

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 980, L.D. 1401, Bill, "An Act To Make Minor Substantive Changes to the Tax Laws"

Amend the bill by inserting after section 17 the following:

Sec. 18. 36 MRSA §1760, sub-§25, as amended by PL 2007, c. 438, §39, is further amended to read:

25. Watercraft sold to nonresidents. Sales of watercraft to a person that is not a resident of this State, when the watercraft is intended to be sailed or transported outside the State immediately upon within 30 days of delivery by the seller; sales to a person that is not a resident of this State, under contracts for the construction of a watercraft intended to be that is sailed or transported outside the State immediately upon within 30 days of delivery by the seller, of materials to be incorporated in the watercraft; and sales to a person that is not a resident of this State, for the repair, alteration, refitting, reconstruction, overhaul or restoration of a watercraft intended to be that is sailed or transported outside the State immediately upon within 30 days of delivery by the seller, of materials to be incorporated in the watercraft. Unless the watercraft is present in the State, for a purpose other than temporary storage, for more than 30 days during the 12-month period following its date of purchase or is registered in Maine without also being registered in another state or documented with a location in this State, within 12 months of the date of purchase, the purchaser is exempt from the use tax.

Sec. 19. 36 MRSA §1760, sub-§41, as amended by PL 1999, c. 759, §3 and affected by §4, is further amended to read:

41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or

COMMITTEE AMENDMENT

1 providing the motive power for the carrying of, a bona fide payload in interstate or  
2 foreign commerce, or by being dispatched to a specific location at which it will be loaded  
3 upon arrival with, or will be used as motive power for the carrying of, a payload in  
4 interstate or foreign commerce. For purposes of this subsection, "bona fide payload"  
5 means a cargo of persons or property transported by a contract or common carrier for  
6 compensation that exceeds the direct cost of carrying that cargo or pursuant to a legal  
7 obligation to provide service as a public utility or a cargo of property transported in the  
8 reasonable conduct of the purchaser's own nontransportation business in interstate  
9 commerce.

10 B. For purposes of this subsection, personal property is not in use as an  
11 instrumentality of interstate or foreign commerce when carrying only cargo that both  
12 originates and terminates within the State.

13 C. The exemption provided by this subsection is not limited to instrumentalities  
14 otherwise required to be exempt under the United States Constitution.'

15 Amend the bill in section 26 in §5219-BB in subsection 1 by striking out all of  
16 paragraph A (page 7, lines 33 to 40 in L.D.) and inserting the following:

17 'A. "Affordable Certified affordable housing project" means a decent, safe and  
18 sanitary dwelling, apartment or other living accommodation ~~for a household whose~~  
19 ~~income does not exceed 60% of the median income for the area as defined by the~~  
20 ~~United States Department of Housing and Urban Development under the United~~  
21 ~~States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended that~~  
22 has been certified by the Maine State Housing Authority as an affordable housing  
23 project pursuant to Title 30-A, section 4722, subsection 1, paragraph DD.'

24 Amend the bill in section 26 in §5219-BB in subsection 1 by striking out all of  
25 paragraph C (page 8, lines 4 to 11 in L.D.) and inserting the following:

26 'C. "Certified qualified rehabilitation expenditure" means a qualified rehabilitation  
27 expenditure, as defined by the Code, Section 47(c)(2), made between January 1, 2008  
28 and December 31, 2013 ~~certified by the director under Title 27, section 511.~~ For  
29 purposes of subsection 2, paragraph B, qualified rehabilitation expenditures incurred  
30 in the certified rehabilitation of a certified historic structure located in the State do  
31 not include a requirement that the certified historic structure be substantially  
32 rehabilitated.'

33 Amend the bill in section 26 in §5219-BB by striking out all of subsection 4 (page 9,  
34 lines 19 to 22 in L.D.) and inserting the following:

35 '4. **Maximum credit.** The credit allowed pursuant to this section may not exceed  
36 \$5,000,000 for each certified rehabilitation project under Section 47 of the Code placed  
37 into service in the State during the taxable year for which a credit is claimed under this  
38 section.'

39 Amend the bill by striking out all of section 29.

40 Amend the bill in section 36 in the last line (page 11, line 32 in L.D.) by inserting  
41 after the following: "2008." the following: "The portion of this Act that enacts Title 36,  
42 section 1760, subsection 41, paragraph B applies retroactively to January 1, 2008. The

1 portion of this Act that enacts Title 36, section 1760, subsection 41, paragraph C applies  
2 retroactively to June 15, 2001.

3 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
4 section number to read consecutively.

5 **SUMMARY**

6 This amendment restores the exemption to its application by Maine Revenue Services  
7 prior to the recent Maine Law Court decision, John T. Cyr & Sons, Inc. v. State Tax  
8 Assessor, 2009 ME 52, by codifying Maine Revenue Services Rule 318(3) and clarifying  
9 that the exemption is not limited only to situations when the Commerce Clause requires  
10 an exemption from the sales or use tax.

11 The amendment modifies the sales tax exemption for watercraft sold to nonresidents  
12 to provide that the exemption applies as long as the watercraft is removed from the State  
13 within 30 days of sale.

14 The amendment removes changes to the income tax credit for rehabilitation of  
15 historic properties that applies the maximum credit limitation to certified historic  
16 structures rather than to a certified historic project.

17 The amendment removes a section that provides that an extension of time to file a  
18 Maine income tax return does not extend the period for filing a claim for an income tax  
19 credit or refund.

**FISCAL NOTE REQUIRED**  
(See attached)



Approved: 05/28/09 *MAC*

# 124th MAINE LEGISLATURE

LD 1401

LR 429(02)

**An Act To Make Minor Substantive Changes to the Tax Laws**

**Fiscal Note for Bill as Amended by Committee Amendment A"**

**Committee: Taxation**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to Maine Revenue Services associated with making minor substantive changes to the tax law can be absorbed within existing budgeted resources.