

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 112

H.P. 88

House of Representatives, January 11, 2005

An Act To Conform Maine Estate Tax Law with Federal Estate Tax Laws

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CURLEY of Scarborough.
Cosponsored by Senator PERRY of Penobscot and
Representatives: BOWEN of Rockport, BROWNE of Vassalboro, CLOUGH of Scarborough,
OTT of York, Senators: DAVIS of Piscataquis, MILLS of Somerset.

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

2
4 **Sec. 1. 36 MRSA §4062, sub-§1-A, ¶A,** as amended by PL 2003, c.
673, Pt. D, §1, is further amended to read:

6 A. For the estates of decedents dying after December 31,
8 2002, "federal credit" means the maximum credit for state
10 death taxes determined under the Code, Section 2011 as of
12 December 31, 2002 exclusive of the reduction of the maximum
14 credit contained in the Code, Section 2011(b)(2); the period
16 of limitations under the Code, Section 2011(c); and the
18 termination provision contained in the Code, Section
2011(f). The adjusted federal taxable estate is to be
determined using the applicable Code as of the date of the
decedent's death, except that ~~the state death tax deduction
contained in the Code, Section 2058 is to be disregarded.
The unified credit is to be determined under the Code,
Section 2010 as of December 31, 2000, and;~~

20 (1) The state death tax deduction contained in the
22 Code, Section 2058 is to be disregarded;

24 (2) In the case of any property eligible to be treated
26 as qualified terminable interest property under the
28 Code, Section 2056(b)(7) and for which no election
30 allowable under the Code, Section 2056(b)(7) is made
32 with respect to the federal estate tax, the personal
34 representative may elect, on a timely filed return in
36 the form prescribed by the State Tax Assessor, to treat
38 the property as qualified terminable interest property
for purposes of the tax imposed by this chapter, and if
such an election is made, the federal taxable estate
must be decreased by an amount equal to the value of
the property as finally determined by the assessor in
accordance with the Code and, in the case of estates
that do not incur a federal estate tax, as if the
estate had incurred a federal estate tax, subject to
the following:

40 (a) For decedents dying in 2004, the amount may
42 not exceed \$650,000;

44 (b) For decedents dying in 2005, the amount may
46 not exceed \$550,000;

48 (c) For decedents dying in 2006, 2007 or 2008,
50 the amount may not exceed \$1,000,000; and

(d) For decedents dying in 2009, the amount may
 not exceed \$2,500,000;

2 (3) In the case of any property that benefits the
4 decedent and with respect to which an election was made
6 pursuant to subparagraph (2) in the estate of a
8 deceased spouse of the decedent, the federal taxable
10 estate must be increased by an amount equal to the
12 value of the property as finally determined by the
 assessor in accordance with the Code as if the property
 were includable in the decedent's federal gross estate
 and, in the case of estates that do not incur a federal
 estate tax, as if the estate had incurred a federal
 estate tax; and

14 (4) The unified credit is to be determined under the
16 Code, Section 2010 as of December 31, 2000; and

Sec. 2. 36 MRSA §4068, sub-§2. as amended by PL 2003, c. 673,
18 Pt. D, §6 and affected by §9, is further amended to read:

20 **2. Tax liability.** In all cases where there is a Maine
22 estate tax liability, the personal representative shall pay the
24 tax imposed by this chapter and file a return within 9 months
26 after the decedent's death. The return must be in the form
28 prescribed by the State Tax Assessor and it must be accompanied
 by a copy of the federal estate tax return, if any, and other
 supporting documentation that the assessor may require, including
 documentation related to an election made pursuant to section
 4062, subsection 1, paragraph A, subparagraph (2).

30 **Sec. 3. 36 MRSA §4068, sub-§3.** as amended by PL 2003, c. 673,
32 Pt. D, §6 and affected by §9, is repealed and the following
 enacted in its place:

34 **3. No tax liability.** In all cases where there is no Maine
 estate tax liability:

36 A. If the personal representative makes no election
38 pursuant to section 4062, subsection 1, paragraph A,
40 subparagraph (2), the personal representative, surviving
42 joint tenant of real estate or any other person whose real
44 estate might be subject to a lien for taxes pursuant to this
 chapter may at any time file with the assessor in the form
 prescribed by the assessor a statement of the value of the
 federal gross estate; and

46 B. If the personal representative makes an election
48 pursuant to section 4062, subsection 1, paragraph A,
 subparagraph (2), the personal representative shall make
 that election on a timely filed return. The return must be
50 in the form prescribed by the assessor and it must be

2 accompanied by a copy of the federal estate tax return, if
3 any, and other supporting documentation that the assessor
4 may require, including documentation related to an election
5 made pursuant to section 4062, subsection 1, paragraph A,
6 subparagraph (2).

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SUMMARY

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This bill conforms Maine estate tax laws with federal estate tax laws.