

MAINE STATE LEGISLATURE

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L.D. 937

DATE: 6/1/95

(Filing No. H- 347)

TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 686, L.D. 937, Bill, "An Act Concerning Technical Changes to the Tax Laws"

Amend the bill by striking out all of section 2.

Further amend the bill in section 3 in that part designated "§113." in the last line (page 2, line 33 in L.D.) by inserting after the following: "chapter 913." the following: 'The State Tax Assessor shall annually report to the joint standing committee of the Legislature having jurisdiction over taxation matters the costs and collections of programs administered pursuant to this section.'

Further amend the bill by inserting after section 3 the following:

'Sec. 4. 36 MRSA §114 is enacted to read:

§114. Contract services provided by the Bureau of Taxation

Notwithstanding any other provision of law, when the Bureau of Taxation provides a service to any State or quasi-state agency, the bureau shall bill that entity at what it determines, in conjunction with the entity served, to be a reasonable rate. An account may be established by the bureau for receipt of these revenues. This account must be used to defray costs associated with the facilities and personnel necessary to provide the services. The bureau shall annually report to the joint standing committee of the Legislature having jurisdiction over taxation matters the extent of such services provided and the details of revenues and costs involved.'

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Further amend the bill in section 5 in that part designated "§144." in subsection 1 in the 3rd line (page 3, line 17 in L.D.) by inserting after the following: "paid" the following: 'whichever period expires later'

Further amend the bill by inserting after section 5 the following:

'**Sec. 6. 36 MRSA §171**, as enacted by PL 1985, c. 691, §3, is amended to read:

§171. Demand letter

If any tax imposed by this Title is not paid on or before its due date and no further administrative or judicial review of the assessment is available under section 151, the State Tax Assessor, within 3 years after administrative and judicial review have been exhausted, may give the taxpayer notice of the amount to be paid, specifically designating tax, interest and penalty, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice shall must include a warning that, upon failure of that taxpayer to pay as demanded, the State Tax Assessor may proceed to collect the amount due by any collection method authorized by this Title. If the taxpayer has filed a petition for relief under the United States Bankruptcy Code, the running of the 3-year period of limitation imposed by this section is stayed until the bankruptcy case is closed or a discharge is granted, whichever occurs first.

Further amend the bill in section 6 in subsection 4 in the first and 2nd lines (page 3, lines 33 and 34 in L.D.) by striking out the following: "The costs incurred by the State Tax Assessor in" and inserting in its place the following: 'Fees paid by the State Tax Assessor to registrars of deeds for'

Further amend the bill by striking out all of section 8 and inserting in its place the following:

'**Sec. 8. 36 MRSA §187-B, sub-§7, ¶¶D and E**, as enacted by PL 1991, c. 873, §5 and affected by §§8 and 9, are amended to read:

D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;

E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;'

A.M.S.

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2 Further amend the bill by inserting after section 15 the
4 following:

6 'Sec. 16. 36 MRSA §1764, as amended by PL 1991, c. 546, §23,
8 is further amended to read:

8 **§1764. Tax against certain casual sales**

10 The tax imposed by chapters 211 to 225 must be levied upon
12 all casual sales involving the sale of camper trailers, motor
14 vehicles, special mobile equipment, livestock trailers,
16 watercraft or aircraft except those sold for resale at retail
18 sale or to a corporation, partnership, limited liability company
or limited liability partnership when the seller is the owner of
a majority of the common stock of the corporation or of the
ownership interests in the partnership, limited liability company
or limited liability partnership.

20 **Sec. 17. 36 MRSA §1811, 6th ¶,** as amended by PL 1995, c. 5,
22 Pt. F, §1 and affected by Pt. F, §2, is further amended to read:

24 For the period beginning July 1, 1993 and ending June 30,
1995, the State Tax Assessor shall transfer each month to the
Tourism Marketing and Development Fund all receipts of taxes
26 imposed pursuant to this section on the value of liquor sold in
licensed establishments, as defined in Title 28-A, section 2,
28 subsection 15, in accordance with Title 28-A, chapter 43, on the
value of rental of living quarters in any hotel, rooming house,
30 tourist or trailer camp and rental for a period of less than one
year of an automobile and on the value of ~~prepared food sold in~~
32 ~~establishments as defined in section 1752, subsection 8-A~~ food
products served on the premises of retailers that are primarily
34 engaged in the restaurant business, less transfers pursuant to
Title 30-A, section 5681, subsection 5, in excess of the base
36 General Fund revenue estimates effective July 1, 1993 for the
previous month. The State Tax Assessor shall reduce any
38 subsequent transfers to the Tourism Marketing and Development
Fund by an amount equal to the amount of General Fund revenues
40 defined in this paragraph that are below the base General Fund
estimates effective July 1, 1993 for the previous month. This
42 paragraph is repealed July 1, 1995.'

44 Further amend the bill in section 16 in the last line (page
46 7, line 2 in L.D.) by inserting after the following: "payment."
the following: 'Collection and remittance of the tax is the
48 responsibility of the person that negotiates the lease
transaction with the lessee.'

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2 Further amend the bill by inserting after section 18 the following:

4 'Sec. 19. 36 MRSA §4064, as enacted by PL 1981, c. 451, §7, is amended to read:

6 **§4064. Tax on estate of nonresident**

8 A tax is imposed upon the transfer of real property situated
10 in this State and upon the transfer of tangible personal property
12 ~~having an actual situs~~ located in this State of every person who
14 at the time of his death was not a resident of this State. The
16 amount of this tax is a sum equal to the that proportion of the
18 credit for state death taxes provided by section 2011 of the code
20 which that the value of Maine real and tangible personal property
taxed in this State which that qualifies for the credit bears to
the value of the decedent's total federal gross estate. All
values ~~shall be~~ are as finally determined for federal estate tax
purposes.

22 Proceeds from the sale of property are taxable under this
24 section if such proceeds are included in the total federal gross
estate and the sale was made in contemplation of death. A sale
of property made within 6 months prior to the death of the
26 grantor is deemed to be in contemplation of death within the
meaning of this section.'

28 Further amend the bill by inserting after section 26 the following:

30 'Sec. 27. 36 MRSA §5227, as amended by PL 1985, c. 535, §22,
32 is further amended to read:

34 **§5227. Time and place for filing returns and paying tax**

36 The income tax return or franchise tax return required by
38 this Part ~~shall~~ must be filed on or before the date a federal
income tax return, ~~(without regard to extension),~~ is due to be
40 filed. A taxpayer required to make and file a return under this
Part shall, without assessment, notice or demand, pay any tax due
42 thereon to the assessor on or before the date fixed for filing
such return ~~(determined without regard to any extension of time~~
~~for filing the return).~~ ~~The assessor shall prescribe by~~
44 ~~regulation the place for filing any return, declaration,~~
~~statement or other document required pursuant to this Part and~~
46 ~~for the payment of any tax.'~~

48 Further amend the bill by relettering or renumbering any
nonconsecutive Part letter or section number to read
50 consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

Certain sections of this bill will result in insignificant changes in General Fund revenue. The Bureau of Taxation will also incur some minor additional costs associated with the changes in this bill. These costs can be absorbed within the bureau's existing budgeted resources.'

STATEMENT OF FACT

This amendment does the following:

1. Deletes section 2 of the bill;
2. Adds language to section 3 of the bill amending the Maine Revised Statutes, Title 36, section 113 to require that the State Tax Assessor annually report on the costs and collections associated with programs administered pursuant to that section;
3. Adds a new provision of law to Title 36 authorizing the Bureau of Taxation to bill other state agencies for contract services it provides to them and to establish a separate revenue account;
4. Adds some language that was inadvertently left out of section 5 of the bill;
5. Amends Title 36, section 171 to provide that the period of time during which a taxpayer is the subject of a bankruptcy proceeding is not considered when computing the 3-year period of limitation for issuance of a demand notice;
6. Clarifies the wording in section 6 of the bill;
7. Clarifies some language in the provision of the law relating to waiver of penalties;
8. Deletes section 8 of the bill, which was intended to remove language from the charitable property tax exemption. The language in question has recently been declared constitutional by the Supreme Judicial Court of Maine;
9. Adds a provision to the bill clarifying that no sales or use tax is imposed on casual sales involving sales to

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2 partnerships, limited liability companies or limited liability
partnerships when the seller is the owner of a majority of the
ownership interests in the purchaser;

4
6 10. Adds a provision broadening the base for calculating
transfers to the Tourism Marketing and Development Fund;

8
10 11. Clarifies that in, the case of the long-term lease of
an automobile, the party responsible for collecting and remitting
sales tax is the person that actually negotiates the lease with
12 the customer. This means that, typically, the car dealership
entering into a lease arrangement with a consumer, rather than a
14 financing company that later acquired the lease, is responsible
for payment of the tax;

16 12. Adds a provision to the estate tax relating to
transfers in contemplation of death that was previously in the
18 law but was inadvertently left out when Title 36, chapter 575 was
enacted in 1981; and

20
22 13. Deletes some unnecessary language from Title 36,
section 5227.

COMMITTEE AMENDMENT