

MAINE STATE LEGISLATURE

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DATE: 3-28-06

(Filing No. S-530)

TAXATION

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STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 666, L.D. 1749, Bill, "An Act To Clarify the Taxable Status of Processing Fees Charged in Connection with Cancelled Lodging Reservations"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 36 MRSA §1752, sub-§14, ¶B, as amended by PL 2003, c. 673, Pt. V, §16 and affected by §29, is further amended to read:

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;
- (3) The price of property returned by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, motel, restaurant or other eating establishment to its employees as wages;

2 (6) The amount of any tax imposed by the United States
4 on or with respect to retail sales, whether imposed
6 upon the retailer or the consumer, except any
manufacturers', importers', alcohol or tobacco excise
tax;

8 (7) The cost of transportation from the retailer's
10 place of business or other point from which shipment is
12 made directly to the purchaser, provided that those
charges are separately stated and the transportation
occurs by means of common carrier, contract carrier or
the United States mail;

14 (8) The fee imposed by Title 10, section 1169,
16 subsection 11;

18 (9) The fee imposed by section 4832, subsection 1; or

20 (10) The lead-acid battery deposit imposed by Title
22 38, section 1604, subsection 2-B; or

24 (11) Any amount charged or collected by a person
engaged in the rental of living quarters as a forfeited
room deposit or cancellation fee if the prospective
occupant of the living quarters cancels the reservation
on or before the scheduled date of arrival.

28 **Sec. 2. Retroactivity; application.** This Act applies to amounts
30 charged or collected as forfeited deposits or cancellation fees
on or after January 1, 2001 except that a person who has paid
32 sales tax on forfeited deposits or cancellation fees on or after
January 1, 2001 but prior to the effective date of this Act is
34 not entitled to a refund of the sales tax paid as a result of the
operation of this Act. A person who has collected sales tax on
36 forfeited deposits or cancellation fees on or after January 1,
2001 shall remit the tax as required by the Maine Revised
38 Statutes, Title 36, chapter 219.'

40 SUMMARY

42 This amendment clarifies the taxable status of forfeited
44 deposits and cancellation fees for rental of living quarters
under the sales tax by providing that those deposits or fees are
46 not subject to sales tax if the rental is cancelled on or before
the scheduled date of arrival. The amendment makes this
48 clarification retroactive to January 1, 2001 and provides that a
person who has paid or collected sales tax on forfeited deposits
50 or cancellation fees is not entitled to a refund.

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 1749

LR 2802(02)

An Act To Clarify the Taxable Status of Processing Fees Charged in Connection with Cancelled Lodging Reservations

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$9,490	\$4,740	\$5,925
Revenue				
General Fund	\$0	(\$9,490)	(\$4,740)	(\$5,925)
Other Special Revenue Funds	\$0	(\$510)	(\$260)	(\$325)

Fiscal Detail and Notes

The General Fund revenue loss associated with a sales tax exemption for forfeited room deposits is estimated to be \$9,490 in fiscal year 2006-07.