

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 198

H.P. 163

House of Representatives, January 21, 2009

An Act To Recouple Maine Estate Tax with the Federal Estate Tax

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KNIGHT of Livermore Falls.
Cosponsored by Senator SMITH of Piscataquis, Senator McCORMICK of Kennebec and
Representatives: GILES of Belfast, LANGLEY of Ellsworth, PILON of Saco, Senator:
BOWMAN of York.

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

2 **Sec. 1. 36 MRSA §4062, sub-§1-A, ¶A**, as repealed and replaced by PL 2005, c.
3 12, Pt. N, §1 and affected by §4, is amended to read:

4 A. For the estates of decedents dying after December 31, 2002 and before January 1,
5 2009, "federal credit" means the maximum credit for state death taxes determined
6 under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of
7 the maximum credit contained in the Code, Section 2011(b)(2); the period of
8 limitations under the Code, Section 2011(c); and the termination provision contained
9 in the Code, Section 2011(f). The federal taxable estate is to be determined using the
10 applicable Code as of the date of the decedent's death, except that:

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

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

15 (3) For the estates of decedents dying after December 31, 2004, but before
16 January 1, 2009, the federal taxable estate must be decreased by an amount equal
17 to the value of Maine qualified terminable interest property in the estate of the
18 decedent; and

19 (4) For the estates of decedents dying after December 31, 2004, the federal
20 taxable estate must be increased by an amount equal to the value of Maine
21 elective property in respect of the decedent; ~~and~~

22 **Sec. 2. 36 MRSA §4062, sub-§1-A, ¶A-1** is enacted to read:

23 A-1. For the estates of decedents dying after December 31, 2008, "federal credit"
24 means the maximum credit for state death taxes determined under the Code, Section
25 2011 as of December 31, 2008 exclusive of the reduction of the maximum credit
26 contained in the Code, Section 2011(b)(2); the period of limitations under the Code,
27 Section 2011(c); and the termination provision contained in the Code, Section
28 2011(f). The federal taxable estate is to be determined using the applicable Code as
29 of the date of the decedent's death, except that the state death tax deduction contained
30 in the Code, Section 2058 is to be disregarded and an amount equal to the value of
31 Maine elective property in respect to the decedent must be added; and

32 **Sec. 3. 36 MRSA §4068, sub-§2, ¶B**, as enacted by PL 2005, c. 218, §43, is
33 amended to read:

34 B. The federal gross estate, increased by the amount of adjusted taxable gifts made
35 by the decedent after December 31, 1976 and by the aggregate amount of any specific
36 gift tax exemption under former Code, Section 2521 used by the decedent after
37 September 8, 1976 exceed the exclusion and related unified credit amounts ~~specified~~
38 ~~in section 4062, subsection 1-A.~~

39 **Sec. 4. 36 MRSA §4068, sub-§3**, as amended by PL 2005, c. 218, §43, is further
40 amended to read:

