

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 358

S.P. 138

In Senate, February 12, 2013

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**An Act To Protect Family Farms and Working Waterfront Subject  
to Estate Tax and Reduce the Maine Estate Tax Exclusion**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator JOHNSON of Lincoln.  
Cosponsored by Representative LIBBY of Lewiston and  
Senators: LACHOWICZ of Kennebec, MILLETT of Cumberland, Representatives: BERRY of  
Bowdoinham, HICKMAN of Winthrop.

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

2 **Sec. 1. 36 MRSA §4102, sub-§5**, as enacted by PL 2011, c. 380, Pt. M, §9, is  
3 amended to read:

4 **5. Maine exclusion amount.** "Maine exclusion amount" means \$2,000,000 for the  
5 estates of decedents who die after December 31, 2012 but before January 1, 2014 and  
6 \$1,000,000 for the estates of decedents who die on or after January 1, 2014.

7 **Sec. 2. 36 MRSA §4103, sub-§1**, as enacted by PL 2011, c. 380, Pt. M, §9, is  
8 amended to read:

9 **1. Imposition of tax; decedents who die after December 31, 2012 but before**  
10 **January 1, 2014.** A tax is imposed on the transfer of the Maine taxable estate of every  
11 person who, at the time of death, was a resident of this State. The amount of tax for the  
12 estates of decedents who die after December 31, 2012 but before January 1, 2014 is  
13 determined as provided in this ~~section~~ subsection.

14 A. If the Maine taxable estate is \$2,000,000 or less, the tax is \$0.

15 B. If the Maine taxable estate is more than \$2,000,000 but no more than \$5,000,000,  
16 the tax is 8% of the excess over \$2,000,000.

17 C. If the Maine taxable estate is more than \$5,000,000 but no more than \$8,000,000,  
18 the tax is \$240,000 plus 10% of the excess over \$5,000,000.

19 D. If the Maine taxable estate is more than \$8,000,000, the tax is \$540,000 plus 12%  
20 of the excess over \$8,000,000.

21 The amount of this tax is multiplied by a fraction, the numerator of which is the value of  
22 that portion of the decedent's adjusted federal gross estate that consists of real and  
23 tangible personal property located in this State plus the value of all intangible personal  
24 property and the denominator of which is the value of the decedent's adjusted federal  
25 gross estate.

26 **Sec. 3. 36 MRSA §4103, sub-§1-A** is enacted to read:

27 **1-A. Imposition of tax; decedents who die on or after January 1, 2014.** A tax is  
28 imposed on the transfer of the Maine taxable estate of every person who, at the time of  
29 death, was a resident of this State. The amount of tax for the estates of decedents who die  
30 on or after January 1, 2014 is determined as provided in this subsection.

31 A. If the Maine taxable estate is \$1,000,000 or less, the tax is \$0.

32 B. If the Maine taxable estate is more than \$1,000,000 but no more than \$5,000,000,  
33 the tax is 8% of the excess over \$1,000,000.

34 C. If the Maine taxable estate is more than \$5,000,000 but no more than \$8,000,000,  
35 the tax is \$240,000 plus 10% of the excess over \$5,000,000.

36 D. If the Maine taxable estate is more than \$8,000,000, the tax is \$540,000 plus 12%  
37 of the excess over \$8,000,000.

1 The amount of this tax is multiplied by a fraction, the numerator of which is the value of  
2 that portion of the decedent's adjusted federal gross estate that consists of real and  
3 tangible personal property located in this State plus the value of all intangible personal  
4 property and the denominator of which is the value of the decedent's adjusted federal  
5 gross estate.

6 **Sec. 4. 36 MRSA §4104-A** is enacted to read:

7 **§4104-A. Exemptions**

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
9 following terms have the following meanings.

10 A. "Eligible farmland" means any tract or tracts of land, including woodland and  
11 wasteland, of at least 5 contiguous acres owned and operated by an individual or  
12 related individuals on which farming or agricultural activities have contributed to a  
13 gross annual farming income of at least \$2,000 per year from the sales value of  
14 agricultural products in one of the 2, or 3 of the 5, calendar years preceding the date  
15 of the death of the owner.

16 B. "Eligible working waterfront land" means a parcel of land, or a portion thereof,  
17 abutting water to the head of tide or land located in the intertidal zone owned and  
18 operated by an individual or related individuals that was classified as working  
19 waterfront land under chapter 105, subchapter 10-A for 5 years preceding the death  
20 of the owner.

21 **2. Exemption.** The tax otherwise imposed by this chapter is reduced by the amount  
22 of the tax attributable to eligible farmland and eligible working waterfront land included  
23 in the Maine taxable estate, including eligible farmland and eligible working waterfront  
24 land held by an entity to the extent that the value of the entity is included in the Maine  
25 taxable estate. If the value of a decedent's estate minus the value of eligible farmland and  
26 eligible working waterfront land is below the amount that would incur federal estate tax,  
27 no tax is owed under this chapter.

28 **3. Application.** This section applies to an estate of a decedent who dies on or after  
29 January 1, 2014.

30 **SUMMARY**

31 This bill reduces the \$2,000,000 Maine exclusion amount for the Maine estate tax to  
32 \$1,000,000 for the estates of decedents who die on or after January 1, 2014. It removes  
33 the value of eligible family owned and operated farmland and eligible family owned and  
34 operated working waterfront land from the calculation of the Maine estate tax for the  
35 estates of decedents who die on or after January 1, 2014.