

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 981, L.D. 2524, Bill, "An Act Concerning Technical Changes to the Tax Laws"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 1 MRSA §2601, sub-§2, as enacted by PL 1979, c. 687, §1, is repealed.

Sec. 2. 1 MRSA §2603, sub-§1, as amended by PL 1985, c. 430, §2, is repealed.

Sec. 3. 5 MRSA §13070-N, as enacted by PL 1999, c. 401, Pt. AAA, §2, is reallocated to 5 MRSA §15310.'

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

'Sec. 4. 36 MRSA §143, first ¶, as enacted by PL 1993, c. 486, §1, is amended to read:

The State Tax Assessor may compromise a tax liability arising under this Title upon the grounds of doubt as to liability or doubt as to collectibility, or both. Upon acceptance by the assessor of an offer in compromise, the liability of the taxpayer in question is conclusively settled and neither the taxpayer nor the assessor may reopen the case except by reason of falsification or concealment of assets by the taxpayer or mutual mistake of a material fact or if, in the opinion of the assessor, justice requires. The decision of the assessor to reject an offer in compromise is not subject to

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review under section 151. The assessor's authority to compromise a tax liability pursuant to this section is separate from and in addition to the assessor's authority to cancel or abate a tax liability pursuant to section 142.'

Further amend the bill by striking out all of section 5 and inserting in its place the following:

Sec. 5. 36 MRSA §177, sub-§1, as amended by PL 1995, c. 639, §4, is further amended to read:

1. Generally. All sales and use taxes collected by a person pursuant to Part 3, all taxes collected by a person under color of Part 3 that have not been properly returned or credited to the persons from whom they were collected, all taxes collected by or imposed on a person pursuant to chapter 451 or 459, all fees collected pursuant to chapter 719 and all taxes collected by a person pursuant to chapter 827 constitute a special fund in trust for the State Tax Assessor. The liability for the taxes or fees and the interest or penalty on taxes or fees is enforceable by assessment and collection, in the manner prescribed in this Part, against the person and against any officer, director, member, agent or employee of that person who, in that capacity, is responsible for the control or management of the funds or finances of that person or is responsible for the payment of that person's taxes. An assessment against a responsible individual pursuant to this section must be made within 6 years from the date on which the return on which the taxes were required to be reported was filed. An assessment pursuant to this section may be made at any time with respect to a time period for which a return has become due but has not been filed.

Sec. 6. 36 MRSA §187-B, sub-§2, ¶A, as amended by PL 1999, c. 521, Pt. A, §3, is further amended to read:

A. Any person who fails to pay, on or before the due date, any amount shown as tax on any return required under this Title ~~or on any assessment made against the person~~ is liable for a penalty of 1% of the unpaid tax for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of 25% of the unpaid tax.

Sec. 7. 36 MRSA §187-B, sub-§2, ¶A-1 is enacted to read:

A-1. Any person who fails to make and file any return required under this Title at or before the time the return becomes due against whom the assessor has made an assessment of tax pursuant to section 141 and who has not paid the tax on or before the date specified in that assessment is liable for a penalty of 1% of the unpaid tax for each month or

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2 fraction of a month during which the tax remains unpaid,
3 calculated retroactively from the original due date of the
4 unfiled return, to a maximum in the aggregate of 25% of the
5 unpaid tax.

6 **Sec. 8. 36 MRSA §187-B, sub-§5**, as amended by PL 1997, c. 668,
7 §14, is further amended to read:

8
9 **5. Insufficient funds.** Any person who makes payment of an
10 amount due under this Title by means of a check or electronic
11 funds transfer that is returned unpaid by the bank on which it is
12 drawn because of insufficient funds or the closing or
13 nonexistence of the account on which it is drawn is liable for a
14 penalty of \$10 \$20 or 1% of the payment amount, whichever is
15 greater.'

16 Further amend the bill by inserting after section 12 the
17 following:

18
19 **'Sec. 13. 36 MRSA §198, sub-§3, ¶A**, as enacted by PL 1985, c.
20 430, §3, is amended to read:

21
22 A. Section 1760, subsections 11 to 30+; and

23
24 **Sec. 14. 36 MRSA §198, sub-§3, ¶B** is enacted to read:

25
26 B. Chapter 105, subchapters IV and IV-B.'

27
28 Further amend the bill in section 13 in subsection 1 in the
29 first blocked paragraph in the 2nd line (page 7, line 5 in L.D.)
30 by striking out the following: "180" and inserting in its place
31 the following: '120'

32
33 Further amend the bill in section 13 in subsection 1 in the
34 2nd blocked paragraph in the 7th line (page 7, line 14 in L.D.)
35 by striking out the following: "provided" and inserting in its
36 place the following: 'provided if'

37
38 Further amend the bill in section 13 in subsection 1 in the
39 2nd blocked paragraph in the 8th line (page 7, line 15 in L.D.)
40 by striking out the following: "provided" and inserting in its
41 place the following: 'if'

42
43 Further amend the bill in section 14 in subsection 6-A by
44 striking out all of the last 2 lines (page 8, lines 29 and 30 in
45 L.D.) and inserting in their place the following: 'at which a
46 retailer is primarily engaged in making retail sales of tangible
47 personal property not produced by the retailer.'

2 Further amend the bill by inserting after section 19 the
following:

4 'Sec. 20. 36 MRSA §1760, sub-§28, as amended by PL 1995, c.
6 560, Pt. K, §82 and affected by §83, is further amended to read:

8 **28. Community mental health facilities, community mental
retardation facilities and community substance abuse facilities.**
10 Sales to mental health facilities ~~or~~ mental retardation
12 facilities which or substance abuse facilities that are:

14 A. Contractors under or receiving support under the Federal
Community Mental Health Centers Act, or its successors; or

16 B. Receiving support from the Department of Mental Health,
Mental Retardation and Substance Abuse Services pursuant to
18 Title 5, section 20005 or Title 34-B, section 3604, 5433 or
20 6204.'

22 Further amend the bill by striking out all of section 24.

24 Further amend the bill by striking out all of section 39 and
inserting in its place the following:

26 'Sec. 39. 36 MRSA §5219-Q, as enacted by PL 1999, c. 401,
28 Pt. NNN, §6 and affected by §§8 and 9, is amended to read:

30 **§5219-Q. Quality child care investment credit**

32 **1. Definition.** As used in this section, unless the context
otherwise indicates, "quality child care services" means ~~care~~
34 services provided at a child care site that meets minimum
licensing standards and:

36 A. Is accredited by an independent, nationally recognized
38 program approved by the Department of Human Services, Office
of Head Start and Child Care;

40 B. Utilizes recognized quality indicators for child care
42 services approved by the Department of Human Services,
Office of Head Start and Child Care; and

44 C. Includes provisions for parent and client input, a
46 review of the provider's policies and procedures, a review
of the provider's program records and an on-site program
48 review.

50 For large, ~~multi-function~~ multifunction agencies, only those
portions of the child care sites that were reviewed by the

2 accrediting body may be considered sites that provide quality
3 child care sites services.

4 1-A. Certification. Upon application by an investor, the
5 Department of Human Services, Office of Head Start and Child Care
6 shall certify if an investment in a child care site contributed
7 significantly toward the ability of the child care site to
8 improve its level of child care services toward the goal of
9 providing quality child care services. The department shall send
10 a list of taxpayers making certified investments in the previous
11 year to the State Tax Assessor by February 1st annually.

12
13 2. Credit allowed. A taxpayer that has made an investment
14 in child care services certified under subsection 1-A during the
15 tax year is allowed a credit against the tax imposed by this Part
16 in an amount equal to the qualifying portion of expenditures paid
17 or expenses incurred by the taxpayer for certified investments in
18 child care services as calculated pursuant to subsection 3.

19 3. Qualifying portion. For purposes of calculating the
20 credit provided by this section, the qualifying portion is:

21
22
23 A. For a corporation, 30% of up to \$30,000 of expenditures,
24 apportioned if part of an affiliated group engaged in a
25 unitary business; and

26
27 B. For an individual taxpayer, if the taxpayer expends at
28 least \$10,000 in one year, \$1,000 each year for 10 years and
29 \$10,000 at the end of the 10-year period.

30
31 4. Limitation; carry-over. The credit allowed--under
32 subsection--2 provided by this section may not reduce the tax
33 otherwise due under this Part below zero. Any unused portion of
34 the credit may be carried over to the following year or years
35 until exhausted.'

36
37 Further amend the bill by inserting after section 42 the
38 following:

39 'Sec. 43. Application. The section of this Act that amends
40 the Maine Revised Statutes, Title 36, section 5102, subsection 6
41 applies to all open tax periods.'

42
43 Further amend the bill by relettering or renumbering any
44 nonconsecutive Part letter or section number to read
45 consecutively.

46
47 Further amend the bill by inserting at the end before the
48 summary the following:

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FISCAL NOTE

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This bill will have no significant net effect on revenue from tax collections, taxpayer benefit program costs or the administrative costs of the Bureau of Revenue Services.'

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SUMMARY

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

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