An Act to Amend Certain State Tax Laws

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

Received by the Secretary of the Senate on December 11, 2023. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed.

Presented by Senator GROHOSKI of Hancock.
Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 36 MRSA §6252-A, sub-§6, as enacted by PL 2023, c. 412, Pt. S, §9, is amended to read:

6. Restriction. A taxpayer who owes delinquent taxes for owns more than one residential property within the State subject to an existing municipal lien is not eligible to claim a deferral pursuant to this section.

PART B

Sec. B-1. 5 MRSA §13090-K, sub-§2, as amended by PL 2015, c. 267, Pt. OOOO, §1 and affected by §7, is repealed and the following enacted in its place:

2. Source of fund. On July 1st of each year, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% of the 8% tax and 5% of the 9% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811 for the first 6 months of the immediately prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfers to the sales tax funds pursuant to Title 36, section 1815. On October 1st of each year, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% of the 8% tax and 5% of the 9% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811 for the last 6 months of the immediately prior fiscal year after the reduction for the transfer to the Local Government Fund and the transfers to the sales tax funds pursuant to Title 36, section 1815. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

Sec. B-2. 23 MRSA §4210-B, sub-§7-A, as amended by PL 2023, c. 360, Pt. C, §1, is further amended to read:

7-A. Sales tax revenue. On July 1st of each year, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the immediately prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5, the transfers to the sales tax funds pursuant to Title 36, section 1815 and the transfer to the ATV Recreational Management Fund pursuant to Title 36, section 1820. On October 1st of each year, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the immediately prior fiscal year after the reduction
for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5, the transfers to the sales tax funds pursuant to Title 36, section 1815 and the transfer to the ATV Recreational Management Fund pursuant to Title 36, section 1820. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

Sec. B-3. 36 MRSA §1820, first ¶, as amended by PL 2021, c. 630, Pt. D, §2, is repealed.

Sec. B-4. 36 MRSA §1820, 2nd ¶, as enacted by PL 2021, c. 630, Pt. D, §2, is amended to read:

Beginning July 1, 2023 and every On July 1st thereafter of each year, the State Controller shall transfer to the ATV Recreational Management Fund established in Title 12, section 1893, subsection 2 an amount, as certified by the State Tax Assessor, that is equivalent to 90% of the revenue from the tax imposed under this Part on the rental of all-terrain vehicles, as defined in Title 12, section 13001, subsection 3, for the first 6 months of the immediately prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfers to the sales tax funds pursuant to section 1815. Beginning on October 1, 2023 and every On October 1st thereafter of each year, the State Controller shall transfer to the ATV Recreational Management Fund an amount, as certified by the State Tax Assessor, that is equivalent to 90% of the revenue from the tax imposed under this Part on the rental of all-terrain vehicles for the last 6 months of the immediately prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfers to the sales tax funds pursuant to section 1815. The remaining 10% of the revenue from the tax imposed under this Part on the rental of all-terrain vehicles is transferred to the Multimodal Transportation Fund pursuant to Title 23, section 4210-B, subsection 7-A. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

Sec. B-5. 36 MRSA §4401, sub-§9, as amended by PL 2023, c. 441, Pt. E, §9 and affected by §28, is further amended to read:

9. Tobacco products. "Tobacco products" means any products that are made from or derived from tobacco, or that contain nicotine, including, but not limited to, cigars, including premium cigars; cheroots; stogies; electronic smoking devices and liquids used in electronic smoking devices whether or not they contain nicotine; periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; snus; cavendish; plug and twist tobacco; finecut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be intended for human consumption or as is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means.

PART C

Sec. C-1. 5 MRSA §13083-S-1, sub-§1, ¶D-1 is enacted to read:

D-1. "Benefit base" has the same meaning as in Title 36, section 6753, subsection 5-B.
Sec. C-2. 5 MRSA §13083-S-1, sub-§3, ¶D, as enacted by PL 2009, c. 641, §9, is amended to read:

D. State income tax withholding attributable to any qualified employee whose wages are included in computing the benefit base eligible for reimbursement to a Maine Employment Tax Increment Financing Program qualified business pursuant to Title 36, chapter 917 or to a qualified pine tree development zone business under Title 30-A, chapter 206 is not eligible for use in the calculation of a payment to the fund under subsection 4 and subsection 5. State income tax withholding under Title 36, chapter 919, or any other tax credit or reimbursement program based on state income tax withholding, is not eligible for use in calculation of a payment to the fund under subsection 4 and subsection 5.

Sec. C-3. 5 MRSA §13083-S-1, sub-§5, as amended by PL 2019, c. 659, Pt. E, §2, is further amended to read:

5. Procedure for payment of revenue to the fund. On or before July 15th of each year, the assessor shall review the information required by subsection 4 and calculate the job tax increment for the preceding calendar year. The assessor shall also calculate the employment tax increment amount of the benefit base in the base area eligible for reimbursement to qualified Maine Employment Tax Increment Financing Program businesses pursuant to Title 36, chapter 917. Between July 1st and July 15th of each year, the assessor shall certify to the State Controller the total remaining job tax increment as a result of the limitation in subsection 3, paragraph D and the remaining benefit base after reimbursements have been made to qualified Maine Employment Tax Increment Financing Program businesses pursuant to Title 36, chapter 917. On or before July 31st of each year, the State Controller shall transfer 50% of the remaining job tax increment and 50% of the remaining benefit base to the state job tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the State Controller shall deposit this revenue into the fund and distribute the payments pursuant to subsection 3.

Sec. C-4. 36 MRSA §2521-A, as amended by PL 2023, c. 441, Pt. C, §1 and affected by §11, is further amended to read:

§2521-A. Returns; payment of tax

Every insurance company, association, producer or attorney-in-fact of a reciprocal insurer subject to the tax imposed by this chapter shall make payment of estimated tax in 4 equal installments on or before the last day of each April, the 25th day of each June and the last day of each October 15th day of April, June, September and December of the calendar year for which the tax is owed. Each April and June estimated tax payment must equal 35% may not be less than the smaller of 25% of the total tax paid for the immediately preceding calendar year or at least 35% of the total tax to be paid for the current calendar year and each October estimated tax payment must equal 15% of the total tax paid for the preceding calendar year or at least 15% and 22.5% of the total tax to be paid for the current calendar year except that, for which the tax is owed. For the tax on nonadmitted insurance premiums under section 2531, the surplus lines producer or the insured may elect to determine the estimated tax payment for each required estimated tax period payment on the basis of premiums on contracts written during each estimated tax period calendar quarter of the
current calendar year for which the tax is owed; the election applies to all estimated tax payments required for that calendar year. A final return must be filed on or before March 15th covering the prior immediately preceding calendar year.

At the time of filing the returns, each insurance company, association, producer or attorney-in-fact of a reciprocal insurer shall pay to the assessor the amount of tax shown due.

An insurance company, association, producer or attorney-in-fact of a reciprocal insurer whose annual tax liability under this chapter does not exceed $1,000 may file an annual return with payment on or before March 15th covering the prior immediately preceding calendar year.

SUMMARY

Part A clarifies the circumstances under which a taxpayer who has delinquent taxes on multiple residential properties is disqualified from the homestead property tax deferral program.

Part B makes changes to the state sales tax and tobacco products tax law. Part B:

1. Removes the Tourism Marketing Promotion Fund, the Multimodal Transportation Fund and the ATV Recreational Management Fund transfers from revenue subject to transfer to the Passamaquoddy Sales Tax Fund, the Penobscot Sales Tax Fund and the Maliseet Sales Tax Fund, thereby preventing more than 100% of the revenue from being transferred out of the General Fund; and

2. Clarifies the tobacco products tax definition of "tobacco products" as including any product that contains nicotine.

Part C makes changes to the state income tax and insurance premiums tax law. Part C:

1. Updates the calculation of payments made to the Brunswick Naval Air Station Job Increment Financing Fund for businesses that are also part of the Maine Employment Tax Increment Financing Program to correspond with recent law changes switching the employment tax increment financing base from withholding to a percentage of incremental gross wages; and

2. Generally aligns the insurance premiums tax estimated tax payment due dates and amounts with those of the corporate income tax and makes other nonsubstantive changes to clarify the law.