

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2401

H.P. 1716

House of Representatives, March 4, 1992

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative BUTLAND of Cumberland. (GOVERNOR'S BILL)
Cosponsored by Senator COLLINS of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act Concerning Technical Changes to the Tax Laws.

(EMERGENCY)



2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 Whereas, delay in making technical corrections to the tax
laws would interfere with administration of those laws; and

8 Whereas, legislative action is immediately necessary to
ensure continued and efficient administration of the tax laws; and

10
12 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
14 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
safety; now, therefore,

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

18 **Sec. 1. 36 MRSA §174, sub-§4 is enacted to read:**

20 **4. Stay of running of period of limitation. The running of**
22 **the period of limitation for commencement of a civil action for**
24 **the recovery of any tax pursuant to this section is stayed for**
26 **the period of time, plus 120 days, during which the person**
 responsible for the payment of the tax is the subject of
 bankruptcy proceedings under the United States Bankruptcy Code.

28 **Sec. 2. 36 MRSA §176-A, sub-§16, as enacted by PL 1989, c.**
30 **880, Pt. E, §3, is amended to read:**

32 **16. Time for collection of taxes.** Taxes must be collected
by levy within 6 10 years after the assessment of the tax, or
prior to the expiration of any period of collection agreed upon
34 in writing by the assessor and the taxpayer ~~before the expiration~~
~~of the 6-year period.~~ The period agreed upon may be extended by
36 subsequent agreements in writing made before the expiration of
the period previously agreed upon. Any levy action ordered by
38 the assessor before the expiration of the ~~6-year~~ 10-year period
continues beyond the expiration of the ~~6-year~~ 10-year period for
40 a period of 6 months from the date such levy is first made or
until the liability out of which such levy arose is satisfied or
42 becomes unenforceable, whichever occurs first. When any question
relative to the taxes is pending before any agency or court at
44 the end of the ~~6-year~~ 10-year period, the assessor's right to
collect any tax due by levy continues until 6 years after the
46 final determination of the question. When any a taxpayer files
for protection under the United States Bankruptcy Code, the
48 assessor's right to collect any tax due by levy continues until 6
years after the date of discharge or dismissal of the bankruptcy
50 proceeding.

2 **Sec. 3. 36 MRSA §177, sub-§5**, as enacted by PL 1987, c. 772,
3 §5, is amended to read:

4
5 **5. Stay of running of period of limitation.** The running of
6 the period of ~~limitations~~ limitation for assessment or collection
7 of trust fund taxes against a responsible officer, director,
8 member, agent or employee of a person who has collected those
9 taxes ~~shall-be~~ is stayed for the period of time, plus 120 days,
10 during which an assessment against that person is subject to
11 administrative or judicial review or remains outstanding because
12 that person is the subject of bankruptcy proceedings under the
13 United States Bankruptcy Code, Title-11.

14 **Sec. 4. 36 MRSA §177, sub-§6** is enacted to read:

15
16 **6. Sale of business; purchaser liable for tax.** If a
17 business owner liable for any trust fund taxes incurred in the
18 course of operating the business sells the business or stock of
19 goods or quits the business, the business owner shall make a
20 final return and payment within 15 days after the date of selling
21 or quitting the business. The successor, successors or
22 assignees, if any, shall withhold a sufficient amount of the
23 purchase money to cover the amount of those taxes, along with
24 applicable interest and penalties, until such time as the former
25 owner produces a receipt from the State Tax Assessor showing that
26 the taxes have been paid, or a certificate from the State Tax
27 Assessor stating that no trust fund taxes, interest or penalties
28 are due. A purchaser who fails to withhold purchase money is
29 personally liable for the payment of the taxes, penalties and
30 interest accrued and unpaid on account of the operation of the
31 business by the former owner, owners or assignors.

32
33 **Sec. 5. 36 MRSA §186, first ¶**, as amended by PL 1989, c. 502,
34 Pt. A, §§164 and 165, is further amended to read:

35
36 Any person who fails to pay any tax imposed under this
37 Title, except taxes imposed pursuant to chapter 105, on or before
38 the last date prescribed for payment ~~shall-be~~ is liable for
39 interest on the tax, calculated from that date and compounded
40 monthly. The State Tax Assessor shall establish annually, by
41 rule, the rate of interest, which ~~shall~~ may not exceed the
42 highest conventional rate of interest charged for commercial
43 unsecured loans by Maine banking institutions on the first
44 business day of October preceding the calendar year. For
45 purposes of this section, the last date prescribed for payment of
46 tax ~~shall~~ must be determined without regard to any extension of
47 time permitted for filing a return. A tax ~~which~~ that is upheld
48 on administrative or judicial review ~~shall-bear~~ bears interest
49 from the date on which payment would have been due in the absence
50

2 of review. Any tax, interest or penalty imposed by this Title
4 which ~~that~~ has been erroneously refunded and which is recoverable
6 by the State Tax Assessor shall ~~bear~~ bears interest at the above
8 rate from the date of payment of the refund. Interest shall
10 ~~accrue~~ accrues automatically, without being assessed by the State
12 Tax Assessor, and shall ~~be~~ is recoverable by the State Tax
14 Assessor in the same manner as if it were a tax assessed under
16 this Title. If the failure to pay a tax when required is
18 explained to the satisfaction of the State Tax Assessor, the
State Tax Assessor may abate or waive the payment of all or any
part of that interest.

12 **Sec. 6. 36 MRSA §187, sub-§1, ¶C** is enacted to read:

14 C. If the return is not filed and the State Tax Assessor
16 issues a jeopardy assessment pursuant to section 141,
18 subsection 2, paragraph D, the penalty is 100% of the tax
due.

20 **Sec. 7. 36 MRSA §187, sub-§5,** as amended by PL 1991, c. 546,
22 §5, is further amended to read:

24 **5. Generally.** Each penalty provided by this section is in
26 addition to any interest and other penalties provided by this
28 section and other law, but and interest ~~does not accrue~~ accrues
30 on the penalty. This section does not apply to any filing or
32 payment responsibility pursuant to Part 2. The penalties imposed
34 by subsections 1 and 3 accrue automatically, without being
36 assessed by the State Tax Assessor, and each penalty imposed by
38 this section is recoverable by the State Tax Assessor in the same
40 manner as if it were a tax assessed under this Title. For any of
42 the grounds enumerated in subsection 6, paragraphs A to E, the
State Tax Assessor shall waive or abate all or any part of any
penalty imposed by subsections 1 and 3 ~~of this section.~~ A
request to waive or abate any penalty may be made pursuant to
section 151. For purposes of this section, the term "person"
includes an individual, corporation, or partnership or any
officer or employee of a corporation, including a dissolved
corporation, or a member or employee of a partnership who, as the
officer, employee or member, is under a duty to perform the act
in respect of which the violation occurs.

44 **Sec. 8. 36 MRSA §457, sub-§5-A, ¶A,** as enacted by PL 1991, c.
121, Pt. B, §2 and affected by §18, is amended to read:

46 **A.** The State Tax Assessor shall make a gross tax assessment
48 and a net tax assessment on May 15th of each year. The
gross tax assessment equals the just value multiplied by the
50 tax rate. The next net tax assessment equals the gross
assessment reduced by the amount of the prepayment of
estimated tax made for that tax year.

2 **Sec. 9. 36 MRSA §613**, as enacted by PL 1983, c. 866, Pt. B,
§§2 and 3, is repealed.

4 **Sec. 10. 36 MRSA §942, 5th ¶**, as amended by PL 1983, c. 407,
6 §3, is further amended to read:

8 The costs to be paid by the taxpayer shall ~~be~~ are the sum of
10 the fees for recording and discharge of the lien as established
12 by Title 33, section 751, ~~subsection-10~~, plus \$13, plus the fee
14 established by section 943 for sending a notice 30 to 45 days
prior to the foreclosing date of the tax lien mortgage if that
notice is actually sent and all certified mail, return receipt
requested, fees. Upon redemption, the municipality shall prepare
and record a discharge of the tax lien mortgage.

16 **Sec. 11. 36 MRSA §942-A, sub-§4, ¶¶B and C**, as enacted by PL
18 1987, c. 358, §4, are amended to read:

20 B. ~~Five-dollars~~ The fees established by Title 33, section
22 751 for the register of deeds for recording one aggregate
tax lien certificate;

24 C. ~~Five-dollars~~ The fees established by Title 33, section
26 751 for the register of deeds for recording one aggregate
discharge of the tax lien mortgage;

28 **Sec. 12. 36 MRSA §942-A, sub-§5, ¶¶B and C**, as enacted by PL
1987, c. 358, §4, are amended to read:

30 B. ~~Five-dollars~~ The fees established by Title 33, section
32 751 for the register of deeds for recording one aggregate
tax lien certificate;

34 C. ~~Five-dollars~~ The fees established by Title 33, section
36 751 for the register of deeds for recording the discharge of
the tax lien mortgage on the first 4 time-share units and
38 \$0.25 for each additional time-share unit;

40 **Sec. 13. 36 MRSA §1281**, as amended by PL 1989, c. 857, §77,
is further amended to read:

42 **§1281. Payment of taxes; delinquent taxes; publication;**
44 **certificate filed in registry**

46 Taxes on real estate mentioned in section 1602, including
supplementary taxes assessed under section 1331, are delinquent
48 on the 15th day of January next following the date of
assessment. Annually, on or before February 1st, the State Tax
50 Assessor shall send by mail to the last known address of each

owner of such real estate upon which taxes remain unpaid a notice
2 in writing, containing a description of the real estate assessed
and the amount of unpaid taxes and interest, and alleging that a
4 lien is claimed on that real estate for payment of those taxes,
interests and costs, with a demand that payment be made by the
6 next February 21st. If the owners of any such real estate are
unknown, instead of sending the notices by mail, the assessor
8 shall cause the information required in this section on that real
estate to be advertised in the state paper and in a newspaper, if
10 any, of general circulation in the county in which the real
estate lies. Such a statement or advertisement is sufficient
12 legal notice of delinquent taxes. If those taxes and interest to
date of payment and costs are not paid by February 21st, the
14 State Tax Assessor shall record by March 15th, in the registry of
deeds of the county or registry district where the real estate
16 lies, a certificate signed by the assessor, setting forth the
name or names of the owners according to the last state
18 valuation, or the valuation established in accordance with
section 1331; the description of the real estate assessed as
20 contained in the last state valuation, or the valuation
established in accordance with section 1331; the amount of unpaid
22 taxes and interest; the amount of costs; and a statement that
demand for payment of those taxes has been made, and that those
24 taxes, interest and costs remain unpaid. The costs charged by
the register of deeds for the filing may not exceed \$5 the fees
26 established by Title 33, section 751.

28 **Sec. 14. 36 MRSA §1282, 5th ¶**, as amended by PL 1981, c. 698,
§182, is further amended to read:

30
32 In the event that such tax, interest and costs, together
with \$5 the fees established by Title 33, section 751 for
34 recording the discharge, ~~shall-be~~ are paid within the period of
redemption, the State Tax Assessor shall discharge that mortgage
36 in the same manner as is now provided for the discharge of real
estate mortgages and shall record that discharge in the
appropriate registry of deeds.

38
40 **Sec. 15. 36 MRSA §1482, sub-§1, ¶A-1**, as repealed and replaced
by PL 1977, c. 324, §2, is repealed.

42 **Sec. 16. 36 MRSA §1482, sub-§1, ¶C**, as amended by PL 1985, c.
44 735, §§5 and 7, is further amended to read:

46 C. For the privilege of operating a motor vehicle ~~upon or~~
camper trailer on the public ways, each motor vehicle, other
48 than a stock race car, or each camper trailer to be so
operated ~~shall-be~~ is subject to such excise tax as follows:
50 A sum equal to 24 mills on each dollar of the maker's list
price for the first or current year of model, 17 1/2 mills

2 for the 2nd year, 13 1/2 mills for the 3rd year, 10 mills
4 for the 4th year, 6 1/2 mills for the 5th year and 4 mills
6 for the 6th and succeeding years. The minimum tax is \$5 for
8 a motor vehicle other than a bicycle with motor attached
shall-be-\$5, \$2.50 for a bicycle with motor attached, \$2.50
\$15 for a camper trailer other than a tent trailer and \$5
for a tent trailer. The excise tax on a stock race car ~~shall~~
be is \$5.

10 {2} (1) On new registrations of automobiles, trucks
12 and truck tractors, the excise tax payment shall must
14 be made prior to registration and ~~shall-be~~ is for a
one-year period from the date of registration.

16 {4} (2) Vehicles which ~~are-being~~ registered under the
18 International Registration Plan ~~shall-be~~ are subject to
an excise tax determined on a monthly proration basis
if their registration period is less than 12 months.

20 **Sec. 17. 36 MRSA §1482, sub-§2, ¶B,** as amended by PL 1979, c.
22 666, §37, is further amended to read:

24 B. The excise tax levied in this section on automobiles,
26 camper trailers, trucks and truck tractors ~~shall-be~~ is,
during the last 4 months of a registration year, 1/2 the sum
named in subsection 1, paragraph C.

28 **Sec. 18. 36 MRSA §1752, sub-§21,** as amended by PL 1965, c.
30 361, is further amended to read:

32 **21. Use.** "Use" includes the exercise in this State of any
34 right or power over tangible personal property incident to its
ownership when purchased by the user at retail sale, including
36 the derivation of income, whether received in money or in the
form of other benefits, by a lessor from the rental of tangible
38 personal property located in this State. "Use" includes
distributing or causing the distribution of catalogs or other
advertising matter into this State by a retailer or its affiliate.

40 **Sec. 19. 36 MRSA §1760, sub-§23,** as amended by PL 1985, c.
42 691, §11, is further amended to read:

44 **23. Motor vehicles.** Motor vehicles, except all-terrain
vehicles as defined in Title 12, section 7851 and snowmobiles as
defined in Title 12, section 7821, purchased by a nonresident and
46 intended to be driven or transported outside the State
immediately upon delivery by the seller. If such a motor vehicle
48 is registered for use in Maine within 12 months of the date of
purchase, the person seeking registration ~~shall-be~~ is liable for
50 use tax on the basis of the original purchase price;

2 **Sec. 20. 36 MRSA §1760, sub-§25-A** is enacted to read:

4 **25-A. Snowmobiles and all-terrain vehicles.** All-terrain
6 vehicles as defined in Title 12, section 7851 and snowmobiles as
8 defined in Title 12, section 7821 purchased by a nonresident and
10 intended to be driven or transported outside the State
12 immediately upon delivery by the seller. The purchaser is exempt
14 from use tax, unless the snowmobile or all-terrain vehicle is
16 present in the State for more than 30 days during the 12-month
18 period following the date of purchase or is registered in the
20 State without being registered in another state within 12 months
22 of the date of purchase;

24 **Sec. 21. 36 MRSA §1762**, as amended by PL 1985, c. 535, §4, is
26 repealed.

28 **Sec. 22. 36 MRSA §1812, sub-§2**, as amended by PL 1989, c. 588,
30 Pt. B, §4, is further amended to read:

32 **2. Several items.** When several purchases are made together
34 and at the same time, the tax shall must be computed on the total
36 amount of the several items, except that purchases taxed at 5%,
38 7% ~~and 10%~~ shall different rates must be separately totaled.

40 **Sec. 23. 36 MRSA §1861**, as amended by PL 1987, c. 497, §41,
42 is further amended to read:

44 **§1861. Imposition**

46 A tax is imposed, at the respective rate provided in section
48 1811, on the storage, use or other consumption in this State of
50 tangible personal property or a service the sale of which ~~if it~~
~~had occurred in this State,~~ would be subject to tax under section
1764 or 1811. Every person so storing, using or otherwise
consuming is liable for the tax until he the person has paid the
tax or has taken a receipt from his the seller, as duly
authorized by the State Tax Assessor, showing that the seller has
collected the sales or use tax, in which case the seller shall ~~be~~
is liable for it. Retailers registered under section 1754 or 1756
shall collect the tax and make remittance to the State Tax
Assessor. The amount of the tax payable by the purchaser shall ~~be~~
is that provided in the case of sales taxes by section 1812. When
tangible personal property purchased for resale is withdrawn from
inventory by the retailer for his the retailer's own use, use tax
liability accrues at the date of withdrawal.

52 **Sec. 24. 36 MRSA §1861-A**, as enacted by PL 1989, c. 880, Pt.
54 F, is amended to read:

2 **§1861-A. Reporting use tax on individual income tax returns**

4 The assessor shall provide that individuals report use tax
6 on the their Maine individual income tax returns. Taxpayers are
8 required to attest to the amount of their use tax liability for
10 the period of the tax return. Alternatively, they may elect to
12 report an amount that is .04% .05% of their Maine adjusted gross
14 income. The table amount does not relate to items with a
16 purchase price in excess of \$1,000. Liability arising from such
18 items must be added to the table amount. If a taxpayer fails to
20 attest to an alternate liability on the return, the taxpayer is
22 subject to an increase in income tax liability amounting to .04%
 .05% of the taxpayer's Maine adjusted gross income. Upon
 subsequent review, if use tax liability for the period of the
 return exceeds the amount of liability arising from the return, a
 credit of the amount of liability arising from the return is
 allowed subject to the limitation set out in this section. The
 credit is limited to the amount of liability arising from the
 return for items with a sales price of \$1,000 or less and may be
 applied only against a liability determined on review with regard
 to items with a sales price of \$1,000 or less.

24 **Sec. 25. 36 MRSA §1952-B**, as enacted by PL 1987, c. 647, §4,
 is amended to read:

26 **§1952-B. Manufactured housing**

28 The tax imposed by chapters 211 to 225 on the sale or use of
30 any type of manufactured housing, as defined in Title 30 30-A,
32 section 4965 4358, subsection 1, shall paragraph A, except where
34 when the dealer has collected the tax in full, must be paid by
36 the purchaser to the State Tax Assessor. The State Tax Assessor
38 shall provide a tax receipt to the purchaser, which, upon request
40 by the municipal officials, assessors of a plantation or the
 Maine Land Use Regulation Commission, shall must be made
 available by the purchaser to certify that the tax imposed by
 chapters 211 to 225 has been paid, pursuant to Title 30 30-A,
 section 4965 4358, subsection 3 4 or Title 30 30-A, section 5622
 7060, subsection 1, paragraph C.

42 A valid bill of sale from a dealer showing that the tax has
44 been collected in full shall ~~serve~~ serve to certify that the tax
46 imposed by chapters 211 to 225 has been paid, pursuant to Title
 30 30-A, section 4965 4358, subsection 3 4, or Title 30 30-A,
 section 5622 7060, subsection 1, paragraph C, in lieu of a tax
 receipt provided by the State Tax Assessor.

48 **Sec. 26. 36 MRSA §2521-A, first ¶**, as amended by PL 1991, c.
 591, Pt. PPP, §1 and affected by §5, is further amended to read:

2 Every insurance company, association or attorney-in-fact of
4 a reciprocal insurer subject to tax as imposed by this chapter
shall on or before the last day of each April, the 25th day of
6 each June and the last day of each October file with the State
Tax Assessor on forms prescribed by the State Tax Assessor a
8 return for the quarter ending the last day of the preceding
month, except for the month of June, which is for the quarter
10 ending June 30th. These returns may be on an estimated basis,
provided that each April and June installment equals at least 35%
12 of the total tax paid for the preceding calendar year or 35% of
the total tax to be paid for the current calendar year. The
14 remaining installments must equal 15% of the total tax to be paid
for the preceding calendar year or 15% of the total tax to be
16 paid for the current year. An authorized company official shall
affirm which elective is selected. Such elective can not be
18 changed during the current calendar year. The final return must
be filed on or before March 15th covering the prior calendar year.

20 **Sec. 27. 36 MRSA §2521-C, first ¶,** as enacted by PL 1991, c.
591, Pt. PPP, §3 and affected by §§4 and 5, is amended to read:

22 Every insurance company, association or attorney-in-fact of
24 a reciprocal insurer subject to tax as imposed by this chapter
shall on or before the last day of each April, the 25th day of
26 each June and the last day of each October file with the State
Tax Assessor on forms prescribed by the State Tax Assessor a
28 return for the quarter ending the last day of the preceding
month, except for the month of June, which is for the quarter
30 ending June 30th. These returns may be on an estimated basis,
provided that each installment equals at least 25% of the total
32 tax paid for the preceding calendar year or 25% of the total tax
to be paid for the current calendar year. An authorized company
34 official shall affirm which elective is selected. Such elective
can not be changed during the current calendar year. The final
36 return must be filed on or before March 15th covering the prior
calendar year.

38 **Sec. 28. 36 MRSA §2903, sub-§1, ¶A,** as enacted by PL 1991, c.
40 592, Pt. D, §2 and affected by §14, is repealed and the following
enacted in its place:

42 A. The excise tax on internal combustion engine fuel used
44 or sold within this State, including sales to the State or a
political subdivision of the State, is 19¢ per gallon,
46 except that the rate is 3.4¢ per gallon on internal
48 combustion engine fuel, as defined in section 2902, bought
or used for the purpose of propelling jet or turbojet engine
aircraft.

50

2 **Sec. 29. 36 MRSA §2903, sub-§1, ¶C**, as enacted by PL 1991, c.
592, Pt. D, §2 and affected by §14, is amended to read:

4 C. This subsection does not apply to internal combustion
6 engine fuel:

8 (1) Sold wholly for exportation from this State;

10 (2) Brought into this State in the ordinary
12 standardized equipment fuel tank attached to and a part
of a motor vehicle and used in the operation of that
vehicle in this State;

14 (3) Sold in bulk to any political subdivision of this
16 State;

18 (4) Bought or used by any person to propel jet or
turbojet engine aircraft in international flight;

20 (5) Brought into this State in the fuel tanks of an
22 aircraft; or

24 (6) On which the collection of the tax imposed by this
section is precluded by federal law or regulation.

26 **Sec. 30. 36 MRSA §2903, sub-§1-A**, as enacted by PL 1987, c.
793, Pt. B, §1; amended by PL 1991, c. 546, §25 and affected by
28 §42; and repealed and replaced by c. 592, Pt. D, §3 and affected
by §15, is repealed and the following enacted in its place:

30 1-A. Excise tax imposed. Except as provided in subsection
32 2, an excise tax is imposed on internal combustion engine fuel as
follows.

34 A. The excise tax on internal combustion engine fuel used
36 or sold within this State, including sales to the State or a
38 political subdivision of the State, is 17¢ per gallon,
40 except that the rate is 3.4¢ per gallon on internal
42 combustion engine fuel, as defined in section 2902, bought
or used for the purpose of propelling jet or turbojet engine
aircraft.

44 B. Internal combustion engine fuel may be taxed only once
46 under this section. The distributor that first receives the
48 fuel in this State is primarily responsible for paying the
50 tax except when the fuel is sold and delivered to a licensed
exporter wholly for exportation from the State or to another
distributor in the State, in which case the purchasing
distributor is primarily responsible for paying the tax.

2 C. This subsection does not apply to internal combustion
3 engine fuel:

4 (1) Sold wholly for exportation from this State;

6 (2) Brought into this State in the ordinary
7 standardized equipment fuel tank attached to and a part
8 of a motor vehicle and used in the operation of that
9 vehicle in this State;

10 (3) Sold in bulk to any political subdivision of this
11 State;

14 (4) Bought or used by any person to propel jet or
15 turbojet engine aircraft in international flight;

16 (5) Brought into this State in the fuel tanks of an
17 aircraft; or

20 (6) On which the collection of the tax imposed by this
21 section is precluded by federal law or regulation.

22 This subsection takes effect July 1, 1993.

24 **Sec. 31. 36. MRSA §2906, first ¶, as amended by PL 1991, c. 546,**
25 **§26 and affected by §43 and amended by c. 592, Pt. D, §4, is**
26 **repealed and the following enacted in its place:**

28 Every distributor, importer or exporter holding a valid
29 certificate as such shall render on or before the 21st day of
30 each month a report to the State Tax Assessor stating the number
31 of gallons of internal combustion engine fuel received, sold and
32 used in the State by that distributor, importer or exporter
33 during the preceding calendar month on forms furnished by the
34 State Tax Assessor. The report must contain such further
35 pertinent information as the State Tax Assessor prescribes and
36 the State Tax Assessor may make any other reasonable rules
37 regarding the administration and enforcement of the Gasoline Tax
38 Act as are considered necessary or expedient, copies of which
39 must be sent to certificate holders. The State Tax Assessor or a
40 duly authorized agent must have access during reasonable business
41 hours to the books, invoices and vouchers of certificate holders
42 that may show the fuel handled by the certificate holders. At
43 the time of the filing of the report, each distributor and
44 importer shall pay to the State Tax Assessor a tax at the rate
45 set forth in section 2903 on each gallon reported as sold,
46 distributed or used. An allowance of not more than 1% from the
47 amount of fuel received by the distributor, plus 1% on all
48 transfers in vessels, tank cars or full tank truck loads by a
49 distributor in the regular course of the distributor's business
50

2 from one of the distributor's places of business to another
3 within the State, may be granted by the State Tax Assessor to
4 cover losses sustained by the distributor through shrinkage,
5 evaporation or handling. The total allowance for such losses may
6 not exceed 2% of the receipts by the distributor and no further
7 deduction may be allowed unless it is determined on definite
8 proof submitted to the State Tax Assessor that a further
9 deduction should be allowed for a loss sustained through fire,
10 accident or some unavoidable calamity.

11 **Sec. 32. 36 MRSA §4074**, as amended by PL 1981, c. 706, §29,
12 is further amended by adding at the end a new paragraph to read:

13 If any overpayment of tax imposed by this chapter is
14 refunded within 3 months after the date last prescribed, or
15 permitted by extension of time, for filing the return of that tax
16 or within 3 months after the return is filed or within 3 months
17 after a return requesting a refund of the overpayment is filed,
18 whichever is later, no interest may be paid by the State Tax
19 Assessor.

20
21 **Sec. 33. 36 MRSA §6260, sub-§2**, as enacted by PL 1989, c. 534,
22 Pt. C, §1, is amended to read:

23
24 **2. Deferred property taxes due.** The amounts of deferred
25 property taxes, including accrued interest, for all years shall
26 be are due and payable to the bureau April 15th 30th of the year
27 following the calendar year in which the circumstance occurs,
28 except as provided in subsection 3 and section 6261;

29
30 **Sec. 34. Application.** That section of this Act that amends the
31 Maine Revised Statutes, Title 36, section 187, subsection 5
32 applies to penalties pertaining to periods beginning on or after
33 January 1, 1992. That section of this Act that amends Title 36,
34 section 1861-A applies to income tax years beginning on or after
35 January 1, 1992.

36
37 **Sec. 35. Retroactivity.** That section of this Act that amends
38 the Maine Revised Statutes, Title 36, section 2903, subsection 1
39 takes effect retroactively to April 1, 1989.

40
41 **Sec. 36. Effective date.** That section of this Act that amends
42 the Maine Revised Statutes, Title 36, section 2521-C takes effect
43 January 1, 1994.

44
45 **Emergency clause.** In view of the emergency cited in the
46 preamble, this Act takes effect when approved unless otherwise
47 indicated.

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STATEMENT OF FACT

2 This bill makes the following technical and minor
4 substantive changes to the various laws concerning taxation.

6 1. It extends the statute of limitations for collection of
taxes by civil action in cases when the taxpayer is in bankruptcy.

8 2. It extends the statute of limitations for the collection
10 of taxes by levy.

12 3. It corrects an inconsistency between the Maine Revised
Statutes, Title 36, section 177, subsection 5 and Title 36,
14 section 176-A, subsection 16 with respect to the statute of
limitations for the collection of taxes and also changes a
16 reference to the United States Bankruptcy Code to conform with
other references in Title 36.

18 4. It provides that a purchaser of a business is
20 responsible for all existing trust fund tax liabilities of the
business.

22 5. It establishes a separate penalty for an unfiled tax
24 return when a jeopardy assessment has been issued.

26 6. It provides that interest will accrue on penalties.

28 7. It corrects a reference to "next tax assessment" to read
"net tax assessment."

30 8. It repeals an obsolete section of the law.

32 9. It changes a cross-reference to Title 33, section 751 to
34 reflect changes to that section.

36 10. It simplifies the tax laws by eliminating references to
specific dollar amounts and referring instead to the fees
38 established by Title 33, section 751.

40 11. It accomodates the staggered registration period with
respect to camper trailers established by Public Law 1991,
42 chapter 44.

44 12. It clarifies legislative intent to impose Maine use tax
on catalogs sent into the State by retailers or their affiliates
46 to the maximum extent held constitutional by D.H. Holmes Co. v.
McNamara, 486 U.S. 24 (1988).

48 13. It conforms the terms of the exemption for snowmobiles
50 and all-terrain vehicles purchased in the State by a nonresident

2 and removed immediately from the State with the exemption for
4 certain snowmobiles and all-terrain vehicles purchased outside
6 the State as amended by Public Law 1991, chapter 620.

8 14. It repeals Title 36, section 1762, relating to
10 liability for sales taxes in the context of the transfer of a
12 business.

14 15. It simplifies a reference to different tax rates.

16 16. It eliminates misleading language from the use tax laws
18 to make it clear that use tax does not apply only to property
20 purchased outside the State.

22 17. It increases the present elective with respect to the
24 reporting of use tax on individual income tax returns to reflect
26 the recent increase in the sales tax rate.

28 18. It updates several statutory references relating to
30 manufactured housing.

32 19. It moves forward the due date for the June estimated
34 payment of the insurance premium tax in order to avoid anomalous
36 accounting of fiscal year-end revenues.

38 20. It reconciles conflicting versions of Title 36, section
2903, subsections 1 and 1-A.

21. It reconciles conflicting versions of Title 36, section
2906.

22. It provides that if an overpayment of tax is listed on
an amended estate tax return, interest is not payable if the
overpayment is refunded within a specific period of time after
the amended return is filed.

23. It corrects an inconsistency with respect to demand due
dates in the laws relating to deferred property taxes.