L.D. 1277

DATE: 5-21-01 (Filing No. H-542)

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 964, L.D. 1277, Bill, "An Act to Establish a Single-payor Health Care System"

Amend the amendment on page 3 in subsection 2 in the first paragraph in the 6th line from the end (page 3, line 39 in amendment) by inserting after the following: "services." the following: 'The board shall implement this chapter incrementally, within available resources. The board shall fully implement the plan no later than July 1, 2007.'

Further amend the amendment on page 3 by inserting after the last blocked paragraph the following:

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

'**Sec. 3. 36 MRSA Pt. 3-A** is enacted to read:

PART 3-A

GROSS RECEIPTS TAX AND COMPENSATING TAX

CHAPTER 301

GENERAL PROVISIONS

§2251. Short title

This Part may be known and cited as the "Gross Receipts Tax and Compensating Tax Law."

§2252. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

1. Gross receipts. "Gross receipts" means the total amount of money or the value of other consideration received from the sale of property in the State, the performance of services in the State, the sale of services performed outside the State the product of which is initially used in the State or the lease of property used in the State.

A. "Gross receipts" includes:

(1) Receipts from the sale of tangible personal property handled on consignment;

(2) The total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or leasing, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security;

(3) Amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by the organization; or

(4) Amounts received for transmitting messages or conversations by persons providing telephone or telegraph services.

B. "Gross receipts" does not include:

(1) Cash discounts allowed and taken;

(2) Tax paid under this Part;

(3) Any type of time-price differential;

(4) Amounts received solely on behalf of another in a disclosed agency capacity; or

(5) Receipts of the United States or any instrumentality of the United States.

2. Property. "Property" means real property, tangible personal property, electricity, licenses, franchises, patents, trademarks and copyrights.

3. Service. "Service" means all activities engaged in for other persons for consideration. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project.

§2253. Gross receipts tax

1. Tax. A gross receipts tax is imposed for the privilege of engaging in business in the State. Beginning July 1, 2002, the gross receipts tax is equal to 1% of gross receipts. The tax increases by 1% each July 1st until the tax reaches 6% on July 1, 2007.

2. Presumption of taxability. To prevent evasion of the gross receipts tax, and to aid in its administration, it is presumed that all receipts of a person engaging in business are subject to the gross receipts tax.

§2254. Compensating tax

1. Compensating tax; use of tangible personal property. For the privilege of using tangible property in the State, there is imposed on the person using that property an excise tax equal to a percentage of the value of tangible property that was:

A. Manufactured by the person using the property in the State;

B. Acquired outside the State as the result of a transaction that would have been subject to the gross receipts tax under section 2253 had it occurred within the State; or

C. Acquired as the result of a transaction that was not initially subject to the compensating tax under paragraph B or the gross receipts tax under section 2253 but which transaction, because of the buyer's subsequent use of the property, should have been subject to the compensating tax imposed by paragraph B or the gross receipts tax.

Beginning July 1, 2002, the rate of the tax is 1%. The tax increases 1% each July 1st until the tax reaches 6% on July 1, 2007.

2. Compensating tax; use of services. For the privilege of using services provided in the State, there is imposed on the person using those services an excise tax equal to 1% of the value of the services at the time they were rendered beginning July 1, 2002 and increasing by 1% each July 1st until the tax

R.d.S.

reaches 6% on July 1, 2007. To be taxable under this subsection, the services must have been provided as the result of a transaction that was not initially subject to the gross receipts tax under section 2253 but which, because of the buyer's subsequent use of the services, should have been subject to the gross receipts tax.

3. Presumption of taxability and value. To prevent evasion of the compensating tax and the duty to collect it, it is presumed that property bought or sold by any person for delivery into this State is bought or sold for a taxable use in this State.

A. In determining the amount of compensating tax due on the use of property or service, it is presumed, in the absence of preponderant evidence of another value, that the value is the total amount of money or the reasonable value of other consideration paid for property or service exclusive of any type of time-price differential. In an exchange in which the amount of money paid does not represent the value of the property or service purchased, the compensating tax must be imposed on the reasonable value of the property or service purchased.

B. For the purpose of determining the amount of compensating tax that is not based on consideration paid for tangible personal property, the value of tangible property is the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition, introduction into this State or conversion to use, whichever is latest. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property must be used.

4. Person liable. A person using property on the value of which compensating tax is payable but has not been paid is liable to the State for payment of the compensating tax, but this liability is discharged if the buyer has paid the compensating tax to the seller for payment over to the bureau.

5. Agents for collection. Every person carrying on or causing to be carried on any activity within this State that attempts to exploit the State's markets who sells property or services for use in this State and who is not subject to the gross receipts tax on receipts from these sales shall collect the compensating tax from the buyer and pay the tax collected to the department.

A. For the purposes of this section, "activity" includes, but is not limited to, engaging in any of the following in the State: maintaining an office or other place of

HOUSE AMENDMENT

business, soliciting orders through employees or independent contractors, soliciting orders through advertisements placed in newspapers or magazines published in the State or advertisements broadcast by radio or television stations in the State, soliciting orders through programs broadcast by radio or television stations or transmitted by cable systems in the State, canvassing, demonstrating, collecting money, warehousing or storing merchandise and delivering or distributing products as a consequence of an advertising or other sales program directed at potential customers.

B. "Activity" does not include using a nonaffiliated 3rd-party call center to accept and process telephone or electronic orders of tangible personal property or licenses primarily from buyers outside the State, which orders are forwarded to a location outside the State for filling, or having a publicly accessible site on the Internet as a 3rd-party provider on a computer physically located in the State but owned by another nonaffiliated person.

§2255. Due date

The taxes imposed by this Part are due by the 15th day of the month following the month in which the taxable event occurs. The bureau shall adopt rules for collection and enforcement of taxes imposed under this Part. Rules adopted pursuant to this section are routine technical rules for purposes of Title 5, chapter 375, subchapter II-A.

§2256. Use of funds

The taxes collected pursuant to this Part must be used to fund the Maine Single-payor Health Care Plan established in Title 24-A, chapter 87.' '

Further amend the amendment by inserting after section 5 the following:

'**Sec. 6. Effective date; report.** That section of this Act that enacts the Maine Revised Statutes, Title 36, Part 3-A takes effect July 1, 2002. The Department of Administrative Services, Bureau of Revenue Services shall submit to the Second Regular Session of the 120th Legislature legislation that is necessary for the implementation and administration of the gross receipts tax and compensating tax.'

FISCAL NOTE

The amendment establishes a gross receipts and compensating tax of 1% without exemptions effective July 1, 2001. The rate of

R. & S.

tax increases by 1% each year until a maximum tax of 6% is reached. Based on a 1997 estimate of gross receipts, this tax would generate approximately $500,000,000 in fiscal year 2002-03 and $3,400,000,000 when fully phased in.

SUMMARY

This amendment establishes a gross receipts tax and a compensating use tax for the privilege of engaging in the sale or use of property and services in the State to fund the Maine Single-payor Health Care Plan. The tax begins July 1, 2002 at 1% of gross receipts on the value of the property or service sold or used and increases 1% each year until it reaches 6%. It directs the Health Security Board to implement the Maine Single-payor Health Care Plan incrementally, within available resources. The plan must be fully implemented no later than July 1, 2007.

SPONSORED BY:
(Representative DAIGLE)

TOWN: Arundel