

# MAINE STATE LEGISLATURE

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L.D. 1613

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**TAXATION**

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

COMMITTEE AMENDMENT "A" to H.P. 1190, L.D. 1613, Bill, "An Act Concerning Technical Changes to the Tax Laws"

Amend the bill by striking out all of sections 8 and 9 (page 4, lines 34 to 49 and page 5, lines 1 to 38 in L.D.)

Further amend the bill by striking out all of section 15 (page 8, lines 12 to 29 in L.D.) and inserting in its place the following:

**Sec. 15. 36 MRSA §653, sub-§1, ¶D-1**, as amended by PL 1999, c. 462, §3, is further amended to read:

D-1. The estates up to the just value of \$47,500, having a taxable situs in the place of residence, for specially adapted housing units, of veterans who served in the Armed Forces of the United States during any federally recognized war period, including the Korean Campaign, the Vietnam War and the Persian Gulf War, and who are paraplegic veterans within the meaning of the 38 United States Code, Title-38, Chapter 21, Section 2101, and who received a grant from the United States Government for any such housing, or of the unmarried widows of such veterans. A veteran of the Vietnam War must have served on active duty for a period of more than 180 days, any part of which occurred after February 27, 1961 and before May 8, 1975 in the case of a veteran who served in the Republic of Vietnam during that period and after August 4, 1964 and before May 7, 1975 in all other cases, unless the veteran died in service or was discharged for a service-connected disability after that date. "Vietnam War" means the period between August 5, 1964 and May 7, 1975 and the period beginning on February 28,

1961 and ending on May 7, 1978 in the case of a veteran who served in the Republic of Vietnam during that period. "Persian Gulf War" means service on active duty on or after August 7, 1990 and before or on the date that the United States Government recognizes as the end of that war period. The exemption provided in this paragraph applies to the property of the veteran including property held in joint tenancy with a spouse or held in a revocable living trust for the benefit of that veteran.

**Sec. 16. 36 MRSA §660**, as repealed and replaced by PL 1979, c. 687, §4, is repealed.

**Sec. 17. 36 MRSA §841, sub-§7**, as enacted by PL 1979, c. 73, is amended to read:

**7. Assessors defined.** For the purposes of this section subchapter the word "assessors" ~~shall include~~ includes assessor, chief assessor of a primary assessing area and State Tax Assessor for the unorganized territory.

**Sec. 18. 36 MRSA §842**, as amended by PL 1991, c. 546, §11, is further amended to read:

**§842. Notice of decision**

The assessors, or municipal officers, ~~chief assessor or the State Tax Assessor, in the case of the unorganized territory,~~ shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon the application within 10 days after they take final action thereon. The notice of decision must state that the applicant has 60 days from the date the notice is received to appeal the decision. It must also identify the board or agency designated by law to hear the appeal. If the assessors, or municipal officers, ~~chief assessor or State Tax Assessor,~~ before whom an application in writing for the abatement of a tax is pending, ~~fails~~ fail to give written notice of their decision within 60 days from the date of filing of the application, the application is deemed to have been denied, and the applicant may appeal as provided in sections 843 and 844, unless the applicant has in writing consented to further delay. Denial in this manner is final action for the purposes of notification under this section but failure to send notice of decision does not affect the applicant's right of appeal. This section does not apply to applications for abatement made under section 841, subsection 2.

**Sec. 19. 36 MRSA §843, sub-§2**, as amended by PL 1995, c. 262, §4, is further amended to read:

2           **2. Primary assessing areas.** If a primary assessing area  
3 has adopted a board of assessment review and the ~~chief-assessor,~~  
4 ~~assessors or municipal officer or the State Tax Assessor refuses~~  
5 ~~officers refuse~~ to make the abatement asked for, the applicant  
6 may apply in writing to the board of assessment review within 60  
7 days after notice of the decision from which the appeal is being  
8 taken or after the application is deemed to have been denied, and  
9 if the board thinks the applicant is over-assessed, the applicant  
10 is granted such reasonable abatement as the board thinks  
11 proper. Except with regard to nonresidential property or  
12 properties with an equalized municipal valuation of \$1,000,000 or  
13 greater, either separately or in the aggregate, either party may  
14 appeal the decision of the board of assessment review directly to  
15 the Superior Court, in accordance with the Maine Rules of Civil  
16 Procedure, Rule 80B. If the board of assessment review fails to  
17 give written notice of its decision within 60 days of the date  
18 the application was filed, unless the applicant agrees in writing  
19 to further delay, the application is deemed denied and the  
20 applicant may appeal to the Superior Court as if there had been a  
21 written denial.

22           **Sec. 20. 36 MRSA §844, sub-§1,** as amended by PL 1995, c. 262,  
23 §5, is further amended to read:

24           **1. Municipalities without board of assessment review.**  
25 Except when the municipality or primary assessing area has  
26 adopted a board of assessment review, if the assessors or the  
27 municipal officers refuse to make the abatement asked for, ~~or,~~  
28 ~~with respect to a primary assessing area, the chief assessor,~~  
29 ~~municipal officer or State Tax Assessor refuses to make the~~  
30 ~~abatement asked for,~~ the applicant may apply to the county  
31 commissioners within 60 days after notice of the decisions from  
32 which the appeal is being taken or within 60 days after the  
33 application is deemed to have been denied. If the commissioners  
34 think that the applicant is over-assessed, the applicant is  
35 granted such reasonable abatement as the commissioners think  
36 proper. If the applicant has paid the tax, the applicant is  
37 reimbursed out of the municipal treasury, with costs in either  
38 case. If the applicant fails, the commissioners shall allow costs  
39 to the municipality, taxed as in a civil action in the Superior  
40 Court, and issue their warrant of distress against the applicant  
41 for collection of the amount due the municipality. The  
42 commissioners may require the assessors or municipal clerk to  
43 produce the valuation by which the assessment was made or a copy  
44 of it. Either party may appeal from the decision of the county  
45 commissioners to the Superior Court, in accordance with the Maine  
46 Rules of Civil Procedure, Rule 80B. If the county commissioners  
47 fail to give written notice of their decision within 60 days of  
48 the date the application is filed, unless the applicant agrees in  
49 writing to further delay, the application is deemed denied and  
50

the applicant may appeal to the Superior Court as if there had been a written denial.

**Sec. 21. 36 MRSA §848-A**, as amended by PL 1997, c. 526, §14, is further amended to read:

**§848-A. Assessment ratio evidence**

Reports of assessment ratios contained in assessment ratio studies of the Bureau of Revenue Services shall be are prima facie evidence of what the reported ratio is in fact, unless a party to such proceedings related to a protested assessment establishes that such the ratio was derived or established in a manner contrary to law or proves the ~~existanee~~ existence of a different ratio.

In any proceedings relating to a protested assessment, it shall be is a sufficient defense of such the assessment that it is accurate within reasonable limits of practicality, except when a proven deviation of 10% or more from the relevant assessment ratio of the municipality or primary assessing area exists.'

Further amend the bill by inserting after section 20 the following:

'**Sec. 21. 36 MRSA §2524, sub-§2, ¶C**, as enacted by PL 1999, c. 401, Pt. NNN, §1 and affected by §§8 and 9 and PL 2001, c. 358, Pt. D, §1, is amended to read:

C. "Quality child care services" has the meaning set forth in section 5219-Q, subsection 1.

**Sec. 22. 36 MRSA §2524, sub-§4**, as enacted by PL 1999, c. 401, Pt. NNN, §2 and affected by §§8 and 9 and PL 2001, c. 358, Pt. D, §1, is amended to read:

**4. Quality child care services.** The credit allowed under subsection 1 doubles in amount if the day care service provided by the taxpayer constitutes quality child care services.'

Further amend the bill by striking out all of sections 27, 28 and 29 (page 14, lines 16 to 50 and page 15, lines 1 to 18 in L.D.) and inserting in their place the following:

'**Sec. 27. 36 MRSA c. 718**, as amended, is repealed.

**Sec. 28. 36 MRSA §5122, sub-§2, ¶M**, as repealed and replaced by PL 2001, c. 358, Pt. CC, §2 and affected by §4, is amended to read:

2 M. An amount, for each recipient of benefits under an  
employee retirement plan, that is the lesser of:

4 (1) Six thousand dollars reduced by the total amount  
of the primary recipient's social security benefits and  
6 railroad retirement benefits paid by the United States,  
but not less than \$0. The reduction does not apply to  
8 benefits paid under a military retirement plan; or

10 (2) The aggregate of benefits received by the primary  
recipient under employee retirement plans and included  
12 in federal adjusted gross income.

14 For purposes of this paragraph, "employee retirement plan"  
means a state, federal or military retirement plan or any  
16 other retirement benefit plan established and maintained by  
an employer for the benefit of its employees under Section  
18 401(a), Section 403 or Section 457(b) of the Code.  
"Employee retirement plan" does not include an individual  
20 retirement account under Section 408 of the Code, a Roth IRA  
under Section 408A of the Code, a rollover individual  
22 retirement account, a simplified employee pension under  
Section 408(k) of the Code or an ineligible deferred  
24 compensation plan under Section 457(f) of the Code. For  
purposes of this paragraph, "military retirement plan" means  
26 benefits received as a result of service in the active or  
reserve components of the Army, Navy, Air Force, Marines or  
28 Coast Guard;'

30 Further amend the bill by striking out all of section 31  
(page 15, lines 40 to 45 in L.D.) and inserting in its place the  
32 following:

34 'Sec. 31. 36 MRSA §5217, sub-§2, ¶C, as enacted by PL 1999, c.  
401, Pt. NNN, §3 and affected by §§8 and 9 and PL 2001, c. 358,  
36 Pt. D, §1, is amended to read:

38 C. "Quality child care services" has the meaning set forth  
in section 5219-Q, subsection 1.

40 **Sec. 32. 36 MRSA §5217, sub-§4**, as enacted by PL 1999, c. 401,  
42 Pt. NNN, §4 and affected by §§8 and 9 and PL 2001, c. 358, Pt. D,  
§1, is amended to read:

44 **4. Quality child care services.** The credit allowed under  
46 subsection 1 doubles in amount if the day care service provided  
by the taxpayer constitutes quality child care services.

48 **Sec. 33. 36 MRSA §5218**, as amended by PL 1999, c. 401, Pt.  
50 NNN, §5 and affected by §§8 and 9 and repealed and replaced by PL

1999, c. 521, Pt. B, §6 and affected by §11 and PL 2001, c. 358,  
Pt. D, §1, is repealed and the following enacted in its place:

**§5218. Income tax credit for child care expenses**

**1. Resident taxpayer.** A resident individual is allowed a credit against the tax otherwise due under this Part in the amount of 25% of the federal tax credit allowable for child and dependent care expenses in the same tax year.

**2. Nonresident or part-year resident taxpayer.** A nonresident or part-year resident individual is allowed a credit against the tax otherwise due under this Part in the amount of 25% of the federal tax credit allowable for child and dependent care expenses multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the nonresident's entire federal adjusted gross income, as modified by section 5122.

**3. Quality child care services.** The credit provided by subsections 1 and 2 doubles in amount if the child care expenses were incurred through the use of quality child care services. As used in this section, unless the context otherwise indicates, "quality child care services" has the meaning set forth in section 5219-Q, subsection 1.

**4. Refund.** The credit allowed by this section may result in a refund of up to \$500.'

Further amend the bill by striking out all of section 33 (page 16, lines 16 to 28 in L.D.)

Further amend the bill in section 39 in subsection 1 in the next to last line (page 19, line 14 in L.D.) by inserting after the following: "made" the following: 'for taxes assessed' and by inserting after the following: "more" the following: 'of'

Further amend the bill by inserting after section 43 the following:

**'Sec. 44. Application.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph M applies to tax years beginning on or after January 1, 2001.

**Sec. 45. Legislative intent.** That section of this Act that repeals the Maine Revised Statutes, Title 36, chapter 718 is intended to recognize that the provisions of that chapter making the effectiveness of certain industry tax increases contingent upon a referendum of the affected taxpayers is in violation of

2 the Maine Constitution. It is the further intent of the  
Legislature that Public Law 2001, chapter 147, increasing the tax  
4 on wild blueberries, take effect as provided in that Act without  
a referendum of the affected taxpayers.'

6 Further amend the bill by relettering or renumbering any  
nonconsecutive Part letter or section number to read  
8 consecutively.

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

12  
14 **FISCAL NOTE**

16 Extending the sales tax exemption provided to sales of items  
purchased with food stamps to include items purchased with Women,  
18 Infants and Children Special Supplemental Food Program  
instruments will result in minor decreases in General Fund  
20 revenue from slightly decreased sales and use tax collections.

22 Clarifying that reimbursements to certain taxpayers under  
the Personal Property Tax Reform program may not be made in the  
24 same year in which certain income tax credits are provided to  
those same taxpayers will result in minor savings in the Personal  
26 Property Tax Reform program.

28 The additional workload and administrative costs associated  
with the minimal number of new cases filed in the court system  
30 can be absorbed within the budgeted resources of the Judicial  
Department. The collection of additional fines may increase  
32 General Fund revenue by minor amounts.'

34  
36 **SUMMARY**

38 This amendment removes sections of the bill that are not  
recommended at this time and makes additional technical changes  
40 to various provisions in the tax laws.