

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 577

H.P. 456

House of Representatives, February 6, 2001

An Act to Create Equitable Taxation of Leased Property.

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative COLWELL of Gardiner.
Cosponsored by Senator LEMONT of York and
Representative O'NEIL of Saco, Senators: LaFOUNTAIN of York, O'GARA of Cumberland.

Be it enacted by the People of the State of Maine as follows:

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4 **Sec. 1. 36 MRSA §1861**, as amended by PL 1995, c. 640, §6, is repealed and the following enacted in its place:

6 **§1861. Use Tax**

8 **1. General.** A tax is imposed, at the respective rate provided in section 1811, on the storage, use or other consumption in this State of tangible personal property or a service, the sale of which would be subject to tax under section 1764 or 1811. Every person so storing, using or otherwise consuming is liable for the tax until the person has paid the tax or has taken a receipt from the seller, as duly authorized by the assessor, showing that the seller has collected the sales or use tax, in which case the seller is liable for the tax. Retailers registered under section 1754-B or 1756 shall collect the tax and make remittance to the assessor. The amount of the tax payable by the purchaser is that provided in the case of sales taxes by section 1812. When tangible personal property purchased for resale is withdrawn from inventory by the retailer for the retailer's own use, use tax liability accrues at the date of withdrawal.

24 **2. Leases with tax-exempt governmental entities.** When a lessee leases tangible personal property from a lessor that is an entity not required to pay sales or use tax in this State on the lessor's purchase of that tangible personal property because the lessor is a tax-exempt governmental entity, a tax is imposed on the lessee, at the respective rate provided in section 1811, on the lessee's act of leasing in this State the tangible personal property subject to the lease, the sale of which to the lessee would be subject to tax under section 1764 or 1811. The tax imposed on the lessee under this subsection applies only to the first lease of the property in this State by the tax-exempt governmental entity. The tax imposed on the lessee is determined by multiplying the tax rate by the sale price to the lessor of the tangible personal property subject to the lease or, if the sale price is not known to the lessee, by the fair market value of the tangible personal property at the time the lease is commenced. The amount of the tax payable by the lessee is that provided in the case of sales taxes by section 1812. For purposes of this subsection, "tax-exempt governmental entity" means the State or any of its political subdivisions, the Federal Government, any unincorporated agency or instrumentality of either or any incorporated agency or instrumentality wholly owned by either.

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SUMMARY

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This bill levies use tax on the lease of tangible personal property from a tax-exempt governmental entity at the same rate as if the lease were entered into with a lessor that is subject to tax.

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