# MAINE STATE LEGISLATURE

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## 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

Legislative Document

No. 436

H.P. 321

House of Representatives, January 27, 2005

An Act To Eliminate Estate Taxes on Family-owned Businesses

Reference to the Committee on Taxation suggested and ordered printed.

Millient M. MacFARLAND
Clerk

Presented by Representative BOWEN of Rockport.
Cosponsored by Representative HANLEY of Paris, Senator COURTNEY of York and Representatives: BIERMAN of Sorrento, BOWLES of Sanford, McCORMICK of West Gardiner, RECTOR of Thomaston, TARDY of Newport, Senator: NASS of York.

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

Sec. 1. 36 MRSA \$4062, sub-\$1-A,  $\PA$ , as amended by PL 2003, c. 673, Pt. D, \$1, is further amended to read:

For the estates of decedents dying after December 31, 2002 and before January 1, 2005, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The adiusted taxable estate is to be determined using the applicable section of the Code as of the date of the decedent's death, except that the state death tax deduction contained in the Code, Section 2058 is to be disregarded. The unified credit is to be determined under the Code, Section 2010 as of December 31, 2000; and

#### Sec. 2. 36 MRSA §4062, sub-§1-A, ¶A-1 is enacted to read:

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A-1. For the estates of decedents dying on or after January 1, 2005, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The adjusted taxable estate is to be determined using the applicable section of the Code as of the date of the decedent's death, except that the state death tax deduction contained in the Code, Section 2058 is to be disregarded. The unified credit is to be determined under the Code, Section 2010 as of December 31, 2003; and

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- Sec. 3. 36 MRSA §4063, sub-§2, as amended by PL 2003, c. 673, Pt. D, §3, is further amended to read:
- 2. Values. All property values under subsection 1, paragraphs A and B are as finally determined for federal estate tax purposes, except that for estates of decedents dying after December 31, 2002 and before January 1, 2005 that do not incur a federal estate tax, all property values under subsection 1, paragraphs A and B are as finally determined by the assessor in accordance with the Code as if the estate had incurred a federal estate tax.

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Sec. 4. 36 MRSA §4064, first  $\P$ , as amended by PL 2003, c. 673, Pt. D, §4, is further amended to read:

A tax is imposed upon the transfer of real property and tangible personal property situated in this State and held by an individual who dies prior to January 1, 2002 or after December 31, 2002 and who at the time of death was not a resident of this When real or tangible personal property has been transferred into a trust, the tax imposed by this section applies as if the trust did not exist and the property was personally owned by the decedent. Maine property is subject to the tax imposed by this section to the extent that such property is included in the decedent's federal gross estate. The amount of this tax is a sum equal to that proportion of the federal credit that the value of Maine real and tangible personal property taxed in this State that qualifies for the credit bears to the value of the decedent's federal gross estate. All property values under this section are as finally determined for federal estate tax purposes, except that for estates of decedents dying after December 31, 2002 and before January 1, 2005 that do not incur a federal estate tax, all property values are as finally determined by the assessor in accordance with the Code as if the estate had incurred a federal estate tax. The share of the federal credit used to determine the amount of a nonresident individual's estate tax under this section is computed without regard to whether the specific real or tangible personal property located in the State is marital deduction property.

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30 SUMMARY

This bill amends Maine's estate tax to conform to federal provisions beginning in 2005.