

MAINE STATE LEGISLATURE

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M
R. d. S.

L.D. 792

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TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 601, L.D. 792, Bill, "An Act Concerning Technical Changes to the Tax Laws"

Amend the bill by inserting before section 1 the following:

Sec. 1. 5 MRSA §13080-Q, sub-§2, ¶C, as enacted by PL 1995, c. 644, §2, is amended to read:

C. State income withholding taxes derived from employment at a business within the base area are not eligible for use in the calculation of a payment to the fund if the business is eligible during the current year to receive a payment under any other program authorized by Title 36, Part 8 9 that is based on the amount of employer withholding taxes and the business has made or makes an election to receive that payment.

Sec. 2. 36 MRSA §142, as enacted by PL 1985, c. 691, §2, is amended to read:

§142. Cancellation and abatement

The State Tax Assessor may, within 3 years from the date of assessment, or whenever a written request has been submitted by a taxpayer within 3 years of the date of assessment, cancel any tax which that has been levied illegally. In addition, if justice requires, the State Tax Assessor may, with the approval of the Governor, abate within 3 years from the date of assessment, all or any part of any tax assessed by the State Tax Assessor.'

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Further amend the bill by inserting after section 1 the following:

'Sec. 2. 36 MRSA §191, sub-§2, ¶G, as amended by PL 1991, c. 837, Pt. B, §18, is further amended to read:

G. The disclosure to the Attorney General of information related to any person under criminal investigation, and the subsequent sharing of or release of such information by the Attorney General to district attorneys, assistant district attorneys or state, county or local law enforcement agencies that are participating in the criminal investigation or prosecution of such a person. Requests from the Attorney General for information related to any person under criminal investigation must be submitted to the State Tax Assessor in writing and include:

- (1) The name and address of the taxpayer with respect to whom the requested return information relates;
- (2) The taxable period or periods to which the return information relates;
- (3) The statutory authority under which the proceeding or investigation is being conducted; and
- (4) The specific reason or reasons why the disclosure is, or may be, relevant to a proceeding or investigation.

The Attorney General, or any district attorney, assistant district attorney or other law enforcement agency with which the Attorney General has shared, or to which the Attorney General has released such tax information pursuant to a criminal investigation or prosecution shall retain physical control of the information until the conclusion of the investigation or proceeding for which the information was requested, after which the information must be returned immediately to the State Tax Assessor.'

Further amend the bill in section 2 by striking out all of the first indented paragraph (page 2, lines 1 to 12 in L.D.) and inserting in its place the following:

'Any return, report or other document required to be made pursuant to this Title must contain a declaration, in a form prescribed by the State Tax Assessor, that the statements contained in the return, report or other document are true and made under the penalties of perjury. The assessor may allow the filing of a return or document by electronic data submission or

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2 by telephone. The assessor may also allow the payment of a tax
3 or the refund of a tax by the electronic transfer of funds. In
4 the case of a taxpayer that has \$200,000 or more in annual
5 withholding tax payments to the Bureau of Taxation or \$400,000 or
6 more in annual payments of any other single tax type, and in the
7 case of payroll processing companies, the assessor may require
8 payment or refund of a tax by electronic funds transfer. An
9 electronic funds transfer allowed or required by the assessor
10 pursuant to this section is considered a return. The assessor
11 may adopt rules to establish procedures necessary to implement
12 the provisions of this section and shall adopt rules in the event
13 that payment of taxes by electronic funds transfer is mandated.
14 Any rule adopted pursuant to this section is considered a major
15 substantive rule for the purposes of Title 5, chapter 375,
16 subchapter II-A.'

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

19 'Sec. 6. 36 MRSA §4641-B, 5th ¶, as amended by PL 1983, c.
20 859, Pt. M, §10, is further amended to read:

21 Each register of deeds shall, on or before the 10th day of
22 each month, pay over to the State Tax Assessor 90% of the tax
23 collected during the previous month. The remaining 10% shall
24 must be retained for the county by the register of deeds and
25 accounted for to the county treasurer as reimbursement for
26 services rendered by the county in collecting the tax. If the
27 tax collected is not paid over by the 10th day of the month, the
28 State Tax Assessor may impose interest pursuant to section 186.

29 Sec. 7. 36 MRSA §4641-C, sub-§1, as amended by PL 1995, c.
30 479, §1 and affected by §2, is further amended to read:

31 1. **Governmental entities.** Deeds to property transferred to
32 or by the United States, the State of Maine or any of their
33 instrumentalities, agencies or subdivisions. For the purposes of
34 this subsection, only the United States, the State of Maine and
35 their instrumentalities, agencies and subdivisions are exempt
36 from the tax imposed by section 4641-A; except that real property
37 transferred to the Department of Transportation or the Maine
38 Turnpike Authority for transportation purposes and; gifts of land
39 and interests in land real property to governmental entities; and
40 deeds transferring real property to governmental entities from a
41 bona fide nonprofit land conservation organization are exempt
42 from the tax;

43 Sec. 8. 36 MRSA §4641-C, sub-§3, as amended by PL 1993, c.
44 398, §4, is further amended to read:

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2 3. **Deeds affecting a previous deed.** Deeds that, without
3 additional consideration and without changing ownership or
4 ownership interest, confirm, correct, modify or supplement a deed
previously recorded;

6 **Sec. 9. 36 MRSA §4641-C, sub-§4**, as amended by PL 1993, c.
373, §5 and c. 398, §4, is further amended to read:

8 4. **Deeds between certain family members.** Deeds between
10 husband and wife, or parent and child, without actual
11 consideration for the deed, and deeds between spouses in divorce
12 proceedings;

14 **Sec. 10. 36 MRSA §4641-D, sub-§1**, as enacted by PL 1977, c.
318, §2, is amended to read:

16 1. **Governmental conveyances.** Any conveyance by or to the
18 United States of America, the State of Maine or any of their
19 instrumentalities, agencies or subdivisions. For purposes of
20 this subsection, only governmental entities are exempt from the
21 requirement to file a declaration;

22 Further amend the bill by striking out all of section 9 and
24 inserting in its place the following:

26 **Sec. 9. 36 MRSA §5219-D, sub-§4**, as amended by PL 1995, c.
656, Pt. A, §17, is further amended to read:

28 4. **Limitation; carry-over.** The amount of the credit that
30 may be used by a taxpayer for a taxable year may not exceed 50%
31 of the amount of tax otherwise due under this Part for that
32 year. A credit may not be used to reduce taxes in any tax year
33 starting before January 1, 1993. Any unused credit may be
34 carried over to the following year or years but must be used by
35 ~~the tax year ending not later than June 30, 1998~~ December 31,
36 2004.

38 Further amend the bill by relettering or renumbering any
39 nonconsecutive Part letter or section number to read
40 consecutively.

42 Further amend the bill by inserting at the end before the
summary the following:

44 **FISCAL NOTE**

46 This bill may increase prosecutions for Class C and D
48 crimes. Sentences of more than 9 months imposed for Class C
crimes must be served in state correctional institutions. The
50 cost to the State per sentence is \$53,033 based upon an average

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length of stay of 1 year and 10 months. The State also must
2 reimburse counties for sentences served in county jails of 9
4 months or less for Class C crimes. If a jail sentence is imposed
6 for Class D crimes, the additional costs to the counties are
8 estimated to be \$83.78 per day per prisoner. These costs are not
reimbursed by the State. The number of prosecutions that may
result in a jail sentence and the resulting costs to the county
jail system are expected to be insignificant.

10 This bill decreases the penalty for certain crimes from
12 Class C to Class D crimes, resulting in a shift of costs from the
14 State to the counties. Sentences of more than 9 months for Class
16 C crimes must be served in state correctional institutions at the
18 cost of \$53,033 per sentence based on an average length of stay
of 1 year and 10 months. Sentences of 9 months or less for a
Class C crime and all sentences for a Class D crime must be
served in county jails. The State must reimburse counties for
housing Class C crime offenders but does not provide
reimbursement for Class D offenders.

20 The Judicial Department may require additional General Fund
22 appropriations to cover indigent defense costs related to these
24 new cases. The amounts can not be estimated at this time. The
26 additional workload and administrative costs associated with the
28 minimal number of new cases filed in the court system can be
absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may also increase
General Fund revenue by minor amounts.

30 The Department of the Attorney General will incur some minor
32 additional costs to prosecute additional tax evasion cases.
These costs can be absorbed within the department's existing
34 budgeted resources.'

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38 **SUMMARY**

This amendment makes technical corrections, clarifications
40 and minor changes to various laws concerning taxation.

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