

MAINE STATE LEGISLATURE

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R.S.

L.D. 1462

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TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1024, L.D. 1462, Bill, "An Act To Make Minor Substantive Changes to the Tax Laws"

Amend the bill in section 1 in the indented paragraph in the 2nd line (page 1, line 7 in L.D.) by inserting after the following: "employees of the" the following: 'Department of Administrative and Financial Services.'

Further amend the bill in section 1 in the indented paragraph in the next to the last line (page 1, line 14 in L.D.) by striking out the following: "any" and inserting in its place the following: 'a'

Further amend the bill by inserting after section 1 the following:

'Sec. 2. 5 MRSA §12004-K, sub-§11-A, as enacted by PL 1997, c. 411, §1, is repealed.'

Further amend the bill in section 3 in subsection 5-B in the 3rd and 4th lines (page 1, lines 36 and 37 in L.D.) by striking out the following: "5% of the tax due or \$50, whichever is greater" and inserting in its place the following: '\$50'

Further amend the bill by inserting after section 3 the following:

'Sec. 4. 36 MRSA §187-B, sub-§7, as amended by PL 2001, c. 396, §10, is further amended to read:

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2 **7. Reasonable cause.** For reasonable cause, the State Tax
Assessor shall waive or abate any penalty imposed by subsection
1; subsection 2, paragraphs A and B; subsections 4-A and 5-A and
4 5-B; or by the terms of the International Fuel Tax Agreement.
Reasonable cause includes, but is not limited to, the following:

6 A. The failure to file or pay resulted directly from
erroneous information provided by the Bureau of Revenue
8 Services;

10 B. The failure to file or pay resulted directly from the
12 death or serious illness of the taxpayer or a member of the
taxpayer's immediate family;

14 C. The failure to file or pay resulted directly from a
16 natural disaster;

18 D. A return that was due monthly was filed and paid less
20 than one month late and all of the taxpayer's returns and
payments during the preceding 12 months were timely;

22 E. A return that was due other than monthly was filed and
24 paid less than one month late and all of the taxpayer's
returns and payments during the preceding 3 years were
26 timely;

28 F. The taxpayer has supplied substantial authority
justifying the failure to file or pay; or

30 G. The amount subject to a penalty imposed by subsections
32 1, 2 and 4-A; and subsection 5-A is de minimis when
considered in relation to the amount otherwise properly
34 paid, the reason for the failure to file or pay and the
taxpayer's compliance history.

36 The burden of establishing grounds for waiver or abatement is on
the taxpayer.'

38 Further amend the bill by inserting after section 9 the
40 following:

42 '**Sec. 10. 36 MRSA §505, sub-§4**, as amended by PL 2001, c. 635,
§1, is further amended to read:

44 **4. When interest collected.** The date or dates from and
46 after which interest must accrue, which must also be the date or
dates on which taxes become delinquent. The rate of interest must
48 be specified in the vote and must apply to delinquent taxes
committed during the taxable year until those taxes are paid in
50 full. Except as provided in subsection 4-A, the maximum rate of

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2 interest must be established by the Treasurer of State and may
not exceed the ~~highest-conventional-rate-of-interest-charged-for~~
3 ~~commercial-unsecured-loans-by-Maine-banking-institutions-on-the~~
4 ~~first-business-day-of-the-calendar-year-the-vote-is-taken.~~ The
5 ~~highest-conventional-rate-of-interest-charged-for-commercial~~
6 ~~unsecured-loans-by-Maine-banking-institutions-on-the-first~~
7 ~~business-day-of-each-calendar-year-must-be-determined-by-the~~
8 prime rate as published in the Wall Street Journal on the first
9 day of September of the preceding calendar year or, if that day
10 falls on a weekend or holiday, on the next succeeding business
11 day, rounded up to the next whole percent plus 3 percentage
12 points. The Treasurer of State, who shall send a written notice
13 of that rate of interest on or before January 20th of each year
14 to the chief municipal officer of each municipality. The interest
15 must be added to and become part of the taxes.'

16 Further amend the bill by striking out all of sections 11,
17 12 and 13.

18 Further amend the bill in section 14 in that part designated
19 "§1811-B." by striking out all of the indented paragraph (page 8,
20 lines 22 to 32 in L.D.) and inserting in its place the following:

21 'A retailer registered under section 1754-B may claim a
22 credit for sales tax imposed by ~~chapters-211-to-225~~ this Part if
23 the retailer has paid the sales tax on an ~~item-that-it~~
24 ~~subsequently-resells~~ tangible personal property purchased for
25 resale at retail sale. The credit may be claimed only on the
26 return on which the sale of the item is reported that corresponds
27 to the period in which the tax was paid. The credit must be
28 claimed on a return filed within 5 years from the date on which
29 the retailer purchased the item and may not be claimed if the
30 item was used has been withdrawn from inventory by the retailer
31 for the retailer's own use prior to its sale. If the retailer
32 purchases an item for resale at retail sale and pays tax to its
33 vendor and if the retailer's sales and use tax liability for the
34 tax period in question is less than the credit being claimed, the
35 retailer is entitled either to carry the credit forward or to
36 receive a refund of the tax paid.'

37 Further amend the bill by inserting after section 14 the
38 following:

39 '**Sec. 15. 36 MRSA §2551, sub-§12,** as enacted by PL 2003, c.
40 673, Pt. V, §25 and affected by §29, is amended to read:

41 **12. Production.** "Production" means an operation or
42 integrated series of operations engaged in as a business or
43 segment of a business that transforms or converts personal
44 property by physical, chemical or other means into a form,
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2 composition or character different from that in which it
originally existed. "Production" includes film production.
4 "Production" includes manufacturing, processing, assembling and
fabricating operations that meet the definitional requisites,
6 including biological processes that are part of an integrated
process of manufacturing organisms or microorganic materials
through the application of biotechnology. "Production" does not
8 include biological processes except as otherwise provided by this
subsection, wood harvesting operations, the severance of sand,
10 gravel, oil, gas or other natural resources produced or severed
from the soil or water, or activities such as cooking or
12 preparing drinks, meals, food or food products by a retailer for
retail sale.'

14 Further amend the bill by striking out all of section 19.

16 Further amend the bill by striking out all of section 20 and
18 inserting in its place the following:

20 'Sec. 20. 36 MRSA §5142, sub-§2, ¶C, as enacted by PL 2005, c.
12, Pt. LLLL, §2, is amended to read:

22 C. Proceeds from any gambling activity conducted in this
24 State or lottery tickets purchased in this State, including
payments received by from a 3rd party for the transfer of
26 the rights to future proceeds related to any gambling
activity or lottery tickets.'

28 Further amend the bill in section 22 in subsection 8-A by
30 striking out all of paragraphs A and B (page 11, lines 25 to 38
in L.D.) and inserting in their place the following:

32 'A. Compensation received during any taxable year after
34 2003 for personal services performed in this State as an
employee prior to January 1, 2004 is Maine-source income
36 subject to taxation under this Part if the nonresident
taxpayer is present in the State performing the personal
38 services for more than 10 days during that taxable year.

40 B. Compensation received during any taxable year after 2003
for personal services performed in this State as an employee
42 after December 31, 2003 is Maine-source income subject to
taxation under this Part if the nonresident taxpayer was
44 present in the State performing personal services for more
than 10 days during the year in which the personal services
46 were performed.'

48 Further amend the bill by inserting after section 28 the
following:

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'Sec. 29. 36 MRSA c. 920, as amended, is repealed.'

Further amend the bill by striking out all of section 29 (page 13, lines 30 to 42 in L.D.) and inserting in its place the following:

'Sec. 29. Application. Those sections of this Act that enact the Maine Revised Statutes, Title 36, section 187-B, subsection 5-B and section 193, subsection 2, paragraphs A and B apply to returns filed for periods beginning on or after January 1, 2006. That section of this Act that amends Title 36, section 1811-B applies to sales occurring on or after September 1, 2005. That section of this Act that amends Title 36, section 5250-B, subsection 1, paragraph C applies to tax years beginning on or after January 1, 2005. Those sections of this Act that repeal Title 36, section 5142, subsection 8 and enact Title 36, section 5142, subsection 8-A apply to tax years beginning on or after January 1, 2004.'

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

SUMMARY

This amendment makes technical corrections, adds new minor substantive changes to the tax laws and deletes sections that are unnecessary, duplicative of changes in other bills or considered not to be minor.