

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 950

H.P. 653

House of Representatives, March 10, 2009

An Act To Amend the Maine Estate Tax

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLEARY of Houlton.
Cosponsored by Senator NASS of York and
Representatives: CONNOR of Kennebunk, FLEMINGS of Bar Harbor, MacDONALD of
Boothbay, SHAW of Standish, SMITH of Monmouth, STUCKEY of Portland, VALENTINO
of Saco, Senator: JACKSON of Aroostook.

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

2 **Sec. 1. 36 MRSA §4062, sub-§1-A, ¶A,** as repealed and replaced by PL 2005, c.
3 12, Pt. N, §1 and affected by §4, is amended to read:

4 A. For the estates of decedents dying after December 31, 2002, "federal credit"
5 means the maximum credit for state death taxes determined under the Code, Section
6 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit
7 contained in the Code, Section 2011(b)(2); the period of limitations under the Code,
8 Section 2011(c); and the termination provision contained in the Code, Section
9 2011(f). The federal taxable estate is to be determined using the applicable Code as of
10 the date of the decedent's death, except that:

11 (1) The state death tax deduction contained in the Code, Section 2058 is to be
12 disregarded;

13 (2) The unified credit is to be determined under the Code, Section 2010 as of
14 December 31, 2000, as adjusted under section 4062-A;

15 (3) For the estates of decedents dying after December 31, 2004, the federal
16 taxable estate must be decreased by an amount equal to the value of Maine
17 qualified terminable interest property in the estate of the decedent; and

18 (4) For the estates of decedents dying after December 31, 2004, the federal
19 taxable estate must be increased by an amount equal to the value of Maine
20 elective property in respect of the decedent; and

21 **Sec. 2. 36 MRSA §4062-A** is enacted to read:

22 **§4062-A. Adjustment of unified credit for inflation**

23 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
24 following terms have the following meanings.

25 A. "Consumer Price Index" means the average over a 12-month period of the
26 National Consumer Price Index, not seasonally adjusted, published monthly by the
27 United States Department of Labor, Bureau of Labor Statistics designated as the
28 "National Consumer Price Index for All Urban Consumers - United States City
29 Average."

30 B. "Cost-of-living adjustment" means, for any calendar year, the Consumer Price
31 Index for the 12-month period ending June 30th of the preceding calendar year
32 divided by the Consumer Price Index for the 12-month period ending June 30, 2001.

33 **2. Annual adjustments for inflation.** Beginning September 15, 2009 and on or
34 about September 15th each subsequent calendar year the State Tax Assessor shall
35 multiply the cost-of-living adjustment for the succeeding calendar year by the dollar
36 amount of the unified credit for deaths occurring during that year. If the dollar amounts
37 adjusted by application of the cost-of-living adjustment are not multiples of 5,000, any
38 increase must be rounded to the next lowest multiple of 5,000. If the cost-of-living
39 adjustment for any taxable year is 1.000 or less, no adjustment may be made for that

1 taxable year in the unified credit. The assessor shall incorporate such changes into the tax
2 forms for that tax year.

3 **Sec. 3. 36 MRSA §4066**, as amended by PL 2003, c. 673, Pt. D, §5, is repealed
4 and the following enacted in its place:

5 **§4066. Discharge of personal liability of personal representative or other filer**

6 A personal representative or other person or entity who files a Maine estate tax return
7 is discharged from personal liability for any deficiency in tax subsequently found to be
8 due and is entitled to a certificate of discharge 3 months after the filing of an estate tax
9 information return for lien discharge or one year after the filing of an estate tax return
10 unless the State Tax Assessor notifies the filer of the return within those periods that there
11 is specified additional information required and the reason for that requirement. In all
12 cases the discharge is effective 6 months after the filing of an estate tax information
13 return for lien discharge and 18 months after filing an estate tax return unless the State
14 Tax Assessor is actively contesting the validity of the return filed.

15 **SUMMARY**

16 This bill amends the Maine estate tax to require adjustment of the unified credit for
17 inflation and to require discharge of personal liability of a personal representative or other
18 filer within 3 months after the filing of an estate tax information return for lien discharge
19 or one year after the filing of an estate tax return unless additional information is
20 required. The maximum period before discharge of a filer is 6 months after the filing of
21 an estate tax information return for lien discharge and 18 months after filing an estate tax
22 return unless the State Tax Assessor is actively contesting the validity of the return filed.