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TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 329, L.D. 420, Bill, "An Act To Amend the Maine Exclusion Amount in the Estate Tax"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 36 MRSA §4102, sub-§5, as amended by PL 2017, c. 474, Pt. G, §1, is repealed and the following enacted in its place:

5. Maine exclusion amount. "Maine exclusion amount" means:

A. For estates of decedents dying on or after January 1, 2013 but before January 1, 2016, \$2,000,000;

B. For estates of decedents dying on or after January 1, 2016 but before January 1, 2018, the basic exclusion amount determined for the calendar year in accordance with the Code, Section 2010(c)(3);

C. For estates of decedents dying on or after January 1, 2018 but before January 1, 2020, \$5,600,000; and

D. For estates of decedents dying on or after January 1, 2020, \$2,000,000 and any additional exclusion amount allowed under section 4120.

Sec. 2. 36 MRSA §4119, as amended by PL 2019, c. 607, Pt. D, §5, is further amended to read:

§4119. Annual adjustments for inflation in 2018

Beginning in In 2018 and each year thereafter, on or about September 15th, for the estates of decedents who die during the succeeding calendar year, the assessor shall multiply the cost-of-living adjustment by the dollar amount contained in section 4102, subsection 5 applicable to estates of decedents dying on or after January 1, 2018 but before January 1, 2020. For the purposes of this section, the "cost-of-living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month

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1 period ending June 30, 2017. If the dollar amount, adjusted by the application of the
2 cost-of-living adjustment, is not a multiple of \$10,000, any increase must be rounded to
3 the nearest multiple of \$10,000.

4 **Sec. 3. 36 MRSA §4120** is enacted to read:

5 **§4120. Additional exclusion amount for family farms, aquaculture, fishing and**
6 **wood harvesting businesses**

7 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
8 following terms have the following meanings.

9 A. "Commercial agricultural production" means commercial production of crops,
10 maple syrup, honey, plants, trees, compost and livestock.

11 B. "Commercial aquacultural production" means the commercial production of
12 cultured fish, shellfish, seaweed or other marine plants for human and animal
13 consumption, including:

14 (1) All cultivating activities occurring at hatcheries or nurseries, from the egg,
15 larval or spore stages to the transfer of the product to a growing site; and

16 (2) All cultivating activities occurring on water, from the receipt of fish,
17 shellfish, seaweed or other marine plants from onshore facilities to the delivery of
18 harvested products to onshore facilities for processing.

19 C. "Commercial fishing" means attempting to catch fish or any other marine animals
20 or organisms with the intent of disposing of them for profit or trade in commercial
21 channels and does not include subsistence fishing for personal use, sport fishing or
22 charter boat fishing where the vessel is used for carrying sport anglers to available
23 fishing grounds.

24 D. "Commercial wood harvesting" means the commercial severance and yarding of
25 trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud
26 wood, poles, pilings, biomass or fuel wood or other products commonly known as
27 forest products.

28 E. "Depreciable machinery and equipment" means, except as otherwise provided by
29 this paragraph, that part of the following machinery and equipment for which
30 depreciation is allowable under the Code and repair parts for that machinery and
31 equipment:

32 (1) New or used machinery and equipment for use directly and primarily in
33 commercial agricultural production, including self-propelled vehicles;
34 attachments and equipment for the production of field and orchard crops; new or
35 used machinery and equipment for use directly and primarily in production of
36 milk, maple syrup or honey, animal husbandry and production of livestock,
37 including poultry; new or used machinery and equipment used in the removal and
38 storage of manure; and new or used machinery and equipment not used directly
39 and primarily in commercial agricultural production, but used to transport
40 potatoes from a truck into a storage location;

1 (2) New or used watercraft, nets, traps, cables, tackle and related equipment
2 necessary to and used directly and primarily in commercial fishing;

3 (3) New or used watercraft, machinery or equipment used directly and primarily
4 for commercial aquacultural production, including, but not limited to: nets; ropes;
5 cables; anchors and anchor weights; shackles and other hardware; buoys; fish
6 tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating
7 systems; boilers and related pumping systems; diving equipment; feeders and
8 related equipment; power-generating equipment; tank water-level sensors;
9 aboveground piping; water-oxygenating systems; fish-grading equipment; safety
10 equipment; and sea cage systems, including walkways and frames, lights, netting,
11 buoys, shackles, ropes, cables, anchors and anchor weights; and

12 (4) New or used machinery and equipment for use directly and primarily in
13 commercial wood harvesting, including, but not limited to, chain saws, skidders,
14 delimbers, forwarders, slashers, feller bunchers and wood chippers.

15 "Depreciable machinery and equipment" does not include a motor vehicle as defined
16 in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

17 F. "Family member" means, whether by blood or legal adoption, the decedent's:
18 brother or sister or the spouse of a brother or sister; parent or grandparent or the
19 spouse of a parent or grandparent; ancestor; or lineal descendant.

20 G. "Farmland" means land that is or could be classified as farmland under chapter
21 105, subchapter 10 and includes personal property that is exempt from property tax
22 under section 655, subsection 1, paragraph C, D, M or O.

23 **2. Additional exclusion amount.** Notwithstanding any provision of law to the
24 contrary, an additional exclusion amount of up to \$3,800,000 is allowed for farmland or
25 depreciable machinery and equipment that is part of an estate of a decedent dying on or
26 after January 1, 2020 that is transferred to a family member of the decedent.

27 **3. Requirements for additional exclusion; report.** In order to qualify for the
28 additional exclusion from the estate tax pursuant to this section:

29 A. The farmland or depreciable machinery and equipment must be transferred to a
30 family member;

31 B. For at least 5 years following the transfer, the farmland or depreciable machinery
32 and equipment must remain the property of the family member to whom the farmland
33 or depreciable machinery and equipment was transferred or, in the event of the death
34 of that transferee, a family member of that transferee; and

35 C. During the 5 years following the transfer:

36 (1) The land transferred must continue to meet the requirements for classification
37 as farmland under chapter 105, subchapter 10, except that the gross income
38 requirements of section 1102, subsection 4 must be met for every year of the 5
39 years following transfer; and

40 (2) The depreciable machinery and equipment transferred must continue to be
41 used for commercial agricultural production, commercial aquacultural

1 production, commercial fishing or commercial wood harvesting for every year of
2 the 5 years following transfer.

3 A family member to whom farmland or depreciable machinery and equipment is
4 transferred who wishes to claim the additional exclusion under this section shall file a
5 report annually for the 5 years following the transfer with the assessor certifying that the
6 farmland or depreciable machinery and equipment continues to qualify for the additional
7 exclusion.

8 **4. Failure to maintain requirements for additional exclusion.** If at any time
9 during the 5 years following the decedent's death the farmland or depreciable machinery
10 and equipment transferred does not meet the requirements of subsection 3, the owner of
11 the farmland or depreciable machinery and equipment is subject to the applicable tax
12 specified in this chapter based on the fair market value of the farmland or depreciable
13 machinery and equipment as of the date of the decedent's death.

14 **5. Rules.** The assessor shall adopt routine technical rules pursuant to Title 5, chapter
15 375, subchapter 2-A to implement this section, including determining the method of
16 providing certification of qualification for the additional exclusion provided by this
17 section.

18 **Sec. 4. Appropriations and allocations.** The following appropriations and
19 allocations are made.

20 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
21 **Revenue Services, Bureau of 0002**

22 Initiative: Provides funding for one Tax Section Manager position, one Senior Tax
23 Examiner position, 3 Tax Examiner positions and related costs to process and audit
24 additional estate tax returns.

25	GENERAL FUND	2019-20	2020-21
26	POSITIONS - LEGISLATIVE COUNT	0.000	5.000
27	Personal Services	\$0	\$269,697
28	All Other	\$0	\$30,169
29			
30	GENERAL FUND TOTAL	\$0	\$299,866

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

34 **SUMMARY**

35 This amendment creates an additional exclusion amount from the estate tax for
36 family farms, aquaculture, fishing and wood harvesting businesses of up to \$3,800,000.
37 This additional exclusion applies to farmland or depreciable machinery and equipment
38 used in agriculture, aquaculture, fishing or wood harvesting that is inherited by a family
39 member and remains in commercial use for 5 years following transfer.

1 This amendment also makes a technical correction to the law that ends the annual
2 adjustment for inflation of the exclusion amount for tax years after 2019 and includes
3 appropriations for administrative costs.

4

FISCAL NOTE REQUIRED

5

(See attached)