

MAINE STATE LEGISLATURE

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BMC
H. 008

L.D. 1540

Date: 3/19/10

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TAXATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1084, L.D. 1540, Bill, "An Act To Amend the Tax Laws"

Amend the bill by inserting after section 3 the following:

Sec. 4. 36 MRSA §1752, sub-§14, ¶B, as amended by PL 2009, c. 496, §15 and affected by §30, 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, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is 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;
- (8) The fee imposed by Title 10, section 1169, subsection 11;

COMMITTEE AMENDMENT

- 1 (9) The fee imposed by section 4832, subsection 1;
- 2 (10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection
3 2-B;
- 4 (11) Any amount charged or collected by a person engaged in the rental of living
5 quarters as a forfeited room deposit or cancellation fee if the prospective
6 occupant of the living quarters cancels the reservation on or before the scheduled
7 date of arrival; or
- 8 (12) The premium imposed on bulk motor vehicle oil and prepackaged motor
9 vehicle oil by Title 10, section 1020, subsection 6-A; or
- 10 (13) Any amount charged for the disposal of used tires.
- 11 **Sec. 5. 36 MRSA §1752, sub-§14, ¶B**, as amended by PL 2009, c. 496, §16 and
12 affected by §31, is further amended to read:
- 13 B. "Sale price" does not include:
- 14 (1) Discounts allowed and taken on sales;
- 15 (2) Allowances in cash or by credit made upon the return of merchandise
16 pursuant to warranty;
- 17 (3) The price of property returned by customers, when the full price is refunded
18 either in cash or by credit;
- 19 (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically
20 stated service charge, when that amount is to be disbursed by a hotel, restaurant
21 or other eating establishment to its employees as wages;
- 22 (6) The amount of any tax imposed by the United States on or with respect to
23 retail sales, whether imposed upon the retailer or the consumer, except any
24 manufacturers', importers', alcohol or tobacco excise tax;
- 25 (7) The cost of transportation from the retailer's place of business or other point
26 from which shipment is made directly to the purchaser, provided that those
27 charges are separately stated and the transportation occurs by means of common
28 carrier, contract carrier or the United States mail;
- 29 (8) The fee imposed by Title 10, section 1169, subsection 11;
- 30 (9) The fee imposed by section 4832, subsection 1;
- 31 (10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection
32 2-B;
- 33 (11) Any amount charged or collected by a person engaged in the rental of living
34 quarters as a forfeited room deposit or cancellation fee if the prospective
35 occupant of the living quarters cancels the reservation on or before the scheduled
36 date of arrival; or

(12) The premium imposed on bulk motor vehicle oil and prepackaged motor vehicle oil by Title 10, section 1020, subsection 6-A; or

(13) Any amount charged for the disposal of used tires.

Sec. 6. 36 MRSA §1760, sub-§5 is amended to read:

5. Medicines. Sales of medicines for human beings sold on doctor's prescription. This subsection does not apply to the sale of marijuana pursuant to Title 22, chapter 558-C.

Sec. 7. 36 MRSA §1760, sub-§9, as amended by PL 2007, c. 675, §1 and affected by §2, is further amended to read:

9. Coal, oil and wood. Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of 5 gallons or less is presumed to meet the requirements of this subsection. A purchase of 200 pounds or less of wood pellets or of any 100% compressed wood product intended for use in a wood stove or fireplace is presumed to meet the requirements of this subsection.'

Amend the bill by striking out all of section 8 and inserting the following:

'Sec. 8. 36 MRSA §5122, sub-§2, ¶FF is enacted to read:

FF. To the extent included in the taxpayer's federal adjusted gross income, the recovery of a portion of a federal standard deduction claimed in a prior year for which the taxpayer was not allowed under this Part to reduce federal adjusted gross income or Maine adjusted gross income for that year.

Sec. 9. PL 2009, c. 470, §9 is enacted to read:

Sec. 9. Application. This section determines the application of this Act to media production certificates issued pursuant to the Maine Revised Statutes, Title 5, section 13090-L.

1. Certificates issued on or after January 1, 2010. This Act applies to visual media production certificates issued pursuant to Title 5, section 13090-L on or after January 1, 2010.

2. Certificates issued prior to January 1, 2010. For media production certificates issued prior to January 1, 2010, a media production company to which a certificate has been issued is allowed a tax credit and reimbursement of wages as determined pursuant to this subsection.

A. A media production company is allowed a credit against the taxes imposed by Title 36, Part 8 in an amount equal to the Maine income tax imposed on income directly related to a certified media production.

If the media production company realizes income from a certified media production and also has Maine-source income from other sources, the credit allowed under this paragraph is based on a fraction of the media production company's entire Maine income tax liability for the year. The fraction is equal to the media production

1 company's compensation paid during the tax year related to the certified media
2 production divided by the media production company's total Maine compensation
3 paid. If the calculation provided by this paragraph does not fairly reflect the tax
4 liability associated with the media production company's certified media production,
5 the media production company may petition for, or the State Tax Assessor may
6 require, the employment of another reasonable method to make an equitable
7 determination of the Maine tax associated with the media production company's
8 certified media production. The credit allowed by this paragraph may not reduce the
9 tax otherwise due under Title 36, Part 8 below zero and may be used only in the year
10 in which the certified media production income is generated. Taxpayers claiming a
11 credit under Title 36, section 5219-W are not eligible for this credit.

12 B. A media production company is allowed reimbursement equal to 12% of certified
13 production wages paid to employees who are residents of Maine and 10% of certified
14 production wages paid to other employees.

15 C. As used in this subsection, the following terms have the following meanings.

16 (1) "Certified media production" has the same meaning as "certified visual media
17 production" as that term is defined in section 6901, subsection 1.

18 (2) "Certified production wages" means wages that are paid during the project
19 period by a media production company that was issued a tax reimbursement
20 certificate and that are subject to withholding pursuant to Title 36, chapter 827.
21 "Certified production wages" does not include any wages in excess of \$1,000,000
22 paid to a single individual for personal services rendered in connection with a
23 particular certified media production.

24 (3) "Compensation" has the same meaning as in Title 36, section 5210,
25 subsection 3.

26 (4) "Media production company" has the same meaning as in the former Title 5,
27 section 13090-L, subsection 2, paragraph B.

28 **Sec. 10. Application.** That section of this Act that enacts the Maine Revised
29 Statutes, Title 36, section 5122, subsection 2, paragraph FF applies to tax years beginning
30 on or after January 1, 2009.

31 **Sec. 11. Contingent effective date.** That section of this Act that amends the
32 Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended
33 by Public Law 2009, chapter 496, section 15 and affected by section 30, takes effect only
34 if Public Law 2009, chapter 382 is rejected by a majority of the electors voting on that
35 measure pursuant to the Constitution of Maine, Article IV, Part Third, Section 17.

36 **Sec. 12. Contingent effective date.** That section of this Act that amends the
37 Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended
38 by Public Law 2009, chapter 496, section 16 and affected by section 31, takes effect only
39 if Public Law 2009, chapter 382 is not rejected by a majority of the electors voting on that
40 measure pursuant to the Constitution of Maine, Article IV, Part Third, Section 17.

41 **Sec. 13. Retroactivity.** That section of this Act that amends the Maine Revised
42 Statutes, Title 36, section 1752, subsection 14, paragraph B applies retroactively to
43 January 1, 2009.'

A. 08 09

1 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
2 section number to read consecutively.

3 **SUMMARY**

4 This amendment does the following.

5 1. It exempts from sales tax any amount charged for the disposal of used tires.

6 2. It clarifies that the sales tax exemption granted for the sale of prescribed
7 medication does not apply to the sale of marijuana under the Maine Medical Marijuana
8 Act.

9 3. It provides that small sales of wood pellets and similar wood products intended for
10 home heating are exempt from sales tax.

11 4. It codifies a state income tax subtraction modification for recovery amounts
12 included in a taxpayer's federal adjusted gross income that were received after the
13 taxpayer claimed an enhanced standard deduction for the amounts. The subtraction
14 modification applies to tax years beginning on or after January 1, 2009.

15 5. It clarifies that the changes made by Public Law 2009, chapter 470, which
16 changed the State's incentives to provide more effective strategies for attracting visual
17 media productions to the State, applies to visual media production certificates issued by
18 the Department of Economic and Community Development on or after January 1, 2010.
19 For certificates that were issued prior to that date, the intent of this amendment is that
20 those eligible media production companies are governed by the law in effect on the date
21 the certificate was issued with regard to tax credits and reimbursement of wages.

22 **FISCAL NOTE REQUIRED**

23 **(See attached)**



124th MAINE LEGISLATURE

LD 1540

LR 2219(02)

An Act To Amend the Tax Laws

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

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Net Cost (Savings)				
General Fund	\$0	(\$71,250)	(\$71,250)	(\$71,250)
Revenue				
General Fund	\$0	\$71,250	\$71,250	\$71,250
Other Special Revenue Funds	\$0	\$3,750	\$3,750	\$3,750

Fiscal Detail and Notes

Imposing the sales and use tax on the sale of medical marijuana will result in increased revenue to the General Fund in the amount of \$71,250 commencing fiscal year 2010-11. Any additional costs associated with the administration of this bill can be absorbed by Maine Revenue Services within existing budgeted resources.