

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

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Legislative Document

No. 2524

S.P. 981

In Senate, February 8, 2000

**An Act Concerning Technical Changes to the Tax Laws.**

(EMERGENCY)

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Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator RUHLIN of Penobscot.  
Cosponsored by Representative: GAGNON of Waterville.

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, a delay in making technical changes to the tax laws  
would interfere with administration of those laws; and

8           Whereas, legislative action is immediately necessary in  
order 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  
Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
safety; now, therefore,

14  
16  
18           **Be it enacted by the People of the State of Maine as follows:**

20           **Sec. 1. 36 MRSA §111, sub-§2,** as amended by PL 1981, c. 698,  
§175, is further amended to read:

22           **2. Notice.** "Notice" means notification served personally or  
24 mailed by certified or registered mail to the last known address  
of the person for whom the notification is intended.

26  
28           If the State Tax Assessor attempts to give notice by certified or  
registered mail and the mailing is returned by the United States  
Postal Service with the notation "unclaimed" or "refused", he the  
30 assessor may then give notice, for purposes of this Title, by  
sending the notification by first-class mail to the person for  
32 whom the notification is intended at the address used on the  
returned certified or registered mail. Notice given in this  
34 manner ~~shall--be~~ is deemed to be received 3 days after the  
first-class mailing, excluding Sundays and legal holidays.

36  
38           In the case of a joint income tax return, notice may be a single  
joint notice except that, if the ~~State-Tax-Assessor~~ assessor is  
40 notified by either spouse that separate residences have been  
established, ~~he the~~ assessor shall mail a joint notice to each  
spouse.

42  
44           If the person for whom notification is intended is deceased or  
under a legal disability, notice may be mailed to that person's  
last known address, unless the ~~State-Tax-Assessor~~ assessor has  
46 received notice of the existence of a fiduciary relationship with  
respect to that person, in which case notice ~~shall~~ must be mailed  
48 to the last known address of the fiduciary.

2           **Sec. 2. 36 MRSA §113**, as repealed and replaced by PL 1999, c.  
16, Pt. E, §1 and affected by §4, is repealed and the following  
enacted in its place:

4  
6           **§113. Audit and collection expenses**

8           **1. Contract audit and collection programs.** The State  
Controller may transfer from the General Fund and the Highway  
Fund amounts authorized by the State Tax Assessor equal to the  
10 expenses of those contract audit and collection programs for  
which the fees are contingent on the amount collected. These  
12 amounts transferred must be deposited into a dedicated,  
nonlapsing account to be used solely for the purpose of paying  
14 these expenses. Interest earned on balances in the account  
accrue to the account. The assessor shall notify the State  
16 Controller of the amounts to be transferred pursuant to this  
section. The assessor shall annually report to the joint  
18 standing committees of the Legislature having jurisdiction over  
taxation matters and appropriations and financial affairs the  
20 amounts collected and the costs incurred of programs administered  
pursuant to this section.

22  
24           **2. Credit card fees.** The State Tax Assessor may subtract  
from revenues received credit card fees incurred by the assessor  
in connection with the following:

26           A. The collection of delinquent taxes imposed by this Title;

28           B. The collection of property taxes in the unorganized  
30 territory; and

32           C. The collection of income taxes for which telephonic  
34 returns are filed.

36           **3. Federal offset fees.** The State Tax Assessor may  
subtract from revenues received fees imposed upon the State by  
the United States Department of the Treasury for offsetting state  
38 income tax obligations against federal income tax refunds  
pursuant to Section 6402(e) of the Code.

40  
42           **Sec. 3. 36 MRSA §142**, as amended by PL 1999, c. 414, §6 and  
c. 521, Pt. A, §1, is repealed and the following enacted in its  
place:

44           **§142. Cancellation and abatement**

46  
48           The State Tax Assessor may, within 3 years from the date of  
assessment or whenever a written request has been submitted by a  
50 taxpayer within 3 years of the date of assessment, cancel any tax  
that has been levied illegally. In addition, if justice

2 requires, the assessor may, with the approval of the Governor or  
4 the Governor's designee, abate, within 3 years from the date of  
6 assessment or whenever a written request has been submitted by a  
8 taxpayer within 3 years of the date of assessment, all or any  
part of any tax assessed by the assessor. The decision of the  
assessor pursuant to this section not to abate all or any part of  
any tax assessed under this Title is not subject to review under  
section 151.

10 **Sec. 4. 36 MRSA §144, sub-§1**, as enacted by PL 1995, c. 281,  
12 §5, is amended to read:

14 **1. Generally.** A taxpayer may request a credit or refund of  
16 any tax imposed by this Title within 3 years from the time the  
18 return was filed or 2 years from the time the tax was paid,  
20 whichever period expires later. Every claim for refund must be  
22 submitted to the State Tax Assessor in writing and state the  
specific grounds upon which it is founded and the tax period for  
which the refund is claimed. The taxpayer may in writing request  
an informal conference regarding the claim for refund, in which  
case the claim for refund is considered a request for  
reconsideration of an assessment under section 151.

24 **Sec. 5. 36 MRSA §177, sub-§1**, as amended by PL 1995, c. 639,  
26 §4, is further amended to read:

28 **1. Generally.** All sales and use taxes collected by a  
30 person pursuant to Part 3, all taxes collected by a person under  
32 color of Part 3 that have not been properly returned or credited  
34 to the persons from whom they were collected, all taxes collected  
36 by or imposed on a person pursuant to chapter 451 or 459, all  
38 fees collected pursuant to chapter 719 and all taxes collected by  
40 a person pursuant to chapter 827 constitute a special fund in  
42 trust for the State Tax Assessor. The liability for the taxes or  
44 fees and the interest or penalty on taxes or fees is enforceable  
46 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  
time the underlying assessment becomes final. An individual  
against whom an assessment has been made pursuant to this section  
may not challenge the underlying tax assessment pursuant to  
section 151.

48 **Sec. 6. 36 MRSA §187-B, sub-§2, ¶A**, as amended by PL 1999, c.  
50 521, Pt. A, §3, is further amended to read:

2 A. Any person who fails to pay, on or before the due date,  
4 any amount shown as tax on any return required under this  
6 Title or on any estimated assessment made against the person  
8 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.

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

12 **7. Reasonable cause.** For reasonable cause, the State Tax  
14 Assessor shall waive or abate any penalty imposed by subsection  
16 1; subsection 2, paragraphs A and B; and subsections 4-~~and~~ 4-A,  
and ~~subsectien~~ 5-A. Reasonable cause includes, but is not  
limited to, the following:

18 A. The failure to file or pay resulted directly from  
20 erroneous information provided by the Bureau of Revenue  
Services;

22 B. The failure to file or pay resulted directly from the  
24 death or serious illness of the taxpayer or a member of the  
taxpayer's immediate family;

26 C. The failure to file or pay resulted directly from a  
28 natural disaster;

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

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

38 F. The taxpayer has supplied substantial authority  
40 justifying the failure to file or pay; or

42 G. The amount subject to a penalty imposed by subsections  
44 1, 2 and 4-A; and subsection 5-A is de minimis when  
46 considered in relation to the amount otherwise properly  
paid, the reason for the failure to file or pay and the  
taxpayer's compliance history.

48 The burden of establishing grounds for waiver or abatement is on  
the taxpayer.

2           **Sec. 8. 36 MRSA §191, sub-§2, ¶W**, as amended by PL 1999, c.  
414, §12, is further amended to read:

4           W. The disclosure by the State Tax Assessor to the State  
6           Auditor when necessary to the performance of the State  
Auditor's official duties; and

8           **Sec. 9. 36 MRSA §191, sub-§2, ¶X**, as enacted by PL 1999, c.  
10 414, §13, is amended to read:

12           X. The disclosure to the Department of Human Services,  
14           Bureau of Medical Services of information relating to the  
administration of the elderly low cost drug program; and

16           **Sec. 10. 36 MRSA §191, sub-§2, ¶Y** is enacted to read:

18           Y. The disclosure by the State Tax Assessor, upon request  
20           in writing of any individual against whom an assessment has  
been made pursuant to section 177, subsection 1, of the  
following information:

22                   (1) Information regarding the underlying tax liability  
24                   to the extent necessary to apprise the individual of  
the basis of the assessment;

26                   (2) The name of any other individual against whom an  
28                   assessment has been made for the same underlying tax  
debt; and

30                   (3) The general nature of any steps taken by the  
32                   assessor to collect the underlying tax debt from any  
other individuals and the amount collected.

34           **Sec. 11. 36 MRSA §191, sub-§3**, as amended by PL 1995, c. 694,  
36           Pt. D, §61 and affected by Pt. E, §2, is further amended to read:

38           **3. Additional restrictions for information provided by**  
**Internal Revenue Service.** Federal returns and federal return  
40           information provided to the State by the Internal Revenue Service  
of the United States or provinces of Canada, to legislative  
42           committees or the agents of the committees, ~~to any person~~  
~~retained on an independent contract basis or the employee of that~~  
44           ~~person,~~ or to the Attorney General for the purpose of criminal  
investigations and prosecutions unrelated to this Title. These  
46           restrictions are in addition to those imposed by subsection 1.  
~~Upon request by the Department of Human Services under Title~~  
48           ~~19-A, section 2152, information provided by the Internal Revenue~~  
~~Service concerning the location of interest-bearing accounts in~~

2 ~~the names and social security numbers of delinquent payors of~~  
3 ~~child support may be disclosed to an authorized representative of~~  
4 ~~the Department of Human Services in the form of a list or~~  
5 ~~automated computer match list.~~

6 **Sec. 12. 36 MRSA §193**, as amended by PL 1997, c. 668, §18, is  
7 further amended to read:

8  
9 **§193. Returns; declaration covering perjury; submission of**  
10 **returns and funds by electronic means**

11 Any return, report or other document required to be made  
12 pursuant to this Title must contain a declaration, in a form  
13 prescribed by the State Tax Assessor, that the statements  
14 contained in the return, report or other document are true and  
15 made under the penalties of perjury. The assessor may allow the  
16 filing of a return or document by electronic data submission or  
17 by telephone. When an electronic tax return is filed by a  
18 taxpayer or with the taxpayer's permission, the filing of that  
19 return constitutes a sworn statement by the taxpayer, made under  
20 the penalties of perjury, that the tax liability shown on the  
21 return is correct. The assessor may also allow the payment of a  
22 tax or the refund of a tax by the electronic transfer of funds.  
23 In the case of a taxpayer that has \$200,000 or more in annual  
24 withholding tax payments to the bureau or \$400,000 or more in  
25 annual payments of any other single tax type, and in the case of  
26 payroll processing companies as defined in Title 10, chapter 222,  
27 the assessor may require payment or refund of a tax by electronic  
28 funds transfer. For the purposes of this section, "tax" includes  
29 unemployment insurance contributions required to be paid to the  
30 State pursuant to Title 26. An electronic funds transfer allowed  
31 or required by the assessor pursuant to this section is  
32 considered a return. The assessor may adopt rules to establish  
33 procedures necessary to implement the provisions of this section  
34 and shall adopt rules in the event that payment of taxes by  
35 electronic funds transfer is mandated. Any rule adopted pursuant  
36 to this section is considered a routine technical rule for the  
37 purposes of Title 5, chapter 375, subchapter II-A.

38  
39 **Sec. 13. 36 MRSA §578, sub-§1**, as amended by PL 1997, c. 24,  
40 Pt. C, §4 and affected by §18, is further amended to read:

41  
42 **1. Organized areas.** The municipal assessors or chief  
43 assessor of a primary assessing area shall adjust the State Tax  
44 Assessor's 100% valuation per acre for each forest type of their  
45 county by whatever ratio, or percentage of current just value, is  
46 ~~then-being~~ applied to other property within the municipality to  
47 obtain the assessed values. Forest land in the organized areas,  
48 subject to taxation under this subchapter, must be taxed at the  
49 property tax rate applicable to other property in the  
50



2 municipality, ~~which rate is applied to the assessed values so~~  
determined.

4 The State Tax Assessor shall pay any municipal claim found to be  
in satisfactory form within 90 180 days after receipt of the  
6 claim.

8 ~~In tax years beginning on or after April 1, 1988, the~~ The State  
Tax Assessor shall determine annually the amount of acreage in  
10 each municipality that is classified and taxed in accordance with  
this subchapter. ~~A municipality actually levying and collecting~~  
12 ~~municipal property taxes and within whose boundaries this acreage~~  
lies ~~Each such municipality~~ is entitled to annual payments from  
14 money appropriated by the Legislature provided it submits an  
annual return in accordance with section 383 and provided it  
16 achieves the appropriate minimum assessment ratio described in  
section 327. ~~For the property tax year based on the status of~~  
18 ~~property on April 1, 1988, the per acre reimbursement amount~~  
~~increases from 15% to 24%. For property tax years based on the~~  
20 ~~status of property on April 1, 1989 or thereafter, the~~ The per  
acre reimbursement is 90% of the per acre tax revenue lost as a  
22 result of this subchapter. For purposes of this section, the tax  
lost is the tax that would have been assessed, but for this  
24 subchapter, on the classified forest lands if they were assessed  
according to the undeveloped acreage valuations used in the state  
26 valuation then in effect, or according to the current local  
valuation on undeveloped acreage, whichever is less, minus the  
28 tax that was actually assessed on the same lands in accordance  
with this subchapter. A municipality that fails to achieve the  
30 minimum assessment ratio established in section 327 loses 10% of  
the reimbursement provided by this section for each one  
32 percentage point the minimum assessment ratio falls below the  
ratio established in section 327.

34  
36 No municipality may receive a reimbursement payment under this  
section that would exceed an amount determined by calculating the  
tree growth tax loss less the municipal savings in educational  
38 costs attributable to reduced state valuation.

40 A. The tree growth tax loss is the adjusted tax that would  
42 have been assessed, but for this subchapter, on the  
classified forest lands if they were assessed according to  
44 the undeveloped acreage valuations used in the state  
valuation then in effect minus the tax that was actually  
46 assessed on the same lands in accordance with this  
subchapter.

48 In determining the adjusted tax that would have been  
assessed, the tax rate to be used is computed by adding the  
50 additional school support required by the modified state

2 valuation attributable to the increased valuation of forest  
land to the original tax committed and dividing this sum by  
4 the modified total municipal valuation. The adjusted tax  
rate is then applied to the valuation of forest land based  
6 on the undeveloped acreage valuations, adjusted by the  
certified ratio, to determine the adjusted tax.

8 B. The municipal savings in educational costs is determined  
by multiplying the school subsidy index by the change in  
10 state valuation attributable to the use of the valuations  
determined in accordance with this subchapter on classified  
12 forest lands rather than their valuation using the  
undeveloped acreage valuations used in the state valuation  
14 then in effect.

16 **Sec. 14. 36 MRSA §1752, sub-§6-A**, as amended by PL 1989, c.  
501, Pt. V, §§1 and 5, is further amended to read:

18 **6-A. Manufacturing facility.** "Manufacturing facility"  
20 means a site at which ~~is~~ are located machinery and equipment used  
directly and primarily in either the production of tangible  
22 personal property intended to be sold or leased ultimately for  
final use or consumption or the production of tangible personal  
24 property pursuant to a contract with the United States Government  
or any agency thereof. It includes the machinery and equipment  
26 and all machinery, equipment, structures and facilities located  
at the site and used in support of production or associated with  
28 the production. "Manufacturing facility" does not include a site  
that is not primarily engaged in the production of tangible  
30 personal property.

32 **Sec. 15. 36 MRSA §1752, sub-§11, ¶B**, as amended by PL 1999, c.  
488, §3 and c. 516, §2 and affected by §7, is repealed and the  
34 following enacted in its place:

36 B. "Retail sale" does not include:

38 (1) Any casual sale;

40 (2) Any sale by a personal representative in the  
42 settlement of an estate, unless the sale is made  
44 through a retailer, or unless the sale is made in the  
continuation or operation of a business;

46 (3) The sale, to a person engaged in the business of  
48 renting automobiles, of automobiles, integral parts of  
50 automobiles or accessories to automobiles, for rental  
or for use in an automobile rented on a short-term  
basis;

2           (4) The sale, to a person engaged in the business of  
3           renting audio or video tapes and audio or video  
4           equipment, of audio or video tapes or audio or video  
5           equipment for rental;

6           (5) The sale, to a person engaged in the business of  
7           renting or leasing automobiles, of automobiles for  
8           rental or lease for one year or more;

10           (6) The sale, to a person engaged in the business of  
11           providing cable television services, of cable converter  
12           boxes and remote-control units for rental or lease; or

14           (7) The sale, to a person engaged in the business of  
15           renting furniture, of furniture for rental.

16           **Sec. 16. 36 MRSA §1758** is repealed and the following enacted  
17           in its place:

20           **§1758. Use tax on interim rental of property purchased for resale**

22           **1. Definition.** As used in this section, unless the context  
23           otherwise indicates, the term "rentals" includes any receipts  
24           derived from the use of property that is rented or leased.

26           **2. Generally; tax imposed on rental payments.** This section  
27           governs the taxation of tangible personal property that is  
28           purchased for resale in this State, other than at casual sale,  
29           and upon which no sales tax has been paid pursuant to chapters  
30           211 to 225 when the property is rented or leased after purchase  
31           on an interim basis by the purchaser to another person prior to  
32           being sold. In lieu of the use tax otherwise imposed by section  
33           1861, a tax is imposed at the same rate as that provided in the  
34           case of sales taxes by section 1811 upon all rentals received by  
35           the purchaser for the use of that property.

36           **3. Exceptions.** The purchaser is liable for a use tax on  
37           the property based on the purchase price less the aggregate  
38           amount of tax paid pursuant to this section on the rentals  
39           received by the purchaser in the following circumstances:

42           **A.** When the purchaser, after first renting tangible  
43           personal property purchased for resale, subsequently makes  
44           any use of that property other than as set forth in  
45           subsection 2; or

46           **B.** When the purchaser rents the property for a period of 12  
47           months or more to any one person.

2 4. Other sections applicable. The tax on rentals imposed  
3 by this section is subject to section 1812 and all other  
4 pertinent provisions of this Part and for the purposes of this  
5 Part is treated the same as the sales tax imposed by section 1811  
6 with the lessor deemed to be the retailer, the lease payments  
7 deemed to be the sale price and the lessee deemed to be the  
8 purchaser and consumer.

9  
10 **Sec. 17. 36 MRSA §1760, sub-§16**, as amended by PL 1999, c.  
11 485, §1, is further amended to read:

12 **16. Hospitals, research centers, churches and schools.**  
13 Sales to incorporated hospitals, incorporated nonprofit nursing  
14 homes licensed by the Department of Human Services, incorporated  
15 nonprofit ~~boarding~~ residential care facilities licensed by the  
16 Department of Human Services, incorporated nonprofit home health  
17 care agencies certified under the United States Social Security  
18 Act of 1965, Title XVIII, as amended, incorporated nonprofit  
19 rural community health centers engaged in, or providing  
20 facilities for, the delivery of comprehensive primary health  
21 care, incorporated nonprofit dental health centers, institutions  
22 incorporated as nonprofit corporations for the sole purpose of  
23 conducting medical research or for the purpose of establishing  
24 and maintaining laboratories for scientific study and  
25 investigation in the field of biology or ecology or operating  
26 educational television or radio stations, schools, incorporated  
27 nonprofit organizations or their affiliates whose purpose is to  
28 provide literacy assistance or free clinical assistance to  
29 children with dyslexia and regularly organized churches or houses  
30 of religious worship, excepting sales, storage or use in  
31 activities that are mainly commercial enterprises. "Schools"  
32 means incorporated nonstock educational institutions, including  
33 institutions empowered to confer educational, literary or  
34 academic degrees, that have a regular faculty, curriculum and  
35 organized body of pupils or students in attendance throughout the  
36 usual school year and that keep and furnish to students and  
37 others records required and accepted for entrance to schools of  
38 secondary, collegiate or graduate rank, no part of the net  
39 earnings of which inures to the benefit of any individual.

40  
41 **Sec. 18. 36 MRSA §1760, sub-§23**, as repealed and replaced by  
42 PL 1993, c. 395, §15, is amended to read:

43  
44 **23. Certain vehicles purchased by nonresidents.** Sales of  
45 the following vehicles purchased by a nonresident and intended to  
46 be driven or transported outside the State immediately upon  
47 delivery by the seller:  
48

2 A. Motor vehicles, except all-terrain vehicles as defined  
in Title 12, section 7851 and snowmobiles as defined in  
4 Title 12, section 7821;

6 B. Semitrailers;

8 C. Aircraft;

10 D. Truck bodies and trailers manufactured in the State; and

12 E. Camper trailers, including truck campers.

14 If the vehicles are registered for use in the State within 12  
months of the date of purchase, the person seeking registration  
16 is liable for use tax on the basis of the original purchase price.

18 Notwithstanding section 1752-A, for purposes of this subsection,  
the term "nonresident" may include an individual, an association,  
a society, a club, a general partnership, a limited partnership,  
a domestic or foreign limited liability company, a trust, an  
estate, a domestic or foreign corporation and any other legal  
22 entity.

24 **Sec. 19. 36 MRSA §1760, sub-§25,** as amended by PL 1997, c.  
26 668, §24, is further amended to read:

28 **25. Watercraft sold to nonresidents.** Sales of watercraft  
in this State to ~~nonresidents~~ a nonresident, when such craft ~~are~~  
is either delivered outside the State or delivered in the State  
30 to be sailed or transported outside the State immediately upon  
delivery by the seller; and--any sales to ~~nonresidents~~ a  
32 nonresident, under contracts for the construction of any such  
~~craft~~ watercraft to be so delivered, of materials to be  
34 incorporated in the watercraft; and any sales to ~~nonresidents~~ a  
nonresident for the repair, alteration, refitting,  
36 reconstruction, overhaul or restoration of any such ~~craft~~  
watercraft to be so delivered, of materials to be incorporated in  
38 the watercraft. Unless the ~~craft~~ watercraft is present in the  
State, for a purpose other than temporary storage, for more than  
40 30 days during the 12-month period following its date of purchase  
or is registered in Maine without also being registered in  
42 another state or documented with a location in this State, within  
12 months of the date of purchase, the purchaser is exempt from  
44 the use tax. Notwithstanding section 1752-A, for purposes of  
this subsection, the term "nonresident" may include an  
46 individual, an association, a society, a club, a general  
partnership, a limited partnership, a domestic or foreign limited  
48 liability company, a trust, an estate, a domestic or foreign  
corporation and any other legal entity.

2           **Sec. 20. 36 MRSA §1760, sub-§45, ¶A-1**, as amended by PL 1995,  
c. 467, §17, is further amended to read:

4           A-1. If the property is a watercraft or all-terrain vehicle  
6           that is registered outside the State by an owner who at the  
time of purchase was a resident of another state and the  
8           watercraft or all-terrain vehicle is present in the State  
not more than 30 days during the 12 months following its  
10           purchase for a purpose other than temporary storage; or

12           **Sec. 21. 36 MRSA §1760, sub-§72**, as enacted by PL 1989, c.  
871, §15, is amended to read:

14           **72. Nonprofit housing development organization.** Sales to  
16           nonprofit organizations ~~for--the--development--of~~ whose primary  
purpose is to develop housing for low-income people.

18           **Sec. 22. 36 MRSA §1760-C**, as enacted by PL 1999, c. 521, Pt.  
A, §8, is amended to read:

20           **§1760-C. Exempt activities**

22           Unless otherwise provided by section 1760, the sales or use  
24           tax exemptions provided by that section to ~~a-purchaser~~ an entity  
based upon its charitable, nonprofit or other public purposes  
26           apply only if the property or service ~~sold~~ purchased is intended  
to be used by the ~~purchaser~~ entity primarily in the activity  
28           identified by the particular exemption. Exemption certificates  
issued by the State Tax Assessor pursuant to section 1760 must  
30           identify the exempt activity and must state that the certificate  
may be used by the holder only to purchase property or services  
32           intended to be used by the holder primarily in the exempt  
activity. When an otherwise qualifying exempt person is engaged  
34           in both exempt and nonexempt activities, an exemption certificate  
may be issued to the person only if the person has established to  
36           the satisfaction of the assessor that the applicant has adequate  
accounting controls to limit the use of the certificate to exempt  
38           purchases.

40           **Sec. 23. 36 MRSA §2013, sub-§1, ¶C**, as amended by PL 1997, c.  
514, §1, is further amended to read:

42           C. "Depreciable machinery and equipment" means that part of  
44           the following machinery and equipment for which depreciation  
is allowable under the Code and repair parts for that  
46           machinery and equipment:

48           (1) New or used machinery and equipment for use  
50           directly and primarily in commercial agricultural  
production, including self-propelled vehicles, but

2 excluding motor vehicles as defined in section 1752,  
3 subsection 7; attachments and equipment for the  
4 production of field and orchard crops; new or used  
5 machinery and equipment for use directly and primarily  
6 in production of milk, animal husbandry and production  
7 of livestock, including poultry; and new or used  
8 machinery and equipment not used directly and primarily  
9 in commercial agricultural production, but used  
10 ~~exclusively~~ to transport potatoes from a truck into a  
storage location;

12 (2) New or used watercraft, nets, traps, cables,  
13 tackle and related equipment necessary to and used  
14 directly and primarily in the operation of a commercial  
15 fishing venture, but excluding motor vehicles as  
16 defined in section 1752, subsection 7; or

18 (3) New or used watercraft, machinery or equipment  
19 used directly and primarily for commercial aquacultural  
20 production, including, but not limited to: nets; ropes;  
21 cables; anchors and anchor weights; shackles and other  
22 hardware; buoys; fish tanks; fish totes; oxygen tanks;  
23 pumping systems; generators; water-heating systems;  
24 boilers and related pumping systems; diving equipment;  
25 feeders and related equipment; power-generating  
26 equipment; tank water-level sensors; aboveground  
27 piping; water-oxygenating systems; fish-grading  
28 equipment; safety equipment; and sea cage systems,  
29 including walkways and frames, lights, netting, buoys,  
30 shackles, ropes, cables, anchors and anchor weights;  
31 but excluding motor vehicles as defined in section  
32 1752, subsection 7.

34 **Sec. 24. 36 MRSA §4072, first ¶,** as amended by PL 1999, c. 38,  
35 §1, is further amended to read:

36  
37 All property subject to taxes under this chapter, in  
38 whatever form of investment it may happen to be, is charged with  
39 a lien for all taxes, interest and penalties that are or may  
40 become due on that property. ~~The lien does not attach to any  
41 real or personal property after the property has been sold or  
42 disposed of for value by the personal representative, trustee or  
43 surviving joint tenant.~~ Upon payment of those taxes, interest  
44 and penalties due under this chapter, or upon determination that  
45 no tax is due, the State Tax Assessor shall upon request execute  
46 a discharge of the tax lien for recording in the appropriate  
registry or registries of deeds.

48  
49 **Sec. 25. 36 MRSA §5102, sub-§6,** as amended by PL 1997, c. 668,  
50 §29, is repealed and the following enacted in its place:

2           **6. Corporation.** "Corporation" means any business entity  
3           subject to income taxation as a corporation under the laws of the  
4           United States, except the following:

6           A. A corporation that is subject to tax under chapter 357  
7           or that would be subject to tax under chapter 357 if the  
8           insurance business conducted by such corporation were  
9           conducted in this State;

10           B. A corporation subject to tax under section 5206; or

12           C. A business entity referred to in Title 24-A, section  
14           1157, subsection 5, paragraph B, subparagraph (1).

16           **Sec. 26. 36 MRSA §5122, sub-§2, ¶K,** as amended by PL 1999, c.  
17           521, Pt. C, §5 and affected by §9, is further amended to read:

18           K. For income tax years beginning on or after January 1,  
19           1997, all items of income, gain, interest, dividends,  
20           royalties and other income of a financial institution  
21           subject to the tax imposed by section 5206, to the extent  
22           that those items are passed through to the taxpayer for  
23           federal income tax purposes, including, if the financial  
24           institution is an S corporation, the taxpayer's pro rata  
25           share and, if the financial institution is a partnership or  
26           limited liability company, the taxpayer's distributive  
27           share. A subtraction may not be made under this paragraph  
28           for:

30                   (1) Income of the taxpayer earned on interest-bearing  
31                   or similar accounts of the taxpayer at a financial  
32                   institution as a customer of that financial institution;

33                   (2) Any dividends or other distributions with respect  
34                   to a taxpayer's ownership interest in a financial  
35                   institution; and

36                   (3) Any gain recognized on the disposition by the  
37                   taxpayer of an ownership interest in a financial  
38                   institution; and

40           **Sec. 27. 36 MRSA §5122, sub-§2, ¶L,** as enacted by PL 1999, c.  
41           521, Pt. C, §6 and affected by §9, is amended to read:

42           L. For income tax years beginning on or after January 1,  
43           2000, an amount equal to the total premiums spent for  
44           qualified long-term care insurance contracts as defined in  
45           the Code, Section 7702B(b), as long as the amount subtracted



2 is reduced by the long-term care premiums claimed as an  
itemized deduction pursuant to ~~Section~~ section 5125; and

4 **Sec. 28. 36 MRSA §5122, sub-§2, ¶M** is enacted to read:

6 M. Interest or dividends on obligations or securities of  
8 this State and its political subdivisions and authorities to  
the extent included in federal adjusted gross income.

10 **Sec. 29. 36 MRSA §5125, sub-§3**, as repealed and replaced by PL  
12 1995, c. 281, §28, is amended to read:

14 **3. Amount.** The sum of an individual's allowable federal  
itemized deductions must be:

16 A. Reduced by any amount representing income taxes imposed  
18 by this State or any other taxing jurisdiction and interest  
or expenses incurred in the production of income exempt from  
tax under this Part; and

20 B. Increased by any amount of interest or expense incurred  
22 in the production of income taxable under this Part but  
exempt from federal income tax, and which has not been  
24 deducted in determining federal adjusted gross income; and

26 C. Reduced by any amount of deduction related to income  
28 taxable to financial institutions under chapter 819.

30 **Sec. 30. 36 MRSA §5164, sub-§1**, as enacted by P&SL 1969, c.  
154, Sec. F, §1, is amended to read:

32 **1. Fiduciary adjustment defined.** The fiduciary adjustment  
34 shall-be is the net amount of the modifications described in  
section 5122, including subsection 3 if the estate or trust is a  
beneficiary of another estate or trust, which relates to items of  
36 income or deduction of an estate or trust. Income taxes imposed  
38 by this State or any other taxing jurisdiction and interest or  
expenses incurred in the production of income exempt from tax  
40 under this Part deducted in arriving at federal taxable income  
must be added back to the fiduciary adjustment. Interest or  
42 expenses incurred in the production of income taxable under this  
Part but exempt from federal income tax must be subtracted from  
the fiduciary adjustment.

44 **Sec. 31. 36 MRSA §5200-A, sub-§2, ¶I**, as amended by PL 1999, c.  
46 521, Pt. B, §4 and affected by §11, is further amended to read:

48 I. For income tax years beginning on or after January 1,  
1997, all items of income, gain, interest, dividends,

royalties and other income of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. A subtraction may not be made under this paragraph for:

(1) Income of the taxpayer earned on interest-bearing or similar accounts of the taxpayer at a financial institution as a customer of that financial institution;

(2) Any dividends or other distributions with respect to a taxpayer's ownership interest in a financial institution; and

(3) Any gain recognized on the disposition by the taxpayer of an ownership interest in a financial institution; and

**Sec. 32. 36 MRSA §5200-A, sub-§2, ¶J**, as enacted by PL 1999, c. 521, Pt. B, §5 and affected by §11, is amended to read:

J. An amount equal to an income tax refund to the taxpayer by this State or another state of the United States that is included in that taxpayer's federal taxable income for the taxable year under the Code, but only to the extent that:

(1) Maine net income is not reduced below zero; and

(2) The amount to be refunded from this State or another state of the United States has not been previously used as a modification pursuant to this subsection.

If this modification amount results in Maine net income that is less than zero for the taxable year, the negative modification amount may be carried back or forward in the same manner as a net operating loss deduction carry-back or carry-forward to a taxable year that is within the allowable federal period for a carry-back or carry-forward, subject to the above limitations, ; and

**Sec. 33. 36 MRSA §5200-A, sub-§2, ¶K** is enacted to read:

K. Interest or dividends on obligations or securities of this State and its political subdivisions and authorities to the extent included in federal taxable income.

2           **Sec. 34. 36 MRSA §5206-D, sub-§8, ¶C**, as enacted by PL 1997,  
c. 404, §5 and affected by §10, is amended to read:

4  
6           C. A bank holding company, as defined in the federal Bank  
7 Holding Company Act of 1956, 12 United States Code, Section  
8 1841, or a savings and loan holding company, as defined in  
9 ~~the National Housing Act, 12 United States Code, Section~~  
10 ~~1701~~ 12 United State Code, Section 1467a(a)(1)(D); or

12           **Sec. 35. 36 MRSA §5211, sub-§10**, as enacted by P&SL 1969, c.  
13 154, §F, is amended to read:

14           **10. Property valuation at original cost.** Property owned by  
15 the taxpayer is valued at its original cost. Property rented by  
16 the taxpayer is valued at 8 times the net annual rental rate. Net  
17 annual rental rate is the annual rental rate paid by the taxpayer  
18 ~~less any annual rental rate received by the taxpayer from~~  
19 ~~subrentals.~~  
20

22           **Sec. 36. 36 MRSA §5215, sub-§3, ¶B**, as amended by PL 1999, c.  
23 414, §45 and affected by §56, is further amended to read:

24           B. With payroll records and reports substantiating that at  
25 least 100 new jobs attributable to the operation of property  
26 considered to be qualified investment were created in the  
27 24-month period following the date the property was placed  
28 in service. To assess the continuing nature of the jobs,  
29 the taxpayer must demonstrate that the new jobs credit base  
30 is at least \$700,000 for the taxable year of the qualified  
31 federal credit or for either of the next 2 calendar years.  
32 The \$700,000 must be adjusted proportionally for any change  
33 in Title 26, section 1043, subsection 2 wages from \$7,000.  
34 With respect to new jobs created after August 1, 1998, but  
35 before October 1, 2001, the employer must also demonstrate  
36 that the qualifying jobs are covered by a retirement program  
37 subject to the Employee Retirement Income Security Act of  
38 1974, 29 United States Code, Sections 101 to 1461, as  
39 amended; that group health insurance is provided for  
40 employees in those positions; and that the wages for those  
41 positions, calculated on a calendar year basis, are greater  
42 than the average per capita income in the labor market area  
43 in which the employee is employed; and  
44

46           **Sec. 37. 36 MRSA §5217, sub-§3**, as repealed and replaced by PL  
47 1987, c. 769, Pt. A, §159, is amended to read:

48           **3. Carryover; carry back.** The amount of the credit that  
49 may be used by a taxpayer for a taxable year may not exceed the  
50 amount of tax otherwise due under this ~~section~~ Part. Any unused

2 credit may be carried over to the following year or years for a  
3 period not to exceed 15 years or it may be carried back for a  
4 period not to exceed 3 years.

5 **Sec. 38. 36 MRSA §5219-G, sub-§1**, as enacted by PL 1999, c.  
6 521, Pt. B, §8 and affected by §11, is amended to read:

7 **1. Tax credits for partners and S corporation**  
8 **shareholders.** Each partner of a partnership or shareholder of an  
9 S corporation is allowed a credit against the tax imposed by  
10 ~~chapter 803~~ this Part in an amount equal to the partner's or  
11 shareholder's pro rata share of the tax credits described in this  
12 chapter, except that in the case of credits attributable to a  
13 financial institution subject to tax under chapter 819, the  
14 credits are allowable only against the tax imposed by that  
15 chapter. A partner's pro rata share must equal the partner's  
16 percentage interest in the taxable income or loss of the  
17 partnership for federal income tax purposes for the taxable  
18 year. The pro rata share of a shareholder of an S corporation  
19 must equal the shareholder's percentage share of stock of the S  
20 corporation as of the end of the taxable year.

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

23 **§5219-Q. Quality child care investment credit**

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

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

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

34 C. Includes provisions for parent and client input, a  
35 review of the provider's policies and procedures, a review  
36 of the provider's program records and an on-site program  
37 review.

38 For large, multi-function agencies, only those portions of the  
39 child care sites that were reviewed by the accrediting body may  
40 be considered sites that provide quality child care sites  
41 services.

2           **2. Credit allowed.** A taxpayer is allowed a credit against  
the tax imposed by this Part in an amount equal to the qualifying  
portion of expenditures paid or expenses incurred by the taxpayer  
4 for investments in quality child care services during the tax  
year as calculated pursuant to subsection 3.

6  
8           **3. Qualifying portion.** For purposes of calculating the  
credit provided by this section, the qualifying portion is:

10           A. For a corporation, 30% of up to \$30,000 of expenditures,  
apportioned if part of an affiliated group engaged in a  
12 unitary business; and

14           B. For an individual taxpayer, if the taxpayer expends at  
least \$10,000 in one year, \$1,000 each year for 10 years and  
16 \$10,000 at the end of the 10-year period.

18           **4. Limitation; carry-over.** The credit allowed--under  
subsection--2 provided by this section may not reduce the tax  
20 otherwise due under this Part below zero. Any unused portion of  
the credit may be carried over to the following year or years  
22 until exhausted.

24           **Sec. 40. 36 MRSA §5219-R**, as reallocated by RR 1999, c. 1,  
§50, is amended to read:

26           **§5219-R. Credit for rehabilitation of historic properties**

28  
30           A taxpayer is allowed a credit against the tax imposed under  
this Part equal to the amount of credit claimed by the taxpayer  
under Section 47 of the Code with respect to a certified historic  
32 structure located in the State. The credit is nonrefundable and  
is limited to \$100,000 annually per taxpayer. A credit received  
34 under this section is subject to the same recapture provisions as  
apply to a credit received under Section 47 of the Code and to  
36 any available federal carry-back or carry-forward provisions.

38           **Sec. 41. 36 MRSA §5278, sub-§1**, as amended by PL 1999, c. 521,  
Pt. B, §10 and affected by §11, is further amended to read:

40           **1. General.** A claim for credit or refund of an overpayment  
42 of any tax imposed by this Part must be filed by the taxpayer  
within 3 years from the time the return was filed, whether or not  
44 the return was timely filed, or 3 years from the time the tax was  
paid, whichever of such periods expires the later. A credit or  
46 refund is not allowed or may not be made after the expiration of  
the period of limitation prescribed in this subsection for the  
48 filing of a claim for credit or refund, unless a claim for credit  
or refund is filed by the taxpayer within such a period. For  
50 purposes of this subsection, any return filed before the last day

2 prescribed for the filing of a return is considered as filed on  
3 that last day.

4 **Sec. 42. 36 MRSA §6215**, as enacted by PL 1987, c. 516, §§3  
5 and 6, is amended to read:

6 **§6215. Extension of time for filing claims**

7  
8  
9  
10 In case of sickness, absence or other disability, or if, in  
11 his the judgment of the State Tax Assessor, good cause exists,  
12 the State-Tax-Assessor assessor may extend, for a period not to  
13 exceed 6 months, the time for filing a claim. A request for an  
14 extension may be submitted at any time during the 6-month  
15 extension period.

16 **Sec. 43. Retroactivity.** Those sections of this Act that amend  
17 the Maine Revised Statutes, Title 36, section 1760, subsections  
18 23 and 25 apply retroactively to sales made on or after June 5,  
19 1999.

20 **Emergency clause.** In view of the emergency cited in the  
21 preamble, this Act takes effect when approved.

22  
23  
24 **SUMMARY**

25  
26 This bill makes technical corrections, clarifications and  
27 minor substantive changes to various laws concerning taxation.  
28