

# MAINE STATE LEGISLATURE

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**TAXATION**

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**STATE OF MAINE  
SENATE  
119TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A " to S.P. 23, L.D. 4, Bill, "An Act to Eliminate Sales Tax on Electricity Used in Agriculture and Aquaculture"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 36 MRSA §2013, as amended by PL 1997, c. 514, §1, is further amended to read:

**§2013. Refund of sales tax on electricity, depreciable machinery and equipment purchases**

1. Definitions. As used in this section, unless the context otherwise indicates, the following words have the following meanings.

A. "Commercial agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and production of livestock.

A-1. "Commercial aquacultural production" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

**COMMITTEE AMENDMENT**

2 (1) All cultivating activities occurring at hatcheries  
3 or nurseries, from the egg, larval or spore stages to  
4 the transfer of the product to a growing site; and

6 (2) All cultivating activities occurring on water,  
7 from the receipt of fish, shellfish, seaweed or other  
8 marine plants from onshore facilities to the delivery  
9 of harvested products to onshore facilities for  
10 processing.

12 B. "Commercial fishing" means attempting to catch fish or  
13 any other marine animals or organisms with the intent of  
14 disposing of them for profit or trade in commercial channels  
15 and does not include subsistence fishing for personal use,  
16 sport fishing or charter boat fishing where the vessel is  
17 used for carrying sport anglers to available fishing grounds.

18 C. "Depreciable machinery and equipment" means that part of  
19 the following machinery and equipment for which depreciation  
20 is allowable under the Code and repair parts for that  
21 machinery and equipment:

22 (1) New or used machinery and equipment for use  
23 directly and primarily in commercial agricultural  
24 production, including self-propelled vehicles, but  
25 excluding motor vehicles as defined in section 1752,  
26 subsection 7; attachments and equipment for the  
27 production of field and orchard crops; new or used  
28 machinery and equipment for use directly and primarily  
29 in production of milk, animal husbandry and production  
30 of livestock, including poultry; and new or used  
31 machinery and equipment not used directly and primarily  
32 in commercial agricultural production, but used  
33 exclusively to transport potatoes from a truck into a  
34 storage location;

36 (2) New or used watercraft, nets, traps, cables,  
37 tackle and related equipment necessary to and used  
38 directly and primarily in the operation of a commercial  
39 fishing venture, but excluding motor vehicles as  
40 defined in section 1752, subsection 7; or

42 (3) New or used watercraft, machinery or equipment  
43 used directly and primarily for aquacultural  
44 production, including, but not limited to: nets; ropes;  
45 cables; anchors and anchor weights; shackles and other  
46 hardware; buoys; fish tanks; fish totes; oxygen tanks;  
47 pumping systems; generators; water-heating systems;  
48 boilers and related pumping systems; diving equipment;  
49 feeders and related equipment; power-generating  
50

2 equipment; tank water-level sensors; aboveground  
3 piping; water-oxygenating systems; fish-grading  
4 equipment; safety equipment; and sea cage systems,  
5 including walkways and frames, lights, netting, buoys,  
6 shackles, ropes, cables, anchors and anchor weights;  
7 but excluding motor vehicles as defined in section  
8 1752, subsection 7.

9  
10 **2. Credit authorized.** Any person, association of persons,  
11 firm or corporation who purchases electricity or who purchases or  
12 leases depreciable machinery or equipment for use in commercial  
13 agricultural production, commercial fishing or commercial  
14 aquacultural production must be refunded the amount of sales tax  
15 paid by presenting to the State Tax Assessor evidence that the  
16 machinery--or--equipment--complies--with--the--definitions--of  
17 subsection 1 purchase is eligible for refund under this section.

18 Evidence required by the State Tax Assessor may include a copy or  
19 copies of that portion of the purchaser's or lessee's most recent  
20 filing under the United States Internal Revenue Code that  
21 indicates that the purchaser or lessee is engaged in commercial  
22 agricultural production, commercial fishing or commercial  
23 aquacultural production and that the purchased machinery or  
24 equipment is depreciable for those purposes or would be  
25 depreciable for those purposes if owned by the lessee.

26  
27 In the event that any piece of machinery or equipment is only  
28 partially depreciable under the United States Internal Revenue  
29 Code, any reimbursement of the sales tax must be prorated  
30 accordingly.

31  
32 Application for refunds must be filed with the State Tax Assessor  
33 within 36 months of the date of purchase or execution of the  
34 lease.

35  
36 **3. Exemption for large purchase after certification.** Sales  
37 tax is not paid on the purchase of electricity or a single item  
38 of machinery or equipment if the purchaser has the certification  
39 of the State Tax Assessor that the purchaser is engaged in  
40 commercial agricultural production, commercial fishing or  
41 commercial aquacultural production and that the purchaser may  
42 purchase electricity or depreciable machinery and equipment  
43 without paying Maine sales tax. The seller is required to obtain  
44 a copy of the certificate together with an affidavit as  
45 prescribed by the State Tax Assessor, to be maintained in the  
46 seller's records, attesting to the qualification of the purchase  
47 for exemption pursuant to this section. In order to qualify for  
48 this exemption, the depreciable machinery or equipment must be  
49 used directly in commercial agricultural production, commercial  
50 fishing or commercial aquacultural production.'

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

6 **FISCAL NOTE**

8

	1999-00	2000-01
10 <b>REVENUES</b>		
12 General Fund	(\$261,670)	(\$384,345)
14 Other Funds	(14,062)	(20,655)

16 The elimination of the sales tax on electricity used in  
18 agriculture, aquaculture and commercial fishing will decrease  
sales tax collections by \$275,732 in fiscal year 1999-00 and  
20 \$405,000 in fiscal year 2000-01. The reduction of these tax  
collections will decrease the amounts transferred to the Local  
22 Government Fund for state-municipal revenue sharing in those  
years by \$14,062 and \$20,655, respectively. The resulting net  
24 reductions of General Fund revenue will be \$261,670 in fiscal  
year 1999-00 and \$384,345 in fiscal year 2000-01.

26 The Bureau of Revenue Services will incur some minor  
additional costs to implement this sales tax change. These costs  
28 can be absorbed within the bureau's existing budgeted resources.'

30 **SUMMARY**

32 This amendment relocates the exemption for electricity used  
34 in commercial agricultural and aquacultural production to a  
section of law that provides for a sales tax exemption or refund  
36 on other sales to those purchasers. The relocation also expands  
the exemption to cover electricity sold for commercial fishing.