

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE

—  
H.P. 97 - L.D. 141

**An Act To Make Technical Changes to the Tax Laws**

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

**PART A**

**Sec. A-1. 36 MRSA §191, sub-§2, ¶**MMM is enacted to read:

MMM. The disclosure of information to the Finance Authority of Maine necessary for the administration of the seed capital investment tax credit in section 5216-B.

**Sec. A-2. 36 MRSA §2536, first ¶**, as enacted by PL 2017, c. 474, Pt. H, §1, is amended to read:

For tax years beginning on or after January 1, 2018, a person is allowed a credit against the tax otherwise due under this chapter in an amount equal to the federal employer credit for paid family and medical leave allowed to that person under the Code, Section 45S as a result of wages paid to employees based in the State during the taxable year. For purposes of this section, "employees based in the State" means employees that perform more than 50% of employee-related activities for the employer at a location in the State.

**Sec. A-3. 36 MRSA §5164, sub-§2**, as enacted by P&SL 1969, c. 154, Pt. F, §1, is amended to read:

**2. Shares of fiduciary adjustment.** The respective shares of an estate or trust and its beneficiaries, including, solely for the purpose of this allocation, nonresident beneficiaries, in the fiduciary adjustment ~~shall~~ must be in proportion to their respective shares of federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustment ~~shall~~ must be in proportion to ~~his~~ the beneficiary's share of the estate or trust income for ~~such that~~ that year, under local law or the terms of the instrument, ~~which that~~ which that is required to be distributed currently and any other amounts of such income distributed in ~~such that~~ that year. Any balance of the fiduciary adjustment ~~shall~~ must be allocated to ~~to~~ the estate or trust.

**Sec. A-4. 36 MRSA §5204**, as amended by PL 2011, c. 548, §29, is repealed.

**Sec. A-5. 36 MRSA §5204-A**, as amended by PL 2011, c. 380, Pt. N, §16 and affected by §19, is repealed.

**Sec. A-6. 36 MRSA §5219-UU, first ¶**, as enacted by PL 2017, c. 474, Pt. H, §2, is amended to read:

For tax years beginning on or after January 1, 2018, a person is allowed a credit against the tax otherwise due under this Part in an amount equal to the federal employer credit for paid family and medical leave allowed to that person under the Code, Section 45S as a result of wages paid to employees based in the State during the taxable year. For purposes of this section, "employees based in the State" means employees that perform more than 50% of employee-related activities for the employer at a location in the State.

**Sec. A-7. 36 MRSA §5220, sub-§4, ¶B**, as amended by PL 2005, c. 618, §15 and affected by §22, is further amended to read:

B. ~~Gross~~ Both distributable net income derived from or connected with sources in this State as determined in accordance with section 5142 as if the estate or trust were a nonresident individual and gross income of \$10,000 or more, regardless of the amount of Maine taxable income; or

**Sec. A-8. 36 MRSA §5221**, as amended by PL 1985, c. 783, §§39 and 40, is further amended to read:

**§5221. Joint returns by ~~husband and wife~~ spouses**

**1. General.** ~~A husband and wife~~ Spouses may make a joint return with respect to the tax imposed by this Part even though one of the spouses has neither gross income nor deductions except that:

A. ~~No~~ A joint return ~~shall~~ may not be made under this ~~part~~ Part if the spouses are not permitted to file a joint federal income tax return;

B. If the federal income tax liability of either spouse is determined on a separate federal return, their income tax liabilities under this Part ~~shall~~ must be determined on separate returns;

C. Except as provided in subsection 2, if the federal income tax liabilities of ~~husband and wife~~ the spouses are determined on a joint federal return, they shall file a joint return under this Part and their tax liabilities ~~shall be~~ are joint and several; ~~and~~

D. If neither spouse is required to file a federal income tax return and either or both are required to file an income tax return under this Part, they may elect to file separate or joint returns and pursuant to such election their liabilities ~~shall be~~ are separate or joint and several.

**2. Nonresidents.** If both ~~husband and wife~~ spouses are nonresidents and one has no Maine-source income, the spouse having Maine-source income shall file a separate Maine nonresident income tax return, as a single individual, in which event ~~his~~ the spouse's tax liability ~~shall be~~ is separate; but they may elect to determine their joint taxable income as nonresidents, in which case their liabilities ~~shall be~~ are joint and several.

If ~~either husband or wife~~ one spouse is a resident and the other is a nonresident, they shall file separate Maine income tax returns as single individuals, in which event their tax

liabilities ~~shall be~~ are separate; but they may elect to determine their joint taxable income as if both were residents and, in that case, their liabilities ~~shall be~~ are joint and several.

**Sec. A-9. 36 MRSA §5228, sub-§6**, as repealed and replaced by PL 1985, c. 691, §§35 and 48, is amended to read:

**6. Joint estimated tax payment.** If they are eligible to do so for federal tax purposes, ~~a husband and wife~~ spouses may jointly estimate tax as if they were one taxpayer, in which case the liability with respect to the estimated tax ~~shall be~~ is joint and several. If joint estimate payment is made, but ~~husband and wife~~ the spouses elect to determine their taxes under this chapter separately, the estimated tax for the year may be treated as the estimated tax of either ~~husband or wife~~ spouse, or may be divided between them, as they may elect.

**Sec. A-10. Application; retroactivity.** Those sections of this Part that amend the Maine Revised Statutes, Title 36, sections 2536, first paragraph and 5219-UU, first paragraph apply retroactively to tax years beginning on or after January 1, 2018.

## PART B

**Sec. B-1. 36 MRSA §1760, sub-§33**, as corrected by RR 2019, c. 1, Pt. A, §61, is amended to read:

**33. Diabetic supplies.** All equipment and supplies, whether medical or otherwise, used by the purchaser in the diagnosis or treatment of human diabetes.

**Sec. B-2. 36 MRSA §1760, sub-§104**, as enacted by PL 2019, c. 550, §1 and reallocated by RR 2019, c. 2, Pt. A, §35, is amended to read:

**104. Nonprofit youth camps.** Sales occurring on or after June 16, 2020 to a nonprofit youth ~~camps~~ camp as defined in Title 22, section 2491, subsection 16 that ~~are~~ is licensed by the Department of Health and Human Services and ~~receive~~ receives an exemption from property tax under section 652, subsection 1.

**Sec. B-3. 36 MRSA §1760, sub-§105**, as enacted by PL 2019, c. 551, §1 and reallocated by RR 2019, c. 2, Pt. A, §36, is amended to read:

**105. Pet food assistance organization.** Sales occurring on or after June 16, 2020 to an incorporated nonprofit organization organized for the purpose of providing food or other supplies intended for pets at no charge to owners of those pets.

**Sec. B-4. 36 MRSA §1760, sub-§106**, as enacted by PL 2019, c. 552, §1 and reallocated by RR 2019, c. 2, Pt. A, §37, is repealed and the following enacted in its place:

**106. Locally organized member of nonprofit worldwide charitable organization.** Sales occurring on or after June 16, 2020 to a community-based independent incorporated nonprofit member organization of a nonprofit worldwide charitable organization if the primary purpose of the community-based independent incorporated nonprofit member organization is to provide financial support using private funding to another unaffiliated nonprofit charitable organization at the community level.

**Sec. B-5. 36 MRSA §2891, sub-§1-A**, as enacted by PL 2007, c. 545, §5, is amended to read:

**1-A. Municipally funded hospital.** "Municipally funded hospital" means ~~Mayo Regional Hospital in Dover-Foxcroft or Cary Medical Center in Caribou.~~

**Sec. B-6. PL 2019, c. 550, §3** is repealed.

**Sec. B-7. PL 2019, c. 551, §3** is repealed.

**Sec. B-8. PL 2019, c. 552, §3** is repealed.

**Sec. B-9. Retroactivity.** Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 1760, subsections 104 and 105 and that repeal and replace Title 36, section 1760, subsection 106 apply retroactively to sales occurring on or after June 16, 2020. Those sections of this Part that repeal Public Law 2019, chapter 550, section 3; Public Law 2019, chapter 551, section 3; and Public Law 2019, chapter 552, section 3 apply retroactively to October 1, 2019.

## PART C

**Sec. C-1. 36 MRSA §310, sub-§5** is enacted to read:

**5. Confidentiality.** Copies of the qualifying examination and individual examination results are confidential and are not a public record as defined in Title 1, section 402, subsection 3.

**Sec. C-2. 36 MRSA §694, sub-§2, ¶C,** as amended by PL 2007, c. 627, §26, is further amended to read:

C. In the case of a municipality that has one or more tax increment financing districts authorized pursuant to Title 30-A, chapter 206, subchapter 1 and effective under Title 30-A, section 5226, subsection 3 prior to April 1, 2008 or authorized pursuant to Title 30-A, former chapter 207 and effective under Title 30-A, former section 5253, subsection 1, paragraph F, prior to April 1, 2008, the applicable percentage with respect to TIF exempt business equipment is 50% plus a percentage amount equal to the percentage amount, if any, by which the municipal tax increment percentage for the tax increment financing district in which the TIF exempt business equipment is located exceeds 50%. This paragraph applies only when it will result in a greater percentage of reimbursement for the TIF exempt business equipment than would be provided under the greater of paragraph A or B and the reimbursement has been used to fund a development program pursuant to Title 30-A, section 5224.

**Sec. C-3. 36 MRSA §2726, sub-§1,** as amended by PL 1989, c. 508, §15, is further amended to read:

**1. Returns.** The State Tax Assessor shall prescribe and make available the required tax return. All owners of more than 500 acres of forested land, whether or not that land is commercial forest land, shall complete and file tax returns with the State Tax Assessor no later than February 1st. Taxpayer identification numbers included on the return required by this subsection are confidential and are not a public record for purposes of Title 1, chapter 13.

## PART D

**Sec. D-1. 36 MRSA §173, sub-§1,** as enacted by PL 1985, c. 691, §4, is amended to read:

**1. Request and issuance of warrant.** If the taxpayer does not make payment as demanded pursuant to section 171, the State Tax Assessor may file in the office of the clerk

of the Superior Court of any county a certificate addressed to the clerk of that court specifying the amount of tax, interest and penalty ~~which that~~ was demanded, the name and address of the taxpayer as it appears on the records of the State Tax Assessor, the facts whereby the amount has become due, and the notice given and requesting that a warrant be issued against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate and with costs. If the State Tax Assessor reasonably believes that the taxpayer may abscond within the 10-day period provided by section 171, ~~he~~ the assessor may, without giving notice to or making demand upon the taxpayer, request immediate issuance of a warrant. Immediately upon the filing of the certificate, the clerk of the Superior Court shall issue a warrant in favor of the State against the taxpayer in the amount of tax, interest and penalty set forth in the certificate and with costs.

**Sec. D-2. 36 MRSA §173, sub-§2**, as enacted by PL 1985, c. 691, §4, is amended to read:

**2. Effect of warrant.** The warrant ~~shall have~~ has the force and effect of an execution issued upon a judgment in a civil action for taxes and may be served in the county where the taxpayer may be found by the sheriff of that county or ~~his~~ the sheriff's deputies or by any agent of the State Tax Assessor authorized under section 112, subsection 6 to collect any tax imposed by this Title. In the execution of the warrant and collection of taxes pursuant to this Title, including supplementary disclosure proceedings for that purpose under Title 14, chapter 502, an agent of the State Tax Assessor ~~shall have~~ has the powers of a sheriff and ~~shall be~~ is entitled to collect from the debtor the same fees and charges permitted to a sheriff. Any such fees and charges collected by that agent ~~shall~~ must be remitted promptly to the State.

**Sec. D-3. 36 MRSA §199-E**, as enacted by IB 2015, c. 1, §28, is repealed.