

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 1870

S.P. 666

In Senate, December 14, 2001

An Act to Make Minor Substantive Changes to the Tax Laws.

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

Received by the Secretary of the Senate on December 14, 2001. Referred to the Committee on Taxation and ordered printed pursuant to Joint Rule 308.2

A handwritten signature in black ink that reads "Pamela L. Cahill".

PAMELA L. CAHILL
Secretary of the Senate

Presented by Senator GAGNON of Kennebec.
Cosponsored by Representative: GREEN of Monmouth.

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

2 **Sec. 1. 36 MRSA §141, sub-§2, ¶A**, as enacted by PL 1979, c.
4 378, §4, is amended to read:

6 A. An assessment may be made within 6 years from the date
8 the return was filed if the tax liability shown on the
10 return is less than 1/2 of the tax liability determined by
12 the State Tax Assessor and the additional liability is
14 attributable to information which that was required to be
16 reported but was not reported in the return or was reported
inaccurately. In the case of taxes assessed pursuant to
Part 3, an inaccurately reported transaction includes, but
is not limited to, a transaction that is listed on a return
as an exempt transaction when it should have been listed as
a taxable transaction.

18 **Sec. 2. 36 MRSA §1752, sub-§17-A, ¶G**, as amended by PL 2001,
20 c. 396, §21, is further amended to read:

22 G. Rental of video tapes media and video equipment;

24 **Sec. 3. 36 MRSA §1752, sub-§23**, as repealed and replaced by PL
1989, c. 871, §8, is amended to read:

26 **23. Video media; video equipment.** "Video tapes media"
28 means prerecorded magnetic tapes used for noncommercial playback
of images and sound on video equipment, ~~---It also includes, and~~
30 other electronic audio and video media that provide for
noncommercial interactive utilization by a person or persons,
32 including digital video discs. "Video equipment" means equipment
used to play back video tapes media, equipment used for recording
34 images and sound for subsequent noncommercial playback and
equipment used for noncommercial interactive utilization of
electronic audio and video media.

36 **Sec. 4. 36 MRSA §4362-A, sub-§§2 and 3**, as enacted by PL 1997,
38 c. 458, §3, are amended to read:

40 **2. Applications; forms.** An application for a distributor's
42 license must be made on a form prescribed and issued by the
assessor ~~and must be accompanied by a fee of \$250.~~ Licenses are
44 issued in the form prescribed by the assessor and must contain
the name and address of the license holder, the address of the
46 place of business and such other information as the assessor may
require for the proper administration of this chapter.

48 **3. Expiration and reissuance.** A distributor's license
50 expires one year from the 31st 30th day of ~~July~~ June next
succeeding the date of issuance unless sooner revoked by the

assessor pursuant to subsection 5 or unless the business with
2 respect to which the license was issued is sold, in either of
4 which cases the holder of the license shall immediately surrender
it to the assessor. ~~A license holder may submit an application
6 to the assessor before the expiration date for a renewal of the
license for a further period of 2 years, with the fee prescribed
by subsection 2.~~

8
10 **Sec. 5. 36 MRSA §4402**, as amended by PL 2001, c. 382 , §1,
is further amended to read:

12 **§4402. Licenses**

14 Every person engaging in the business of selling tobacco
16 products as a distributor, or as a retailer that brings into this
State or causes to be brought into this State tobacco products
18 upon which the tax imposed by this chapter has not been paid,
shall obtain a license from the State Tax Assessor before
engaging in that business. Every license application must be
20 made on a form prescribed by the assessor and must state the name
and address of the applicant, the address of the applicant's
22 principal place of business, and such other information as the
assessor may require for the proper administration of this
24 chapter. ~~The application must be accompanied by a fee of \$25,
except that a fee is not required for distributors or
26 unclassified importers licensed under chapter 703.~~ A person
outside the State who ships or transports tobacco products to
28 retailers in this State shall make application as a distributor
and be granted by the assessor a license subject to all the
30 provisions of this chapter and agree, upon applying for a
license, to submit that person's books, accounts and records to
32 examination by the bureau during reasonable business hours, and
to accept service of process by mail when service is made in any
34 proceeding involving enforcement of this chapter.

36 Each unclassified importer before importing, receiving or
acquiring tobacco products from outside the State shall obtain a
38 license from the State Tax Assessor. There is no fee for that
license.

40
42 A license issued pursuant to this section expires on July
~~31st~~ June 30th of each year unless sooner revoked by the State
Tax Assessor. The license must be prominently displayed on the
44 premises covered by the license and may not be transferred to any
other person.

46
48 The State Tax Assessor may revoke or suspend the license or
licenses of any person for violation of this chapter applicable
to the sale of tobacco products. A license may not be revoked,

2 canceled or suspended until after notice and hearing by the
3 assessor.

4 **Sec. 6. 36 MRSA §5219-R**, as amended by PL 1999, c. 708, §48,
5 is further amended to read:

6 **§5219-R. Credit for rehabilitation of historic**
7 **properties**

10 A taxpayer is allowed a credit against the tax imposed under
11 this Part equal to the amount of credit claimed by the taxpayer
12 for the taxable year under Section 47 of the Code with respect to
13 expenditures incurred after December 31, 1999 for a certified
14 historic structure located in the State. The credit is
15 nonrefundable and is limited to \$100,000 annually per taxpayer.
16 A credit received under this section is subject to the same
17 recapture provisions as apply to a credit received under Section
18 47 of the Code and to any available federal carry-back or
19 carry-forward provisions.

20 **Sec. 7. Application.** That section of this Act that amends the
21 Maine Revised Statutes, Title 36, section 141, subsection 2,
22 paragraph A applies to assessments made on or after the effective
23 date of this Act. That section of this Act that amends Title 36,
24 section 5219-R applies to tax years beginning on or after January
25 1, 2001.

28 **SUMMARY**

29 This bill accomplishes the following.

30
31
32 1. It amends the grounds for imposing a 6-year statute of
33 limitations for tax assessments in response to the Maine Supreme
34 Court's decision in Stromberg-Carlson v. State Tax Assessor.

35
36 2. It amends the sales tax law to make it clear that the
37 tax applies to the rental of digital video discs and similar
38 items as well as to the rental of video tapes.

39
40 3. It repeals the statutory provisions requiring cigarette
41 and tobacco product distribution license fees.

42
43 3. It amends the income tax credit provided in the Maine
44 Revised Statutes, Title 36, section 5219-R to provide that a
45 credit is not allowed for expenditures incurred prior to January
46 1, 2000 for tax years beginning on or after January 1, 2001.
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