

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

H.P. 1429 - L.D. 2008

An Act Making Technical Changes to the Maine Tax Laws

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

PART A

Sec. A-1. 30-A MRSA §5227, sub-§3, ¶D, as amended by PL 2011, c. 101, §20, is further amended to read:

D. Annually return to the municipal or plantation general fund any tax increment revenues remaining in the development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality or plantation, at any time ~~during the term of the district~~, by vote of the municipal or plantation officers, may return to the municipal or plantation general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality or plantation.

Sec. A-2. 30-A MRSA §5250-A, sub-§3, ¶D, as enacted by PL 2003, c. 426, §1, is amended to read:

D. Annually return to the municipal general fund any tax increment revenues remaining in the affordable housing development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality, at any time ~~during the term of the district~~, by vote of the municipal officers, may return to the municipal general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local

valuation may not be included as part of the captured assessed value as specified by the municipality.

Sec. A-3. 33 MRSA §203, first ¶, as amended by PL 1999, c. 699, Pt. D, §20 and affected by §30, is further amended to read:

Deeds and all other written instruments before recording in the registries of deeds, except those issued by a court of competent jurisdiction and duly attested by the proper officer thereof, and excepting plans and notices of foreclosure of mortgages and certain financing statements as provided in Title 11, section 9-1501, subsection (1), paragraph (a), and excepting notices of liens for internal revenue taxes and certificates discharging such liens and excepting notices of liens for taxes assessed pursuant to Title 36, Part 1 and Parts 3 to 8 and Title 26, chapter 13, and releases discharging such liens, and excepting notices of liens for taxes assessed pursuant to Title 36, Part 2 when filed by the State Tax Assessor, and releases discharging such liens, must be acknowledged by the grantors, or by the persons executing any such written instruments, or by one of them, or by their attorney executing the same, or by the lessor in a lease or one of the lessors or lessor's attorney executing the same, before a notary public in the State, or before an attorney-at-law duly admitted and eligible to practice in the courts of the State, if within the State; or before any clerk of a court of record having a seal, notary public or commissioner appointed by the Governor of this State for the purpose, or a commissioner authorized in the State state where the acknowledgment is taken, within the United States; or before a minister, vice-consul or consul of the United States or notary public in any foreign country.

Sec. A-4. 36 MRSA §208, as amended by PL 2019, c. 379, Pt. A, §1 and c. 401, Pt. A, §2, is repealed and the following enacted in its place:

§208. Equalization

The State Tax Assessor has the duty of equalizing the state and county taxes among all municipalities and the unorganized territory. The State Tax Assessor shall equalize and adjust the assessment list of each municipality by adding to or deducting from it such amount as will make it equal to its just value as of April 1st. Notice of the proposed valuations of municipalities within each county must be sent annually to the municipal officers of each municipality within that county on or before the first day of October. The valuation so determined is subject to review by the State Board of Property Tax Review pursuant to subchapter 2-A, but the valuation finally certified to the Secretary of State pursuant to section 381 must be used for all computations required by law to be based upon the state valuation with respect to municipalities.

Sec. A-5. 36 MRSA §655, sub-§1, ¶B, as amended by PL 2005, c. 652, §1 and affected by §3, is further amended to read:

B. Stock-in-trade, including inventory held for resale by a distributor, wholesaler, retail merchant or service establishment. "Stock-in-trade" also includes ~~an~~ unoccupied manufactured ~~home~~ housing, as defined in Title 10, section 9002, subsection 7, paragraph A or C, that was not previously occupied at its present location, that is not connected to water or sewer and that is owned and offered for

sale by a person licensed for the retail sale of manufactured ~~homes~~ housing pursuant to Title 10, chapter 951, subchapter 2;

Sec. A-6. 36 MRSA §686, as enacted by PL 1997, c. 643, Pt. HHH, §3 and affected by §10, is amended to read:

§686. Denial of homestead exemption; appeals

If the assessor determines that a property is not entitled to a homestead exemption under this subchapter, the assessor shall promptly provide a notice of denial, including the reasons for the denial, to the applicant by either personal delivery or regular mail. An applicant may appeal a denial of an exemption under this subchapter using the procedures provided in subchapter ~~VIII~~ §. If the assessor determines that a property receiving an exemption under this subchapter any year within the 10 preceding years was not eligible for the exemption, the assessor shall immediately notify the bureau in writing.

Sec. A-7. 36 MRSA §4641-B, sub-§2, as enacted by PL 2001, c. 559, Pt. I, §4 and affected by §15, is amended to read:

2. Transfer or acquisition of controlling interest in entity with fee interest in real property. A person transferring or acquiring a controlling interest in an entity with a fee interest in real property for which a deed is not given shall report the transfer or acquisition to the register of deeds in the county or counties in which the real property is located within 30 days of the transfer or acquisition on a return in the form of an affidavit furnished by the State Tax Assessor. The return must be ~~signed by both the transferor and the transferee and~~ accompanied by payment of the tax due. When the real property is located in more than one county, the tax must be divided among the counties in the same proportion in which the real property is distributed among the counties. Disputes between 2 or more counties as to the proper amount of tax due to them as a result of a particular transaction must be decided by the State Tax Assessor upon the written petition of an official authorized to act on behalf of any such county.

Sec. A-8. 36 MRSA §4641-B, sub-§7, as enacted by PL 2013, c. 521, Pt. A, §2, is amended to read:

7. Assignment of rights in or connected with foreclosed real property. A person assigning rights in or connected with title to foreclosed real property for which a deed is not given, including rights as high bidder at the public sale pursuant to Title 14, section 6323, shall report the assignment to the register of deeds in the county or counties in which the real property is located within 30 days of the assignment on a return in the form of an affidavit furnished by the State Tax Assessor. The State Tax Assessor shall provide for the collection of the tax in the same manner as in subsection 1 as if the assignment were a transfer of real property by deed. The return must be ~~signed by both the transferor and the transferee and~~ accompanied by payment of the tax due. When the real property is located in more than one county, the tax must be divided among the counties in the same proportion in which the real property is distributed among the counties. Disputes between 2 or more counties as to the proper amount of tax due to them as a result of a particular transaction must be decided by the State Tax Assessor upon the written petition of an official authorized to act on behalf of any such county.

This subsection applies to assignments made during the time between the judgment of foreclosure and the transfer of the foreclosed real property by deed.

Sec. A-9. 36 MRSA §4641-D, first ¶, as amended by PL 2007, c. 437, §14, is further amended to read:

Except as otherwise provided in this section, any deed, when offered for recording, and any report of a transfer of a controlling interest must be accompanied by a declaration, ~~signed by the parties to the transaction or their authorized representatives, declaring~~ of the value of the property transferred and indicating the taxpayer identification numbers of the grantor and grantee, if they are business entities. The declaration of value with regard to a transfer by deed must include evidence of compliance with section 5250-A. The declaration of value must identify the tax map and parcel number of the property transferred unless a tax map does not exist that includes that property, in which event the declaration must indicate that an appropriate tax map does not exist. The following are exempt from these requirements:

Sec. A-10. 36 MRSA §6232, sub-§1-A, as amended by PL 2019, c. 36, §1, is further amended to read:

1-A. Volunteer program. A municipality may by ordinance adopt a program that permits claimants who are at least 60 years of age to earn benefits up to a an annual maximum of \$1,000 or 100 times the state minimum hourly wage under Title 26, section 664, subsection 1, whichever is greater, by volunteering to provide services to the municipality. A program adopted under this subsection does not need to meet the requirements of subsection 1, paragraph B or C. Benefits provided under this subsection must be related to the amount of volunteer service provided. Benefits received under this subsection may not be considered income for purposes of Part 8. A municipality may by ordinance establish procedures and additional standards of eligibility for a program adopted under this subsection.

PART B

Sec. B-1. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2019, c. 401, Pt. B, §4, is further amended by amending subparagraph (15) to read:

(15) The sale of positive airway pressure equipment and supplies and oxygen delivery equipment for rental for personal use to a person engaged in the business of renting positive airway pressure equipment and oxygen delivery equipment;

Sec. B-2. 36 MRSA §1811, sub-§1, ¶A, as enacted by PL 2019, c. 401, Pt. B, §16, is amended by repealing and replacing subparagraph (4) to read:

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile;

(b) A pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or

(c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty.

Sec. B-3. 36 MRSA §1811, sub-§1, ¶B, as enacted by PL 2019, c. 401, Pt. B, §16, is amended by repealing and replacing subparagraph (4) to read:

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile;

(b) A pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or

(c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty.

Sec. B-4. 36 MRSA §1811, sub-§1, ¶C, as enacted by PL 2019, c. 401, Pt. B, §16, is amended by repealing and replacing subparagraph (4) to read:

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile;

(b) A pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or

(c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and

Sec. B-5. 36 MRSA §1811, sub-§1, ¶D, as enacted by PL 2019, c. 401, Pt. B, §16, is amended by repealing and replacing subparagraph (4) to read:

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile;

(b) A pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or

(c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and

Sec. B-6. 36 MRSA §2873, sub-§1, as amended by PL 2003, c. 467, §6, is further amended to read:

1. Monthly returns required; payment ~~Payment~~ **of estimated tax liability.** On or before the 15th day of each month, each person subject to the tax imposed by this chapter shall submit to the assessor a return on a form prescribed and furnished by the assessor. ~~Each return must be accompanied by a payment of an amount equal to 1/12 of the person's estimated tax liability for the entire current state fiscal year or facility fiscal year or, in the case of a facility taxed on the basis of a partial facility fiscal year after June 30, 2003, an amount equal to a fraction of the estimated liability in which the denominator is~~

the number of months remaining in the facility fiscal year and the numerator is one. A person may estimate its tax liability for the current state fiscal year or facility fiscal year by applying the tax rates provided by section 2872 to the most recent state fiscal year or facility fiscal year for which a Medicaid cost report has been finally settled and is no longer open to audit adjustment or correction, as long as the fiscal year in question began no earlier than 3 years prior to the beginning of the current fiscal year; in the event that the information necessary to prepare this estimate is not available, an estimate may be prepared on the basis of the reconciliation return most recently submitted or, if the first such return has not yet been ~~filed~~ submitted, then on the basis of the revenues formally reported by the facility in accordance with generally accepted accounting principles. Regardless of the method used for preparing the estimate, the estimate may include adjustments to reflect changes in the number of licensed or certified beds or extraordinary changes in payment rates. Once a taxpayer has made its first monthly payment for a state fiscal year or facility fiscal year pursuant to this subsection, the monthly amount must remain fixed throughout the fiscal year unless the assessor authorizes a change. If the person's estimated annual tax liability as ~~reported and~~ paid pursuant to this subsection does not equal the tax imposed on that person by section 2872, any adjustments necessary to reconcile the estimated tax with the correct tax amount must be made pursuant to subsection 2.

Sec. B-7. 36 MRSA §4401, sub-§9, ¶C, as enacted by PL 2019, c. 530, Pt. A, §2 and affected by §7, is amended to read:

C. Any product that contains adult use marijuana subject to tax under ~~Title 28-B, section 1001~~ chapter 723; or

Sec. B-8. Retroactive application. That section of this Part that amends the Maine Revised Statutes, Title 36, section 1752, subsection 11, paragraph B applies retroactively to sales occurring on or after January 1, 2012.

PART C

Sec. C-1. 36 MRSA §191, sub-§2, ¶HHH, as enacted by PL 2019, c. 386, §1, is amended to read:

HHH. The disclosure to the Office of Program Evaluation and Government Accountability and the joint standing committee of the Legislature having jurisdiction over taxation matters pursuant to section 5219-VV, subsection ~~4~~ 5, paragraph ~~B~~ C of the revenue loss, including the loss due to refundable credits, attributable to each taxpayer claiming the tax credit for major food processing and manufacturing facility expansion provided under that section, regardless of the number of persons eligible for the credit.

Sec. C-2. 36 MRSA §1861-A, as amended by PL 2019, c. 441, §6, is further amended to read:

§1861-A. Reporting use tax on individual income tax returns

The assessor shall provide that individuals report use tax on items with a sale price of \$5,000 or less on their Maine individual income tax returns. Taxpayers are required to

attest to the amount of their use tax liability for the period of the tax return. Alternatively, they may elect to report an estimated use tax liability amount that is .04% of their Maine adjusted gross income. ~~A taxpayer electing to satisfy a use tax liability by estimating it shall calculate the liability in accordance with the use tax table.~~ The estimated liability is applicable only to purchases of any individual items each having a sale price no greater than \$1,000. For each taxable item with a sale price greater than \$1,000 but no more than \$5,000, the actual use tax liability for each purchase must be added to the amount of ~~the estimated liability derived from the use tax table~~ use tax equal to .04% of a taxpayer's Maine adjusted gross income. Upon subsequent review, if use tax liability for the period of the return exceeds the amount of use tax paid with the return, a credit of that amount paid relative to the item or items being supplementarily assessed is allowed. Use tax on any item with a sale price of more than \$5,000 must be reported in accordance with section 1951-A.

Sec. C-3. 36 MRSA §5147, as enacted by PL 2019, c. 401, Pt. C, §7, is amended to read:

§5147. Installment sale election

Notwithstanding any provision of this Part to the contrary, an individual who transferred, during the taxable year, real or tangible property located in this State under an installment sale agreement may elect to recognize, for purposes of determining the taxable income under this chapter, the total gain ~~or loss~~ from that sale in the taxable year of the transfer, or to recognize any remaining gain ~~or loss~~ in a subsequent tax year to the extent of the gain ~~or loss~~ not reported in a prior tax year. An election under this section is not available to an individual unless that individual is a nonresident of this State at the time of the transfer or at the time the election is made. An election under this section must be made on a timely filed original income tax return, including if filed by any extension granted for filing the return, and, once made, is irrevocable.

Sec. C-4. 36 MRSA §5206, last ¶, as enacted by PL 2005, c. 608, §1 and affected by §5, is amended to read:

In each taxable year in which a financial institution sustains a book net operating loss, a credit must be allowed against the franchise tax on assets under subsection 1. The credit must be computed by multiplying the ~~book net operating loss~~ Maine net income by the applicable franchise tax rate imposed by subsection 1, paragraph A. The total amount of any credit allowed may not exceed the franchise tax on assets due under subsection 1, paragraph B. In any tax year in which there is excess credit, the excess credit must be carried forward for no more than the next 5 tax years and may be applied against the tax computed under subsection 1.

Sec. C-5. 36 MRSA §5219-RR, sub-§9, ¶A, as enacted by PL 2017, c. 361, §2, is amended to read:

A. On or before March 1st annually, a certified applicant shall file a report with the commissioner for the tax year ending during the immediately preceding calendar year, referred to in this ~~paragraph~~ subsection as the "report year," containing the following information:

- (1) The employment of the certified applicant for the report year, including specific information on:
 - (a) The number of qualified employees that are employed by the certified applicant at the end of the report year;
 - (b) The total number of qualified employees hired during the report year; and
 - (c) The number of qualified employees in positions that are covered by a collective bargaining agreement;
- (2) The total dollar amount of payroll associated with employment in the report year, including specific information on:
 - (a) The average annual salary and wages for qualified employees; and
 - (b) The median annual salary and wages for qualified employees;
- (3) The total dollar amount that was spent on goods and services obtained from businesses with an office in the State from which business operations in the State are managed; and
- (4) The incremental level of qualified investments made during the report year, including specific information on:
 - (a) The amount of qualified investment in facility, production equipment and employee training and development, reported as an aggregate sum;
 - (b) The portion of the qualified investment reported under subparagraph (a) that was spent on goods and services from businesses with an office in the State from which business operations in the State are managed; and
 - (c) Whether the certified applicant has qualified for the additional credit under subsection 3, paragraph B.

The commissioner may prescribe forms for the annual reports required under this paragraph. The commissioner shall provide copies of the report to the State Tax Assessor and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received.

Sec. C-6. 36 MRSA §5219-RR, sub-§9, ¶C, as enacted by PL 2017, c. 361, §2, is amended to read:

C. ~~The~~ By December 31st of each year, the State Tax Assessor shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during ~~each state fiscal~~ the report year as a result of this section for each taxpayer claiming the credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to this section.

Sec. C-7. 36 MRSA §5219-VV, sub-§5, as enacted by PL 2019, c. 386, §2, is amended to read:

5. Reporting required. A certified applicant, the commissioner and the assessor are required to make reports pursuant to this subsection.

A. On or before March 1st of each year, a certified applicant shall file a report with the commissioner for the tax year ending during the immediately preceding calendar year, referred to in this ~~paragraph~~ subsection as "the report year," containing the following information:

(1) The number of full-time employees based in the State of the certified applicant on the last day of the tax year ending during the calendar year immediately preceding the report year; and

(2) The incremental amount of qualified investment made in the report year.

The commissioner may prescribe forms for the annual report described in this paragraph. The commissioner shall provide copies of the report to the assessor, to the Office of Program Evaluation and Government Accountability and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received.

B. By April 1st of each year, the commissioner shall report to the Office of Program Evaluation and Government Accountability and to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data on employment levels and qualified investment amounts of certified applicants for each year that the certified applicant claimed a credit under this section, ~~and the assessor shall report to the Office of Program Evaluation and Government Accountability and to the committee the revenue loss during the previous calendar year, including the loss due to refundable credits, as a result of this section for each taxpayer claiming the credit.~~

C. By December 31st of each year, the assessor shall report to the Office of Program Evaluation and Government Accountability and to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during the report year as a result of this section for each taxpayer claiming the credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to this section, consisting of the amount of the credit used to reduce the tax liability of the taxpayer and the amount of the credit refunded to the taxpayer, stated separately.

Notwithstanding any provision of law to the contrary, the reports provided under this subsection are public records as defined in Title 1, section 402, subsection 3.

Sec. C-8. 36 MRSA §5234, as enacted by PL 1975, c. 660, §9, is repealed.

Sec. C-9. Application; retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 36, section 1861-A applies to individual income tax years beginning on or after January 1, 2020. That section of this Part that amends Title 36, section 5147 applies retroactively to tax years beginning on or after January 1, 2019.

PART D

Sec. D-1. 36 MRSA §177, sub-§2, as amended by PL 1999, c. 414, §8, is further amended to read:

2. Responsible individual. Each person required to collect taxes that are designated by subsection 1 as trust funds shall inform the State Tax Assessor, at the time an audit of that person's trust fund obligation is performed by the assessor, of the name and position of ~~the~~ each individual who generally is responsible for the control or management of that person's funds or finances and, if different, ~~the~~ each individual who is specifically responsible for the collection and paying over of those trust funds.

Sec. D-2. 36 MRSA §194-D, sub-§1, ¶A, as enacted by PL 2019, c. 343, Pt. G, §13, is amended by amending subparagraph (2) to read:

(2) A contractor for the bureau, including the contractor's employees, subcontractors and subcontractors' employees, who provides or is assigned to provide services to the bureau under an identified contract. ~~For the purposes of this subparagraph, "identified contract" means a contract that the assessor determines involves access or the substantial possibility of access to the bureau's information technology systems or to confidential tax information;~~

Sec. D-3. 36 MRSA §194-D, sub-§1, ¶D is enacted to read:

D. "Identified contract" means a contract that the assessor determines involves access or the substantial possibility of access to the bureau's information technology systems or to confidential tax information.

Sec. D-4. 36 MRSA §194-D, sub-§2, ¶A, as enacted by PL 2019, c. 343, Pt. G, §13, is amended to read:

A. As part of the process of evaluating an affected person, except for a current employee of the bureau, for employment with the bureau, a background investigation must be conducted before an offer of employment is extended.

Sec. D-5. 36 MRSA §4119, as enacted by PL 2017, c. 474, Pt. G, §2, is amended to read:

§4119. Annual adjustments for inflation

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