

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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No. 1504

H.P. 1054

House of Representatives, March 19, 2007

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.

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PIOTTI of Unity.
Cosponsored by Senator PERRY of Penobscot.

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

2 **Sec. 1. 30-A MRSA §5681, sub-§2, ¶C**, as amended by PL 2005, c. 2, Pt. G, §1
3 and affected by §2, is further amended to read:

4 C. "Annual growth ceiling" for fiscal year 2005-06 means \$100,000,000. For
5 subsequent fiscal years, "annual growth ceiling" must be determined by the State Tax
6 Assessor by September 1st annually and means the annual growth ceiling for the
7 previous fiscal year adjusted by the lower of the ~~increase~~ percentage change for the
8 previous fiscal year in the Consumer Price Index ~~or compared to the fiscal year~~
9 immediately preceding the previous fiscal year and the increase percentage change in
10 receipts for the previous fiscal year from the taxes imposed under Title 36, Parts 3
11 and 8 and Title 36, section 2552, subsection 1, paragraphs A to F and credited to the
12 General Fund compared to the fiscal year immediately preceding the previous fiscal
13 year. The annual growth ceiling may not be less than the annual growth ceiling for
14 the previous year.

15 **Sec. 2. 36 MRSA §182, sub-§1**, as enacted by PL 2001, c. 583, §8, is amended to
16 read:

17 **1. Generally.** The State Tax Assessor may, through the Attorney General, file an
18 action in Superior Court applying for an order to enjoin from doing business any person
19 who has:

20 A. Failed to register with the ~~bureau~~ assessor when the person is required to register
21 by any provision of Part 3 ~~or, chapter 358 or~~ Part 5 or by any rule adopted pursuant to
22 this Title, ~~provided that as long as~~ the assessor has provided written notice and the
23 person continues to fail to register 15 days after receiving notice from the assessor of
24 such failure;

25 B. Failed to file with the assessor any overdue return required by Part 3 ~~or, chapter~~
26 358 or Part 5 within 15 days after receiving notice from the assessor of such failure;

27 C. Failed to pay any tax required by Part 3 ~~or, chapter 358 or~~ Part 5 when the tax is
28 shown to be due on a return filed by that person, or that is otherwise conceded by that
29 person to be due, or has been determined by the assessor to be due and that
30 determination has become final;

31 D. Knowingly filed a false return required by Part 3 ~~or, chapter 358 or~~ Part 5; or

32 E. Failed to deduct and withhold, or truthfully account for or pay over or make
33 returns of, income taxes in violation of the provisions of chapter 827.

34 **Sec. 3. 36 MRSA §187-B, sub-§1-A** is enacted to read:

35 **1-A. Failure to file information return.** Any partnership or S corporation that fails
36 to make and file an information return required by section 5241 and that has received
37 from the assessor a formal demand that the return be filed is liable for one of the
38 following penalties:

1 A. If the return is filed within 30 days after the partnership or S corporation receives
2 from the assessor a formal demand that the return be filed, the penalty is \$100. The
3 30-day period provided by this paragraph is extended for up to 120 days if the
4 partnership or S corporation requests an extension in writing prior to the expiration of
5 the 30-day period; or

6 B. Except as provided in paragraph A, if the return is not filed within 30 days after
7 the partnership or S corporation receives from the assessor a formal demand that the
8 return be filed, the penalty is \$500.

9 **Sec. 4. 36 MRSA §187-B, sub-§4-B** is enacted to read:

10 **4-B. Excessive refund.** A person who files a claim for refund or reimbursement
11 under Part 5 that is the basis for the receipt of a refund or reimbursement that
12 substantially exceeds the amount to which the person is legally entitled is liable for a
13 penalty of \$5 or 1% of the excess amount, whichever is greater, for each month or
14 fraction of a month during which the failure to repay that portion of the refund or
15 reimbursement continues, to a maximum in the aggregate of \$25 or 25% of the
16 overpayment, whichever is greater. For purposes of this subsection, a refund or
17 reimbursement substantially exceeds the amount to which the person is legally entitled if
18 the amount of the refund or reimbursement exceeds the amount to which the person is
19 legally entitled by more than 10% of the corrected amount or \$1,000, whichever is
20 greater. For purposes of this subsection, the amount by which a refund or reimbursement
21 exceeds the amount to which the person is legally entitled and the excess amount that is
22 subject to penalty under this subsection must be reduced by any portion of the excessive
23 claim for which the person has substantial authority supporting its position.

24 **Sec. 5. 36 MRSA §187-B, sub-§7**, as amended by PL 2005, c. 332, §5, is further
25 amended to read:

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

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

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

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

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

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

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

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

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

8 **Sec. 6. 36 MRSA §193, sub-§2**, as enacted by PL 2005, c. 332, §10 and affected
9 by §30, is amended to read:

10 **2. Electronic filing.** The State Tax Assessor may allow or, as provided in this
11 subsection, require the filing of a return or document by electronic data submission ~~or by~~
12 ~~telephone.~~

13 A. In the case of ~~an employer~~ a person that withholds tax pursuant to section 5250 or
14 5255-B and that submits returns in accordance with section 5253 with respect to 100
15 or more employees at a minimum the threshold number of payees as provided by
16 paragraph E, whether the returns are submitted directly by the ~~employer~~ person or by
17 a 3rd party on behalf of the ~~employer~~ person, the assessor may require that the returns
18 be filed by electronic data submission.

19 B. In the case of a payroll processor as defined in Title 10, chapter 222 that submits
20 returns pursuant to section 5253 or Title 26, chapter 13, subchapter 7 for ~~100 or more~~
21 at a minimum the threshold number of employers as provided by paragraph E, the
22 assessor may require that the returns be filed by electronic data submission.

23 C. In the case of a person that prepared at a minimum the threshold number of
24 returns as provided by paragraph E for compensation in the previous calendar year,
25 the assessor may require that the returns be filed by electronic data submission.

26 D. In the case of a person that is required pursuant to subsection 3 to make payment
27 of any tax by electronic funds transfer, on or after January 1, 2009 the assessor may
28 require that person to file returns associated with that tax by electronic data
29 submission.

30 E. In the case of returns that are required to be filed:

31 (1) Before January 1, 2009, the threshold number of payees under paragraph A
32 and of employers under paragraph B is 100, and the assessor may not require
33 electronic filing with respect to other payees under paragraph A or for returns
34 under paragraph C;

35 (2) On or after January 1, 2009 but before January 1, 2010, the threshold number
36 is 75; and

37 (3) On or after January 1, 2010, the threshold number is 50.

38 **Sec. 7. 36 MRSA §193, sub-§3, ¶A**, as enacted by PL 2005, c. 332, §10, is
39 amended to read:

1 A. In the case of a person that is liable for ~~\$200,000 or more per year pursuant to~~
2 ~~section 5253 or for \$400,000~~ \$100,000 or more per year in payments of any other
3 single tax type, the assessor may require payment or refund of that tax by elect. the
4 funds transfer.

5 **Sec. 8. 36 MRSA §653, sub-§1, ¶D-1**, as amended by PL 2005, c. 622, §4, is
6 further amended to read:

7 D-1. The estates up to the just value of \$50,000, having a taxable situs in the place of
8 residence, for specially adapted housing units, of veterans who served in the Armed
9 Forces of the United States during any federally recognized war period, including the
10 Korean Campaign, the Vietnam War ~~and~~, the Persian Gulf War ~~and the periods from~~
11 August 24, 1982 to July 31, 1984 and December 20, 1989 to January 31, 1990, or
12 who were awarded the Armed Forces Expeditionary Medal, and who are paraplegic
13 veterans within the meaning of 38 United States Code, Chapter 21, Section 2101, and
14 who received a grant from the United States Government for any such housing, or of
15 the unmarried widows or widowers of ~~such those~~ veterans. A veteran of the
16 Vietnam War must have served on active duty for a period of more than 180 days,
17 any part of which occurred after February 27, 1961 and before May 8, 1975 ~~in the~~
18 ~~case of a veteran who served in the Republic of Vietnam during that period and after~~
19 ~~August 4, 1964 and before May 7, 1975 in all other cases~~, unless the veteran died in
20 service or was discharged for a service-connected disability after that date. ~~"Vietnam~~
21 ~~War" means the period between August 5, 1964 and May 7, 1975 and the period~~
22 ~~beginning on February 28, 1961 and ending on May 7, 1978 in the case of a veteran~~
23 ~~who served in the Republic of Vietnam during that period.~~ "Persian Gulf War"
24 means service on active duty on or after August ~~7~~ 2, 1990 and before or on the date
25 that the United States Government recognizes as the end of that war period. The
26 exemption provided in this paragraph applies to the property of the veteran including
27 property held in joint tenancy with a spouse or held in a revocable living trust for the
28 benefit of that veteran.

29 **Sec. 9. 36 MRSA §691, sub-§1, ¶A**, as enacted by PL 2005, c. 623, §1, is
30 amended to read:

31 A. "Eligible business equipment" means qualified property that, in the absence of
32 this subchapter, would first be subject to assessment under this Part on or after April
33 1, 2008. "Eligible business equipment" includes, without limitation, repair parts,
34 replacement parts, replacement equipment, additions, accessions and accessories to
35 other qualified business property that first became subject to assessment under this
36 Part before April 1, 2008 if the part, addition, equipment, accession or accessory
37 would, in the absence of this subchapter, first be subject to assessment under this Part
38 on or after April 1, 2008. "Eligible business equipment" also includes inventory
39 parts.

40 "Eligible business equipment" does not include:

41 (1) Office furniture, including, without limitation, tables, chairs, desks,
42 bookcases, filing cabinets and modular office partitions;

- 1 (2) Lamps and lighting fixtures used primarily for the purpose of providing
2 general purpose office or worker lighting;
- 3 (3) Property owned or used by an excluded person;
- 4 (4) Telecommunications personal property subject to the tax imposed by section
5 457;
- 6 (5) Gambling machines or devices, including any device, machine, paraphernalia
7 or equipment that is used or usable in the playing phases of any gambling activity
8 as that term is defined in Title 8, section 1001, subsection 15, whether that
9 activity consists of gambling between persons or gambling by a person involving
10 the playing of a machine. "Gambling machines or devices" includes, without
11 limitation:
- 12 (a) Associated equipment as defined in Title 8, section 1001,
13 subsection 2;
- 14 (b) Computer equipment used directly and primarily in the operation
15 of a slot machine as defined in Title 8, section 1001, subsection 39;
- 16 (c) An electronic video machine as defined in Title 17, section 330,
17 subsection 1-A;
- 18 (d) Equipment used in the playing phases of lottery schemes; and
- 19 (e) Repair and replacement parts of a gambling machine or device; ~~or~~
- 20 (6) Property located at a retail sales facility and used primarily in a retail sales
21 activity unless the property is owned by a business that operates a retail sales
22 facility in the State exceeding 100,000 square feet of interior customer selling
23 space that is used primarily for retail sales and whose Maine-based operations
24 derive less than 30% of their total annual revenue on a calendar year basis from
25 sales that are made at a retail sales facility located in the State. For purposes of
26 this subparagraph, the following terms have the following meanings:
- 27 (a) "Primarily" means more than 50% of the time;
- 28 (b) "Retail sales activity" means an activity associated with the
29 selection and purchase of goods or services or the rental of tangible
30 personal property. "Retail sales activity" does not include production
31 as defined in section 1752, subsection 9-B; and
- 32 (c) "Retail sales facility" means a structure used to serve customers
33 who are physically present at the facility for the purpose of selecting
34 and purchasing goods or services at retail or for renting tangible
35 personal property. "Retail sales facility" does not include a separate
36 structure that is used as a warehouse or call center facility; or
- 37 (7) Property that is not entitled to an exemption by reason of the additional
38 limitations imposed by subsection 2.

1 **Sec. 10. 36 MRSA §693, sub-§1**, as enacted by PL 2005, c. 623, §1, is amended
2 to read:

3 **1. Reporting.** On or before May 1st of each year, a taxpayer claiming an exemption
4 under this section shall file a report with the assessor of the taxing jurisdiction in which
5 the property would otherwise be subject to taxation. The report must identify the
6 property for which exemption is claimed and must be made on a form prescribed by the
7 State Tax Assessor or substitute form approved by the State Tax Assessor. The State Tax
8 Assessor shall furnish copies of the form to each municipality in the State and the form
9 must be made available to taxpayers prior to April 1st annually. The assessor of the
10 taxing jurisdiction may require the taxpayer to sign the form and make oath to its truth.
11 Upon written request, the assessor may at any time grant extensions of time to file the
12 report. ~~Failure~~ If a taxpayer fails to file the report in a timely manner, including any
13 extensions of time, disqualifies the taxpayer may not obtain an exemption for that
14 property involved from exemption under this subchapter for that tax year. The assessor
15 of the taxing jurisdiction may require in writing that a taxpayer answer in writing all
16 reasonable inquiries as to the property for which exemption is requested. A taxpayer has
17 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is
18 entitled to a 30-day extension to respond to the inquiry and the assessor may at any time
19 grant additional extensions upon written request. The answer to any such inquiry is not
20 binding on the assessor.

21 All notices and requests provided pursuant to this subsection must be made by personal
22 delivery or certified mail and must conspicuously state the consequences of the taxpayer's
23 failure to respond to the notice or request in a timely manner.

24 If an exemption has already been accepted and the State Tax Assessor subsequently
25 determines that the property is not entitled to exemption, a supplemental assessment must
26 be made within 3 years of the original assessment date with respect to the property in
27 compliance with section 713, without regard to the limitations contained in that section
28 regarding the justification necessary for a supplemental assessment.

29 **Sec. 11. 36 MRSA §1752, sub-§1-D**, as amended by PL 2005, c. 218, §12, is
30 further amended to read:

31 **1-D. Casual sale.** "Casual sale" means an isolated transaction in which tangible
32 personal property or a taxable service is sold other than in the ordinary course of repeated
33 and successive transactions of like character by the person making the sale. "Casual sale"
34 includes transactions at a bazaar, fair, rummage sale, picnic or similar event by a civic,
35 religious or fraternal organization that is not a registered retailer. The sale by a registered
36 retailer of tangible personal property that that retailer has used in the course of the
37 retailer's business is not a casual sale if that property is of like character to that sold by the
38 retailer in the ordinary course of repeated and successive transactions. "Casual sale" does
39 not include any transaction in which a retailer sells tangible personal property or a taxable
40 service on behalf of the owner of that property or the provider of that service. "Casual
41 sale" does not include the sale or liquidation of a business or the sale of substantially all
42 of the assets of a business to the extent that the seller purchased the assets of the business
43 for resale, lease or rental in the ordinary course of business.

1 **Sec. 12. 36 MRSA §1752, sub-§11, ¶A**, as amended by PL 2005, c. 218, §14, is
2 further amended to read:

3 A. "Retail sale" includes:

4 (1) Conditional sales, installment lease sales and any other transfer of tangible
5 personal property when the title is retained as security for the payment of the
6 purchase price and is intended to be transferred later; ~~and~~

7 (2) Sale of products for internal human consumption to a person for resale
8 through vending machines when sold to a person more than 50% of whose gross
9 receipts from the retail sale of tangible personal property are derived from sales
10 through vending machines. The tax must be paid by the retailer to the State; and

11 (3) Any sale in the ordinary course of business by a retailer to a purchaser who is
12 not engaged in selling that kind of tangible personal property or taxable service in
13 the ordinary course of repeated and successive transactions of like character.

14 **Sec. 13. 36 MRSA §1760-C**, as amended by PL 2005, c. 622, §9, is further
15 amended to read:

16 **§1760-C. Exempt activities**

17 The tax exemptions provided by section 1760 to a person based upon its charitable,
18 nonprofit or other public purposes apply only if the property or service purchased is
19 intended to be used by the person primarily in the activity identified by the particular
20 exemption. The tax exemptions provided by section 1760 to a person based upon its
21 charitable, nonprofit or other public purposes do not apply where title is held or taken by
22 the person as security for any financing arrangement. Exemption certificates issued by
23 the State Tax Assessor pursuant to section 1760 must identify the exempt activity and
24 must state that the certificate may be used by the holder only when purchasing property
25 or services intended to be used by the holder primarily in the exempt activity. If the
26 holder of an exemption certificate furnishes that certificate to a person for use in
27 purchasing tangible personal property or taxable services that are physically incorporated
28 in, and become a permanent part of, real property that is not used by the holder of the
29 certificate primarily in the exempt activity, the State Tax Assessor may assess the unpaid
30 tax against the holder of the certificate as provided in section 141. When an otherwise
31 qualifying person is engaged in both exempt and nonexempt activities, an exemption
32 certificate may be issued to the person only if the person has established to the
33 satisfaction of the assessor that the applicant has adequate accounting controls to limit the
34 use of the certificate to exempt purchases.

35 **Sec. 14. 36 MRSA §2521-A**, as amended by PL 2005, c. 218, §31, is further
36 amended to read:

37 **§2521-A. Returns; payment of tax**

38 Every insurance company, captive insurance company, association, producer or
39 attorney-in-fact of a reciprocal insurer subject to the tax as imposed by this chapter shall
40 on or before the last day of each April, the 25th day of each June and the last day of each
41 October file with the State Tax Assessor on forms prescribed by the ~~State Tax Assessor~~

1 assessor a return for the quarter ending on the last day of the preceding calendar month,
2 except for the ~~month~~ return due on the 25th day of June, which is for the quarter ending
3 June 30th. ~~These~~ A final return must be filed on or before March 15th, covering the prior
4 calendar year. ~~The 3~~ quarterly returns may be on an estimated basis, as long as each
5 April and June installment equals ~~at least~~ at least 35% of the total tax paid for the preceding
6 calendar year or at least 35% of the total tax to be paid for the current calendar year. ~~The~~
7 ~~remaining installments must equal~~ and each October installment equals 15% of the total
8 tax ~~to be paid~~ for the preceding calendar year or at least 15% of the total tax to be paid for
9 the current calendar year. ~~An authorized company official shall affirm which elective is~~
10 ~~selected. Such elective can not be changed during the current calendar year. The final~~
11 ~~return must be filed on or before March 15th covering the prior calendar year.~~

12 At the time of filing ~~such~~ the returns, each insurance company, captive insurance
13 company, association, producer or attorney-in-fact of a reciprocal insurer shall pay to the
14 ~~State Tax Assessor~~ assessor the amount of tax shown due.

15 Insurance companies, captive insurance companies, associations, producers or
16 attorneys-in-fact of a reciprocal insurer ~~with whose~~ annual tax liability under this chapter
17 does not exceeding \$500 exceed \$1,000 may ~~with approval of the State Tax Assessor~~ file
18 an annual return with payment on or before March 15th covering the prior calendar year.

19 **Sec. 15. 36 MRSA §2551, sub-§19**, as enacted by PL 2003, c. 673, Pt. V, §25
20 and affected by §29, is amended to read:

21 **19. Telecommunications equipment.** "Telecommunications equipment" means any
22 2-way interactive communications device, system or process for transmitting or receiving
23 signals and capable of exchanging audio, video, data or textual information.
24 "Telecommunications equipment" includes all transmission media that are used or
25 capable of being used in the provision of 2-way interactive communications, including,
26 without limitation, copper wire, coaxial cable and optical fiber, except those transmission
27 media designed and primarily used to transmit electricity. "Telecommunications
28 equipment" does not include computers, except those components of a computer used
29 primarily and directly as a 2-way interactive communications device capable of
30 exchanging audio, video, data or textual information.

31 **Sec. 16. 36 MRSA §4641-D**, as amended by PL 2003, c. 391, §3, is further
32 amended to read:

33 **§4641-D. Declaration of value**

34 Except as otherwise provided in this section, any deed, when offered for recording,
35 and any report of a transfer of a controlling interest must be accompanied by a ~~statement~~
36 ~~or declaration prepared in duplicate and, signed, subject to the penalties of perjury,~~ by the
37 parties to the transaction or their authorized representatives, declaring the value of the
38 property transferred and indicating the taxpayer identification numbers of the grantor and
39 grantee. ~~The statement or declaration of value with regard to a transfer by deed must~~
40 ~~include evidence of compliance with section 5250-A and reference to.~~ The declaration of
41 value must identify the appropriate tax map and parcel number of the property transferred
42 unless no a tax map exists does not exist that includes that property, in which event the

1 declaration must indicate that ~~no~~ an appropriate tax map exists does not exist. The
2 ~~exceptions to the foregoing are the~~ following are exempt from these requirements:

3 **1. Governmental conveyances.** Any conveyance by or to the United States of
4 America, the State of Maine or any of their instrumentalities, agencies or subdivisions.
5 For purposes of this subsection, only governmental entities are exempt from the
6 requirement to file a declaration of value;

7 **2. Mortgage.** Any mortgage or mortgage discharge;

8 **3. Partial release of mortgage.** Any partial release of a mortgage deed;

9 **4. Deed affecting previous deed.** Any deed ~~which~~ that, without additional
10 consideration, confirms, corrects, modifies or supplements a previously recorded deed;
11 and

12 ~~**5. Deed dated prior to October 1, 1975.** Any deed dated or acknowledged prior to~~
13 ~~October 1, 1975, and offered for recording after that date; and~~

14 **6. Deed of distribution.** Any deed of distribution made pursuant to Title 18-A.

15 If the transfer is ~~declared not subject to~~ exempt from the tax imposed by this chapter,
16 the reason ~~therefor shall~~ for the exemption must be stated on the declaration of value.

17 The declaration of value must be in a form prescribed by the State Tax Assessor, who
18 shall provide an adequate supply of such forms to each register of deeds in the State. The
19 State Tax Assessor shall prescribe a form for the declaration of value with regard to
20 transfers of controlling interests subject to tax under this chapter. The State Tax
21 Assessor, by rule, may establish grounds and procedures for waiver of the requirement
22 that the taxpayer identification numbers of the grantor and grantee must be shown on the
23 declaration of value. Rules adopted pursuant to this section are routine technical rules as
24 defined in Title 5, chapter 375, subchapter 2-A.

25 The register of deeds shall transmit ~~both copies of~~ the declaration of value to the State
26 Tax Assessor not later than 40 days from the date of recordation of the deed ~~subject to the~~
27 ~~tax~~ or, in the case of a transfer of a controlling interest subject to tax under this chapter,
28 no later than the 10th day of the month following the month in which the report of the
29 transfer is received by the register of deeds.

30 The State Tax Assessor shall, on or before the 20th day of ~~each~~ the month following
31 the month of receipt, transmit ~~one copy of~~ each declaration of value to the assessors of
32 the municipality or the chief assessor of a primary assessing area in which the real estate
33 is situated.

34 **Sec. 17. 36 MRSA §5122, sub-§1, ¶IV**, as amended by PL 2005, c. 519, Pt. CC,
35 §1 and Pt. NNN, §1 and affected by §3, is repealed and the following enacted in its place:

36 V. For tax years beginning on or after January 1, 2003 and before January 1, 2007,
37 the amount claimed as a federal income adjustment for student loan interest under the

1 Code, Section 62 (a)(17), but only for interest paid after 60 months from the start of
2 the loan repayment period;

3 **Sec. 18. 36 MRSA §5122, sub-§1, ¶X**, as enacted by PL 2005, c. 12, Pt. P, §4
4 and affected by §10, is amended to read:

5 X. An amount equal to the taxpayer's federal deduction relating to income
6 attributable to domestic production activities claimed in accordance with Section 102
7 of the federal American Jobs Creation Act of 2004, Public Law 108-357; and

8 **Sec. 19. 36 MRSA §5122, sub-§1, ¶Y** is enacted to read:

9 Y. Any amount of allowable deduction claimed for federal purposes in accordance
10 with the election under Section 642(g) of the Code that is also used to determine the
11 taxable estate for purposes of calculating the Maine estate tax under chapter 575.

12 **Sec. 20. 36 MRSA §5219-C**, as repealed and replaced by PL 1991, c. 377, §20, is
13 amended to read:

14 **§5219-C. Forest management planning income credits**

15 Once every 10 years, an individual is allowed a credit against the tax otherwise due
16 under this Part for the lesser of \$200 or the individual's cost for having a forest
17 management and harvest plan developed for a parcel of forest land in this State greater
18 than 10 acres. For purposes of this section, the licensed professional forester may not be
19 in the regular employ of the individual. ~~In no case may this~~ This credit may not reduce
20 the state income tax to less than zero. ~~Those taxpayers~~ An individual claiming this credit
21 must attach a statement from the forester supporting the claim and swear that the credit
22 has not been claimed by ~~them~~ the individual in the previous 10 years. ~~Those taxpayers~~
23 ~~deducting~~ An individual who deducts the cost of the forester as an expense under the
24 Internal Revenue Code must ~~reduce~~ subtract the expense ~~by the amount of the credit from~~
25 federal adjusted gross income for purposes of the tax imposed by this Part. This credit
26 may be used in any tax year beginning on or after January 1, 1989.

27 **Sec. 21. 36 MRSA §5251**, as amended by PL 2003, c. 20, Pt. AA, §2 and affected
28 by §6, is further amended to read:

29 **§5251. Information statement**

30 Every person who is required to deduct and withhold tax under this Part, or who
31 would have been required ~~to~~ to deduct and withhold tax if an employee had claimed no
32 more than one withholding exemption, shall furnish a written statement as prescribed by
33 the assessor to each ~~such~~ person in respect to the items of income subject to withholding
34 ~~paid by such person to such~~ that person during the calendar year on or before ~~February~~
35 ~~15th~~ January 31st of the succeeding year, or, in the case of an employee who is
36 terminated before the close of ~~such~~ the calendar year, within 30 days from the date ~~on~~
37 ~~which the last payment of wages is made,~~ a written statement as prescribed by the
38 assessor showing of receipt of a written request from the employee if that 30-day period
39 ends before January 31st. The statement must show the amount of wages paid by the
40 employer to the employee; or, in the case of withholding pursuant to sections 5250-B and

1 5255-B, the total items of income that were subject to withholding, the amount deducted
2 and withheld as tax and such other information as the assessor ~~shall prescribe~~ requires.

3 **Sec. 22. 36 MRSA §5251-A** is enacted to read:

4 **§5251-A. Fraudulent statement or failure to furnish statement**

5 A person who is required by section 5251 to furnish a statement to a payee and who
6 willfully fails to furnish that statement at the time required by section 5251, in the form
7 and showing the information prescribed by the State Tax Assessor, or who willfully
8 furnishes a false or fraudulent statement commits a civil violation for which a fine of \$50
9 for each such failure must be imposed.

10 **Sec. 23. 36 MRSA §6651, sub-§1**, as amended by PL 2005, c. 623, §2, is further
11 amended to read:

12 **1. Eligible property.** "Eligible property" means qualified business property first
13 placed in service in the State, or constituting construction in progress commenced in the
14 State, after April 1, 1995, but does not include property that ~~qualifies for exemption~~
15 ~~pursuant to chapter 105, subchapter 4-C~~ is eligible business equipment as defined in
16 section 691, subsection 1. "Eligible property" includes, without limitation, repair parts,
17 replacement parts, additions, accessions and accessories to other qualified business
18 property placed in service on or before April 1, 1995 if the part, addition, accession or
19 accessory is first placed in service, or constitutes construction in progress, in the State
20 after April 1, 1995, unless such property ~~qualifies for exemption pursuant to chapter 105,~~
21 ~~subchapter 4-C~~ is eligible business equipment as defined in section 691, subsection 1.
22 "Eligible property" also includes inventory parts.

23 **Sec. 24. Application.** That section of this Act that amends the Maine Revised
24 Statutes, Title 30-A, section 5681, subsection 2, paragraph C applies to fiscal years
25 beginning on or after July 1, 2007. That section of this Act that enacts Title 36, section
26 187-B, subsection 1-A applies to tax years beginning on or after January 1, 2007. That
27 section of this Act that amends Title 36, section 653, subsection 1, paragraph D-1 applies
28 to taxes assessed based on the status of property on or after April 1, 2007. That section of
29 this Act that amends Title 36, section 2521-A applies to periods beginning on or after
30 January 1, 2008. That section of this Act that enacts Title 36, section 5122, subsection 1,
31 paragraph Y applies to tax years beginning on or after January 1, 2007. That section of
32 this Act that amends Title 36, section 5219-C applies to tax years beginning on or after
33 January 1, 2007. That section of this Act that amends Title 36, section 5251 applies with
34 respect to items of income paid in calendar years beginning on or after January 1, 2007.
35 That section of this Act that enacts Title 36, section 5251-A applies with respect to
36 statements required to be furnished on or after January 1, 2007.

37 **SUMMARY**

38 This bill makes the following changes to the laws governing taxation.

39 It amends the definition of "annual growth ceiling," which is used for purposes of
40 state-municipal revenue sharing to determine the amount, if any, that must be transferred

1 to the Disproportionate Tax Burden Fund, to correct the omission of this change when
2 various taxable services were removed from the sales tax and placed in a newly created
3 service provider tax.

4 It authorizes the State Tax Assessor to seek an injunction against a person who
5 refuses to register, to file returns or to pay taxes under the service provider tax law as
6 provided in the Maine Revised Statutes, Title 36, chapter 358.

7 It enacts penalties for failure to file an information return under the income tax law
8 by partnerships and S corporations, if the partnership or S corporation has received a
9 formal demand that the return be filed, and for filing substantially excessive refund
10 claims under the fuel tax laws.

11 It expands the circumstances under which a person may be required to file a tax
12 return electronically and make tax payments by electronic funds transfer, using a phased-
13 in approach.

14 It expands and clarifies the eligibility of paraplegic veterans of certain war periods for
15 a property tax exemption, making the eligibility periods of this exemption the same as
16 those of the general veterans' exemption.

17 It amends the definition of "eligible business equipment" by adding a reference to
18 existing limitations.

19 It clarifies that a taxpayer who fails to timely file a report identifying the property that
20 is claimed to be exempt may not obtain an exemption for that tax year for that property
21 under the business equipment tax exemption laws, Title 36, chapter 105, subchapter 4-C.

22 It clarifies that bulk sales of inventory being held for sale or lease in the ordinary
23 course of business are not casual sales.

24 It amends the definition of "retail sale" to clarify that sales of tangible personal
25 property to a person who is not engaged in the business of selling that kind of property
26 are not exempt sales for resale, even if the property is in fact subsequently resold through
27 a 3rd-party retailer.

28 It provides authority for the State Tax Assessor to issue an assessment against an
29 exempt organization that has authorized inappropriate use of its exemption.

30 It eliminates a requirement that an insurance company must elect a basis for reporting
31 and paying the insurance premium tax, and increases the threshold for quarterly filing of
32 insurance premium tax returns from \$500 per year to \$1,000 per year.

33 It clarifies the definition of "telecommunications equipment" to include any wiring
34 capable of transmitting or receiving telecommunications signals, regardless of the actual
35 use of the wiring, consistent with past and present administrative practice. Current
36 technology uses optical fiber, data wire and coaxial cable, all of which are capable of
37 providing either one-way or 2-way transmission service. The ultimate use of the wiring is
38 often unknown, uncertain or subject to change.

1 It eliminates the requirement that a declaration of value under the real estate transfer
2 tax laws must be filed in duplicate, and authorizes the State Tax Assessor to establish by
3 rule guidelines for waiving the requirement that the declaration of value must indicate the
4 taxpayer identification numbers of the grantor and grantee. It also repeals an obsolete
5 provision relating to deeds executed before the effective date of the tax.

6 It adds a specific requirement that estates must include in Maine adjusted gross
7 income administrative expenses that were claimed as a deduction for Maine estate tax
8 purposes.

9 It changes certain requirements relating to payee statements furnished with respect to
10 income that is subject to Maine income tax withholding to make them consistent with
11 federal law.

12 It amends the forest management planning income tax credit to require that forest
13 land be located in this State in order to be eligible for the credit.

14 It establishes a penalty similar to that imposed by federal law for failure to furnish
15 accurate and timely statements to payees with respect to income that is subject to Maine
16 income tax withholding.

17 It makes specific the statutory references to eligible business equipment for which no
18 claim may be made under the business equipment reimbursement program.