

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1813

H.P. 1335

House of Representatives, December 22, 2003

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 Clerk of the House on December 17, 2003. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LEMOINE of Old Orchard Beach.
Cosponsored by Senator STANLEY of Penobscot and
Representatives: CLOUGH of Scarborough, LERMAN of Augusta, McGOWAN of Pittsfield,
SUSLOVIC of Portland, TARDY of Newport, Senator: NASS of York.

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

4 **Sec. 1. 36 MRSA §177, sub-§4**, as amended by PL 1999, c. 790,
Pt. A, §41, is further amended to read:

6 **4. Revocation for nonsegregation.** If any person who is a
"retailer" retailer under Part 3 or a fuel supplier, retailer,
8 distributor or importer subject to Part 5 fails to make the
required payments on account to the State Tax Assessor, the
10 assessor may revoke any registration certificate that has been
issued to that person. The revocation is reviewable in
12 accordance with section 151.

14 **Sec. 2. 36 MRSA §1760, sub-§23-C, ¶C**, as enacted by PL 1999,
c. 759, §2 and affected by §5, is amended to read:

16 C. Aircraft; and

18 **Sec. 3. 36 MRSA §1760, sub-§23-C, ¶D**, as enacted by PL 1999,
20 c. 759, §2 and affected by §5, is repealed.

22 **Sec. 4. 36 MRSA §4305**, as amended by PL 1997, c. 511, §14, is
further amended to read:

24 **§4305. Certification**

26
28 Every processor or shipper of wild blueberries shall obtain
certification from the State Tax Assessor ~~annually~~ before
processing or shipping wild blueberries. The assessor shall
30 provide the applications for the certification, which must
contain the name under which the processor or shipper is
32 transacting business in the State, the place or places of
business, the names and addresses of the persons constituting a
34 firm or partnership and, if a corporation, the corporate name and
names and addresses of its principal officers and agents in the
36 State. A processor or shipper may not process or ship wild
blueberries until the certification has been issued.
38 Certification may be suspended or revoked by the assessor for
failure to pay the tax imposed by section 4303 or for the filing
40 of false or fraudulent reports or returns. ~~All--certification~~
~~expires--each--year--on--June--30th.~~ A certificate issued by the
42 assessor pursuant to this section is not a license within the
meaning of that term in the Maine Administrative Procedure Act.

44 **Sec. 5. 36 MRSA §4365**, as amended by PL 2001, c. 439, Pt.
46 SSSS, §1 and affected by §4, is further amended to read:

48 **§4365. Rate of tax**

2 A tax is imposed on all cigarettes imported into this State
or held in this State by any person for sale at the rate of 47
4 mills for each cigarette. Payment of the tax is evidenced by the
affixing of stamps to the packages containing the cigarettes. If
6 ~~an individual purchases in any one month unstamped packages~~
containing cigarettes in a quantity greater than 2 cartons from a
7 ~~person other than a licensed distributor or dealer, the tax may~~
8 ~~be assessed directly against the purchaser by the State Tax~~
Assessor within 3 years from the date of the purchase.

10
12 **Sec. 6. 36 MRSA §4384** is enacted to read:

14 **§4384. Reporting and payment of tax**

16 A person who is not a licensed distributor or dealer who
imports, receives or otherwise acquires unstamped cigarettes for
18 use or consumption in the State in a quantity greater than 2
cartons in any one month from a person other than a licensed
20 distributor or dealer shall file, on or before the last day of
the month following each month in which unstamped cigarettes were
22 acquired, a return on a form prescribed by the State Tax Assessor
together with payment of the tax imposed by this chapter at the
24 rate provided in section 4365. The return must report the number
of unstamped cigarettes imported, received or otherwise acquired
26 during the previous calendar month and additional information the
assessor may require.

28 **Sec. 7. 36 MRSA §5122, sub-§2. ¶B**, as amended by PL 2003, c.
30 390, §31, is further amended to read:

32 B. An amount equal to the taxpayer's federal work
opportunity credit as determined under the Code, Section 51
34 or empowerment zone employment credit as determined under
the ~~laws of the United States Code, Section 1396~~;

36 **Sec. 8. 36 MRSA §5122, sub-§2. ¶L**, as repealed and replaced by
PL 2001, c. 358, Pt. CC, §1, is amended to read:

38 L. For income tax years beginning on or after January 1,
40 2000 and before January 1, 2004, an amount equal to the
total premiums spent for qualified long-term care insurance
42 contracts as defined in the Code, Section 7702B(b), as long
as the amount subtracted is reduced by the long-term care
44 premiums claimed as an itemized deduction pursuant to
section 5125. For income tax years beginning on or after
46 January 1, 2004, an amount equal to the total premiums spent
for qualified long-term care insurance contracts as defined
48 in the Code, Section 7702B(b), as long as the amount
subtracted is reduced by any amount claimed as a deduction
50 for federal income tax purposes in accordance with the

2 Code, Section 162(1) and by the long-term care premiums
3 claimed as an itemized deduction pursuant to section 5125;

4 **Sec. 9. 36 MRSA §5122, sub-§2, ¶T**, as reallocated by RR 2003,
5 c. 1, §37, is amended to read:

6
7 T. For income tax years beginning on or after January 1,
8 2002 and before January 1, 2004, an amount equal to the
9 total premiums spent for long-term care insurance policies
10 certified under Title 24-A, section 5075-A as long as the
11 amount subtracted is reduced by the long-term care premiums
12 claimed as an itemized deduction pursuant to section 5125.

13 For income tax years beginning on or after January 1, 2004,
14 an amount equal to the total premiums spent for qualified
15 long-term care insurance contracts certified under Title
16 24-A, section 5075-A, as long as the amount subtracted is
17 reduced by any amount claimed as a deduction for federal
18 income tax purposes in accordance with the Code, Section
19 162(1) and by the long-term care premiums claimed as an
20 itemized deduction pursuant to section 5125.

21
22 **Sec. 10. 36 MRSA §5200-A, sub-§2, ¶C**, as amended by PL 2003,
23 c. 390, §42, is further amended to read:

24
25 C. An amount equal to the taxpayer's federal work
26 opportunity credit as determined under the Code, Section 51
27 or empowerment zone employment credit as determined under
28 the laws-of-the-United-States Code, Section 1396;

29
30 **Sec. 11. Application.** Those sections of this Act that amend
31 the Maine Revised Statutes, Title 36, section 5122, subsection 2,
32 paragraphs B, L and T and section 5200-A, subsection 2, paragraph
33 C apply to tax years beginning on or after January 1, 2004.

34 35 36 37 38 **SUMMARY**

39
40 This bill makes the following changes to the laws governing
41 taxation.

42
43 The bill adds retailers of low-energy fuel to the categories
44 of persons who are subject to revocation of their registration
45 certificate if they fail to comply with a notice to segregate
46 trust fund taxes. The change was inadvertently omitted from
47 legislation enacted in the 119th Legislature that established
48 this new category of licensee under the Special Fuel Tax Act.

2 The bill repeals a sales tax exemption for truck bodies and
trailers manufactured in the State.

4 The bill eliminates the requirement for processors and
6 shippers of wild blueberries to file an annual application for
renewal of certification.

8 The bill establishes a requirement for persons who purchase
10 more than 2 cartons per month of unstamped cigarettes for
personal use to report and pay the cigarette tax directly to the
12 Department of Administrative and Financial Services, Bureau of
Revenue Services and clarifies that persons who fail to do so are
14 subject to the same assessment provisions as those liable for
other taxes.

16 The bill adds the federal empowerment zone employment credit
to those similar federal credits that are deductible from state
18 income for purposes of calculating Maine taxable income for
individuals and corporations and adds citations to the specific
20 provisions of the Internal Revenue Code that authorize the
credits. The changes apply to tax years beginning on or after
22 January 1, 2004.

24 The bill clarifies that premiums paid by self-employed
taxpayers for long-term care insurance may be used to reduce
26 Maine taxable income only to the extent that those premiums have
not already been deducted in arriving at federal adjusted gross
28 income. The change applies to tax years beginning on or after
January 1, 2004.
30