of Maine necessary for
29 the administration of the new markets capital investment credit in sections 2533 and
30 5219-HH ~~and to the Commissioner of Administrative and Financial Services as~~
31 ~~necessary for the execution of the memorandum of agreement pursuant to section~~
32 ~~5219-HH, subsection 3;'~~

33 Amend the bill by inserting after Part G the following:

34 **'PART H**

35 **Sec. H-1. 36 MRSA §1759**, as amended by PL 2007, c. 627, §46, is further
36 amended to read:

37 **§1759. Bonds**

38 Either as a condition for issuance or subsequent to the issuance of a registration
39 certificate under section 1754-B, 1756 or 1951-B, the State Tax Assessor may require

1 from a taxpayer a bond written by a surety company qualified to do business in this State,
2 in an amount and upon conditions to be determined by the assessor. In lieu of a bond the
3 assessor may accept a deposit of money or securities in an amount and of a kind
4 acceptable to the assessor. The deposit must be delivered to the Treasurer of State, who
5 shall safely keep it subject to the instructions of the assessor.

6 **PART I**

7 **Sec. I-1. 36 MRSA §1760, sub-§41**, as amended by PL 2011, c. 501, §1, is
8 repealed.

9 **Sec. I-2. 36 MRSA §1760, sub-§41-A** is enacted to read:

10 **41-A. Certain instrumentalities of interstate or foreign commerce.** The sale of a
11 vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser
12 as an instrumentality of interstate or foreign commerce within 30 days after that sale and
13 that is used by the purchaser for not less than 80% of the days in use during the next 2
14 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor
15 may for good cause extend for not more than 60 days the time for placing the
16 instrumentality in use in interstate or foreign commerce.

17 For purposes of this subsection:

18 A. Property is placed in use as an instrumentality of interstate or foreign commerce
19 by its carrying of or providing the motive power for the carrying of a bona fide
20 payload in interstate or foreign commerce or by being dispatched to a specific
21 location at which it will be loaded with, or will be used as motive power for the
22 carrying of, a bona fide payload in interstate or foreign commerce.

23 (1) Property dispatched for the carrying of or providing the motive power for the
24 carrying of a bona fide payload in interstate or foreign commerce is considered in
25 use from the date of dispatch through the date the property arrives back at its
26 principal place of business or is dispatched for the carrying of or providing the
27 motive power for the carrying of a new bona fide payload, whichever occurs first.
28 Any day or portion of a day in which an instrumentality is used in interstate or
29 foreign commerce is computed as a full day of use in interstate or foreign
30 commerce. Property dispatched for the carrying of or providing the motive
31 power for the carrying of a bona fide payload in intrastate commerce is
32 considered in use from the date of dispatch through the date the property arrives
33 back at its principal place of business or is dispatched for the carrying of or
34 providing the motive power for the carrying of a new bona fide payload,
35 whichever occurs first. For purposes of this subparagraph, use of a trailer,
36 semitrailer or tow dolly, as defined in Title 29-A, section 101, pursuant to a
37 written interchange agreement as described in 49 Code of Federal Regulations,
38 Section 376.31, or successor regulation, between the purchaser and an authorized
39 motor carrier is considered use by the purchaser.

40 (2) Personal property is not in use as an instrumentality of interstate or foreign
41 commerce when carrying a bona fide payload that both originates and terminates
42 within the State, unless the personal property is a bus with a capacity of at least

1 47 passengers that is engaged in transporting within the State a bona fide payload
2 of travelers on an interstate or foreign cruise that originates outside the State and
3 terminates outside the State and the transportation is provided pursuant to a
4 contract between the interstate or foreign cruise provider and the person
5 providing the transportation.

6 (3) Any day in which an instrumentality is not used in intrastate commerce or
7 interstate or foreign commerce, including while being repaired or maintained, is
8 not counted in the 80% computation; and

9 B. As used in this subsection, unless the context otherwise indicates, the following
10 terms have the following meanings.

11 (1) "Bona fide payload" means a cargo of persons or property transported by a
12 contract carrier or common carrier for compensation that exceeds the direct cost
13 of carrying that cargo or pursuant to a legal obligation to provide service as a
14 public utility or a cargo of property transported in the reasonable conduct of the
15 purchaser's own nontransportation business in interstate or foreign commerce.

16 (2) "Dispatch" means to send to a destination for the purpose of interstate or
17 foreign commerce or for the purpose of intrastate commerce.

18 The exemption provided by this subsection is not limited to instrumentalities otherwise
19 required to be exempt under the United States Constitution.

20 **Sec. I-3. Retroactivity.** Notwithstanding the Maine Revised Statutes, Title 1,
21 section 302, this Part applies to purchases made on or after January 1, 2012.'

22 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
23 section number to read consecutively.

SUMMARY

24 This amendment makes the following changes to the bill.

25 1. It removes provisions relating to the application of the sales tax to room
26 remarketers.
27

28 2. It provides that a report from the State Tax Assessor to the joint standing
29 committee of the Legislature having jurisdiction over taxation matters regarding the
30 major business headquarters expansion credit must separately state the amount of lost
31 revenue attributable to credits used to reduce tax liability and the amount attributable to
32 refundable credits.

33 3. It adds a provision clarifying that the State Tax Assessor may require a bond from
34 a taxpayer as a condition of sales tax registration whether the registration is made under
35 the Maine Revised Statutes, Title 36, section 1754-B or 1756 or under section Title 36,
36 1951-B, which was enacted during the First Regular Session of the 128th Legislature.

37 4. It amends provisions of the sales tax exemption for certain instrumentalities of
38 interstate or foreign commerce to clarify the calculation of the period during which
39 eligible property is placed in interstate or foreign commerce or intrastate commerce and

1 other conditions of eligibility. This provision is retroactive to purchases made on or after
2 January 1, 2012.

3 5. It makes a technical correction to the bill, preserving a necessary statutory cross-
4 reference.