

MAINE STATE LEGISLATURE

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R. d. S.

L.D. 1546

DATE: 5/17/05

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TAXATION

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14 **STATE OF MAINE**
16 **HOUSE OF REPRESENTATIVES**
18 **122ND LEGISLATURE**
20 **FIRST SPECIAL SESSION**

22 COMMITTEE AMENDMENT "A" to H.P. 1087, L.D. 1546, Bill, "An
24 Act Concerning Technical Changes to the Tax Laws"

26 Amend the bill in section 13 in subsection 7-C in the 3rd
28 line (page 4, line 46 in L.D.) by striking out the following:
30 "Code" and inserting in its place the following: 'Service'

32 Further amend the bill by striking out all of section 15 and
34 inserting in its place the following:

36 '**Sec. 15. 36 MRSA §1752, sub-§11, ¶B,** as amended by PL 2005,
38 Pt. TTT, §1 and affected by §4, is further amended to read:

40 B. "Retail sale" does not include:

42 (1) Any casual sale;

44 (2) Any sale by a personal representative in the
settlement of an estate, unless the sale is made
through a retailer, or unless the sale is made in the
continuation or operation of a business;

(3) The sale, to a person engaged in the business of
renting automobiles, of automobiles, integral parts of
automobiles or accessories to automobiles, for rental
or for use in an automobile rented on a short-term
basis;

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 1087, L.D. 1546

- 2 (4) The sale, to a person engaged in the business of
renting ~~audio--or~~ video media and ~~audio--or~~ video
4 equipment, of ~~audio--or~~ video media ~~or--audio~~ or video
equipment for rental;
- 6 (5) The sale, to a person engaged in the business of
8 renting or leasing automobiles, of automobiles for
rental or lease for one year or more;
- 10 (6) The sale, to a person engaged in the business of
12 providing cable or satellite television services, of
associated equipment for rental or lease to subscribers
14 in conjunction with a sale of extended cable or
extended satellite television services; or
- 16 (7) The sale, to a person engaged in the business of
18 renting furniture, or audio media and audio equipment
of furniture, audio media or audio equipment for rental
20 pursuant to a rental-purchase agreement as defined in
Title 9-A, section 11-105.'

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

26 'Sec. 18. 36 MRSA §1754-B, sub-§1, ¶D, as enacted by PL 1995,
c. 640, §3, is amended to read:

28 D. Every ~~consignee,--agent--or--salesperson~~ person that makes
30 retail sales in this State of tangible personal property or
taxable services on behalf of a principal that is outside of
32 this State if the principal is not the holder of a valid
registration certificate;

34 Sec. 19. 36 MRSA §1754-B, sub-§1, ¶F, as amended by PL 2005, c.
36 12, Pt. O, §2 and affected by §5, is further amended to read:

38 F. Every person that manages or operates in the regular
course of business or on a casual basis a hotel, rooming
40 house or tourist or trailer camp in this State or that
collects or receives rents from a hotel, rooming house or
42 tourist or trailer camp in this State; and'

44 Further amend the bill by striking out all of section 21.

46 Further amend the bill in section 22 in subsection 25 in the
3rd line from the end (page 8, line 29 in L.D.) by striking out
48 the following: "~~domestic--or--foreign~~" and inserting in its place

2 the following: 'domestic or foreign' and in the next to last
line (page 8, line 30 in L.D.) by striking out the following:
4 "~~domestic or foreign~~" and inserting in its place the following:
'domestic or foreign'

6 Further amend the bill by inserting after section 24 the
following:

8
10 'Sec. 25. 36 MRSA §1764, as amended by PL 2005, c. 12, Pt. O,
§3 and affected by §5, is further amended to read:

12 **§1764. Tax against certain casual sales**

14 The tax imposed by chapters 211 to 225 must be levied upon
16 all casual rentals of living quarters in a hotel, rooming house
or tourist or trailer camp and upon all casual sales involving
18 the sale of camper trailers, truck campers, motor vehicles,
special mobile equipment except farm tractors and lumber
20 harvesting vehicles or loaders, livestock trailers, watercraft or
aircraft except those sold for resale at retail sale or to a
22 corporation, partnership, limited liability company or limited
liability partnership when the seller is the owner of a majority
of the common stock of the corporation or of the ownership
24 interests in the partnership, limited liability company or
limited liability partnership. This section does not apply to
26 the rental of living quarters ~~when that rental is rented~~ for a
total of fewer than 15 days each in the calendar year, except
28 that a person who owns and offers for rental more than one
property in the State during the calendar year is liable for
30 collecting sales tax with respect to the rental of each unit
regardless of the number of days for which it is rented.'

32 Further amend the bill by inserting after section 28 the
34 following:

36 'Sec. 29. 36 MRSA §2513, first ¶, as amended by PL 2003, c. 20,
Pt. CC, §1 and affected by §3, is further amended to read:

38
40 Every insurance company or association that does business or
collects premiums or assessments including annuity considerations
42 in the State, ~~except those mentioned in section 2517~~, including
surety companies and companies engaged in the business of credit
44 insurance or title insurance, shall, for the privilege of doing
business in this State, and in addition to any other taxes
46 imposed for such privilege pay a tax upon all gross direct
premiums including annuity considerations, whether in cash or
48 otherwise, on contracts written on risks located or resident in
the State for insurance of life, annuity, fire, casualty and
other risks at the rate of 2% a year. Every surplus lines
50 insurer that does business or collects premiums in the State

2 shall, for the privilege of doing business in this State, and in
3 addition to any other taxes imposed for such privilege, pay a tax
4 upon all gross direct premiums, whether in cash or otherwise, on
5 contracts written on risks located or resident in the State at
6 the rate of 3% a year. The tax must be paid by the insurer's
7 licensed producer with surplus lines authority pursuant to Title
8 24-A, section 2016. For purposes of this section, the term
9 "annuity considerations" includes amounts paid to an insurance
10 company when received for the purchase of a contract that may
11 result in an annuity, even when the annuitization never occurs or
12 does not occur until some time in the future and the amounts are
13 in the meantime applied to an investment vehicle other than an
14 annuity. This section does not apply to mutual fire insurance
15 companies under section 2517 or to captive insurance companies
16 incorporated under the laws of another state.

17 **Sec. 30. 36 MRSA §2521-A, first ¶**, as amended by PL 1997, c.
18 435, §5, is further amended to read:

19 Every insurance company, captive insurance company,
20 association, producer or attorney-in-fact of a reciprocal insurer
21 subject to tax as imposed by this chapter shall on or before the
22 last day of each April, the 25th day of each June and the last
23 day of each October file with the State Tax Assessor on forms
24 prescribed by the State Tax Assessor a return for the quarter
25 ending the last day of the preceding month, except for the month
26 of June, which is for the quarter ending June 30th. These returns
27 may be on an estimated basis, as long as each April and June
28 installment equals at least 35% of the total tax paid for the
29 preceding calendar year or 35% of the total tax to be paid for
30 the current calendar year. The remaining installments must equal
31 15% of the total tax to be paid for the preceding calendar year
32 or 15% of the total tax to be paid for the current year. An
33 authorized company official shall affirm which elective is
34 selected. Such elective can not be changed during the current
35 calendar year. The final return must be filed on or before March
36 15th covering the prior calendar year.'

37 Further amend the bill by striking out all of sections 39
38 and 40 and inserting in their place the following:

39 **'Sec. 39. 36 MRSA §4064, first ¶**, as amended by PL 2005, c. 12,
40 Pt. M, §1 and affected by §2, is further amended to read:

41 A tax is imposed upon the transfer of real property and
42 tangible personal property situated in this State and held by an
43 individual who dies prior to January 1, 2002 or after December
44 31, 2002 and who at the time of death was not a resident of this
45 State. When real or tangible personal property has been
46 transferred into a trust or a limited liability company or other
47

2 pass-through entity, the tax imposed by this section applies as
4 if the trust or limited liability company or other pass-through
6 entity did not exist and the property was personally owned by the
8 decedent. Maine property is subject to the tax imposed by this
10 section to the extent that such property is included in the
12 decedent's federal gross estate. The amount of this tax is a sum
14 equal to that proportion of the federal credit that the value of
16 the decedent's Maine real and tangible personal property ~~taxed in~~
18 ~~this State that qualifies for the credit~~ bears to the value of
20 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 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.

22 **Sec. 40. 36 MRSA §4068**, as amended by PL 2005, c. 12, Pt. N,
24 §3 and affected by §4, is further amended to read:

26 **§4068. Tax due date; filing of return and payment of tax**

28 **1. Date due.** ~~The tax imposed by this chapter~~ Except as
30 otherwise provided by this chapter, a return required by this
32 section is due 9 months after the date of the decedent's death
and any tax due under this chapter is due at the same time.
Interest shall ~~accrue~~ accrue on any amount of tax not paid by
that ~~the~~ due date.

34 **2. Return required.** ~~In all cases where there is a Maine~~
36 ~~estate tax liability, the~~ The personal representative shall pay
38 ~~the tax imposed by this chapter and~~ file a Maine estate tax
~~return within 9 months after the decedent's death. The return~~
40 ~~must be in the form prescribed by the State Tax Assessor and it~~
~~must be accompanied by a copy of the federal estate tax return,~~
~~if any, and other supporting documentation that the assessor may~~
~~require, whenever:~~

42 A. The Code requires that a federal estate tax return be
44 filed; or

46 B. The federal gross estate, increased by the amount of
48 adjusted taxable gifts made by the decedent after December
31, 1976 and by the aggregate amount of any specific gift
tax exemption under former Code, Section 2521 used by the

2 decedent after September 8, 1976 exceed the exclusion and
3 related unified credit amounts specified in section 4062,
4 subsection 1-A.

5 The return must be in the form prescribed by the State Tax
6 Assessor and it must be accompanied by a copy of the federal
7 estate tax return, if any, and by other supporting documentation
8 that the assessor may require.

9 **3. No tax liability.** In all cases where ~~there is no a~~ Maine
10 estate tax liability return is not required to be filed:

11 A. If the personal representative makes no election pursuant
12 to section 4062, subsection 2-B, the personal
13 representative, surviving joint tenant of real estate or any
14 other person whose real estate might be subject to a lien
15 for taxes pursuant to this chapter may at any time file with
16 the assessor in the form prescribed by the assessor a
17 statement of the value of the federal gross estate; and

18 B. If the personal representative makes an election pursuant
19 to section 4062, subsection 2-B, the personal representative
20 shall make such election on a timely filed return. The
21 return must be in the form prescribed by the assessor and it
22 must be accompanied by a copy of the federal estate tax
23 return, if any, and other supporting documentation that the
24 assessor may require, including documentation related to an
25 election made pursuant to section 4062, subsection 2-B.'

26 Further amend the bill by striking out all of section 48 and
27 inserting in its place the following:

28 **'Sec. 48. 36 MRSA §5122, sub-§1, ¶N,** as amended by PL 2005, c.
29 12, Pt. P, §2 and affected by §10, is further amended to read:

30 N. With respect to property placed in service during the
31 taxable year, an amount equal to the net increase in
32 depreciation or expensing attributable to:

33 (1) For taxable years beginning on or after January 1,
34 2002 but prior to January 1, 2006, a 30% bonus
35 depreciation deduction claimed by the taxpayer pursuant
36 to Section 101 of the federal Job Creation and Worker
37 Assistance Act of 2002, Public Law 107-147 with respect
38 to property placed in service during the taxable year;

39 (2) For taxable years beginning on or after January 1,
40 2002 but prior to January 1, 2006, a 50% bonus
41 depreciation deduction claimed by the taxpayer pursuant
42 to Section 201 of the federal Jobs and Growth Tax
43

2 Relief Reconciliation Act of 2003, Public Law 108-27
with respect to property placed in service during the
taxable year; and

4
6 (3) For taxable years beginning on or after January 1,
2003 but prior to January 1, 2008, the increase in
aggregate cost elaimed used under Section 179 of the
8 Code pursuant to Section 202 of the federal Jobs and
Growth Tax Relief Reconciliation Act of 2003, Public
10 Law 108-27 or pursuant to Section 201 of the federal
American Jobs Creation Act of 2004, Public Law 108-357;'

12
14 Further amend the bill by striking out all of section 51 and
inserting in its place the following:

16 'Sec. 51. 36 MRSA §5200-A, sub-§1, ¶N, as amended by PL 2005,
18 c. 12, Pt. P, §7 and affected by §10, is further amended to read:

20 N. With respect to property placed in service during the
taxable year, an amount equal to the net increase in
depreciation or expensing attributable to:

22
24 (1) For taxable years beginning on or after January 1,
2002 but prior to January 1, 2006, a 30% bonus
depreciation deduction claimed by the taxpayer pursuant
26 to Section 101 of the federal Job Creation and Worker
Assistance Act of 2002, Public Law 107-147 with respect
28 to property placed in service during the taxable year;

30 (2) For taxable years beginning on or after January 1,
2002 but prior to January 1, 2006, a 50% bonus
depreciation deduction claimed by the taxpayer pursuant
32 to Section 201 of the federal Jobs and Growth Tax
Relief Reconciliation Act of 2003, Public Law 108-27
34 with respect to property placed in service during the
taxable year; and

36
38 (3) For taxable years beginning on or after January 1,
2003 but prior to January 1, 2008, the increase in
aggregate cost elaimed used under Section 179 of the
40 Code pursuant to Section 202 of the federal Jobs and
Growth Tax Relief Reconciliation Act of 2003, Public
42 Law 108-27 or pursuant to Section 201 of the federal
44 American Jobs Creation Act of 2004, Public Law 108-357;'

46 Further amend the bill by striking out all of sections 59
and 60 and inserting in its place the following:

2 'Sec. 59. P&SL 1999, c. 39, §1 is repealed.'

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

8

SUMMARY

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12 This amendment corrects provisions in the bill, adds new
14 technical changes identified after the bill was printed and
removes provisions considered unnecessary or not technical in
nature.

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