## MAINE STATE LEGISLATURE

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## 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

No. 198

H.P. 163

Legislative Document

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.

Millient 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.

2 3	Sec. 1. 36 MRSA §4062, sub-§1-A, ¶A, as repealed and replaced by PL 2005, c. 12, Pt. N, §1 and affected by §4, is amended to read:
5 6 7 8 9	A. For the estates of decedents dying after December 31, 2002 and before January 1, 2009, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The federal taxable estate is to be determined using the applicable Code as of the date of the decedent's death, except that:
11 12	(1) The state death tax deduction contained in the Code, Section 2058 is to be disregarded;
13 14	(2) The unified credit is to be determined under the Code, Section 2010 as of December 31, 2000;
15 16 17 18	(3) For the estates of decedents dying after December 31, 2004, <u>but before January 1, 2009</u> , the federal taxable estate must be decreased by an amount equal to the value of Maine qualified terminable interest property in the estate of the decedent; and
19 20 21	(4) For the estates of decedents dying after December 31, 2004, the federal taxable estate must be increased by an amount equal to the value of Maine elective property in respect of the decedent; and
22	Sec. 2. 36 MRSA §4062, sub-§1-A, ¶A-1 is enacted to read:
23 24 25 26 27 28 29 30 31	A-1. For the estates of decedents dying after December 31, 2008, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011 as of December 31, 2008 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The 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 and an amount equal to the value of Maine elective property in respect to the decedent must be added; and
32 33	Sec. 3. 36 MRSA §4068, sub-§2, ¶B, as enacted by PL 2005, c. 218, §43, is amended to read:
34 35 36 37 38	B. The federal gross estate, increased by the amount of adjusted taxable gifts made by the decedent after December 31, 1976 and by the aggregate amount of any specific gift tax exemption under former Code, Section 2521 used by the decedent after September 8, 1976 exceed the exclusion and related unified credit amounts specified in section 4062, subsection 1-A.
39	Sec. 4. 36 MRSA §4068, sub-§3, as amended by PL 2005, c. 218, §43, is further

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

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amended to read:

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1	3. No tax liability. In all cases where a Maine estate tax return is not required to be
2	filed:, the personal representative, surviving joint tenant of real estate or any other person
3	whose real estate might be subject to a lien for taxes pursuant to this chapter may at any
4	time file with the assessor in the form prescribed by the assessor a statement of the value
5	of the federal gross estate.
6	A. If the personal representative makes no election pursuant to section 4062,
7	subsection 2-B, the personal representative, surviving joint tenant of real estate or any
8	other person whose real estate might be subject to a lien for taxes pursuant to this
9	chapter may at any time file with the assessor in the form prescribed by the assessor a
10	statement of the value of the federal gross estate; and
11	B. If the personal representative makes an election pursuant to section 4062,
12	subsection 2-B, the personal representative shall make such election on a timely filed
13	return. The return must be in the form prescribed by the assessor and it must be
14	accompanied by a copy of the federal estate tax return, if any, and other supporting
15	documentation that the assessor may require, including documentation related to an
16	election made pursuant to section 4062, subsection 2-B.
17	Sec. 5. Application. This Act applies to the estates of decedents dying on or after
18	January 1, 2009.
19	SUMMARY
19	SUMMARI
20	This bill amends the Maine estate tax to conform to the federal estate tax, beginning
21	January 1, 2009.