

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1540

H.P. 1084

House of Representatives, December 21, 2009

An Act To Amend the Tax Laws

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Received by the Clerk of the House on December 17, 2009. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WATSON of Bath.
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 §706**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C,
3 §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further
4 amended to read:

5 **§706. Apportionment of county tax; warrants**

6 When a county tax is authorized, the county commissioners, ~~within 30 days of that~~
7 ~~authorization,~~ shall apportion it upon the municipalities, unorganized territory and other
8 places in that county according to the last most recent state valuation and ~~fix the date for~~
9 ~~the payment of the tax. This date may not be earlier than the first day of the following~~
10 ~~September.~~ They may add ~~that sum above~~ to the sum so authorized, an amount not
11 exceeding 2% of that sum, as if a fractional division necessitates that addition and if they
12 demonstrate that necessity in the record of that apportionment, ~~and issue their warrant to~~
13 ~~the assessors requiring them to immediately assess the sum apportioned to their~~
14 ~~municipality or place, and to commit their assessment to the constable or collector for~~
15 ~~collection. The county treasurer shall immediately certify the millage rate to the State~~
16 ~~Tax Assessor. The State Tax Assessor shall separately assess this millage rate upon the~~
17 ~~real and personal property in the unorganized territory within the appropriate county. The~~
18 ~~county commissioners shall establish the date for the payment of the tax. The date may~~
19 ~~not be earlier than the first day of the following September.~~

20 No later than the 15th of July preceding the date established for payment of the tax,
21 the county commissioners shall issue their warrant to the assessors of the municipalities
22 and other places and to the State Tax Assessor for the unorganized territory within that
23 county. Those officers shall assess the sum apportioned to their tax jurisdiction and
24 commit their assessment for collection in the same manner as other amounts to be raised
25 by the property tax during the tax year to which the county tax warrant applies.

26 If a municipality or place or the State Tax Assessor must make a supplemental
27 assessment due to failure by the county commissioners to issue their warrant by July
28 15th, the county must bear the costs of that supplemental assessment. Those costs may be
29 recovered by the tax jurisdiction through an offset against the county tax that the tax
30 jurisdiction would otherwise be required to pay over to the county.

31 The county may collect delinquent county taxes and charge interest on delinquent
32 county taxes as provided under Title 36, sections 891, ~~892~~ and 892-A.

33 **Sec. 2. 36 MRSA §111, sub-§5**, as amended by PL 2009, c. 434, §4, is further
34 amended to read:

35 **5. Tax.** "Tax" means the total amount required to be paid, withheld and paid over or
36 collected and paid over with respect to estimated or actual tax liability under this Title,
37 any credit or reimbursement allowed or paid pursuant to this Title that is recoverable by
38 the assessor and any amount assessed by the State Tax Assessor assessor pursuant to this
39 Title, including any interest or penalties provided by law. For purposes of this chapter,
40 "tax" also means any fee, fine, penalty or other debt owed to the State provided for by law

1 if ~~this that fee, fine, penalty or other~~ debt is subject to collection by the assessor pursuant
2 to statute or transferred to the bureau for collection pursuant to section 112-A.

3 **Sec. 3. 36 MRSA §186**, as amended by PL 2003, c. 673, Pt. KK, §1 and affected
4 by §3, is further amended to read:

5 **§186. Interest**

6 ~~Any~~ A person who fails to pay any tax, other than a tax imposed pursuant to chapter
7 105, on or before the last date prescribed for payment is liable for interest on the tax,
8 calculated from that date and compounded monthly. The rate of interest for any calendar
9 year equals the highest prime rate as published in the Wall Street Journal on the first day
10 of September of the preceding calendar year or, if the first day of September falls on a
11 weekend or holiday, on the next succeeding business day, rounded up to the next whole
12 percent plus 3 percentage points. For purposes of this section, the last date prescribed for
13 payment of tax must be determined without regard to any extension of time permitted for
14 filing a return. A tax that is upheld on administrative or judicial review bears interest
15 from the date on which payment would have been due in the absence of review. ~~Any tax,~~
16 ~~interest or penalty imposed by this Title~~ amount that has been erroneously refunded and is
17 recoverable by the assessor bears interest at the ~~above~~ rate determined pursuant to this
18 section from the date of payment of the refund. A credit or reimbursement that has been
19 allowed or paid pursuant to this Title and is recoverable by the assessor bears interest at
20 the rate determined pursuant to this section from the date it was allowed or paid. Interest
21 accrues automatically, without being assessed by the assessor, and is recoverable by the
22 assessor in the same manner as if it were a tax assessed under this Title. If the failure to
23 pay a tax when required is explained to the satisfaction of the assessor, the assessor may
24 abate or waive the payment of all or any part of that interest.

25 Except as otherwise provided in this Title, and except for taxes imposed pursuant to
26 chapter 105, interest; at the rate determined ~~by the assessor for underpayments~~ pursuant
27 to this section; must be paid on overpayments of tax from the date the return listing the
28 overpayment was filed; or the date payment was made, whichever is later.

29 **Sec. 4. 36 MRSA §1760, sub-§45, ¶A**, as amended by PL 2007, c. 438, §45, is
30 further amended to read:

31 A. If the property is an automobile, as defined in Title 29-A, section 101, subsection
32 7, and if the owner is an individual who was, at the time of purchase, a resident of the
33 other state ~~and either employed or registered to vote there;~~

34 **Sec. 5. 36 MRSA §2513, first ¶**, as amended by PL 2007, c. 627, §52, is further
35 amended to read:

36 Every insurance company or association that does business or collects premiums or
37 assessments including annuity considerations in the State, including surety companies
38 and companies engaged in the business of credit insurance or title insurance, shall, for the
39 privilege of doing business in this State and in addition to any other taxes imposed for
40 that privilege, pay a tax upon all gross direct premiums including annuity considerations,
41 whether in cash or otherwise, on contracts written on risks located or resident in the State

1 for insurance of life, annuity, fire, casualty and other risks at the rate of 2% a year. Every
2 surplus lines insurer that does business or collects premiums in the State shall, for the
3 privilege of doing business in this State and in addition to any other taxes imposed for
4 that privilege, pay a tax upon all gross direct premiums, whether in cash or otherwise, on
5 contracts written on risks located or resident in the State at the rate of 3% a year. The
6 producer of those contracts must collect the tax and report and pay the tax to the State
7 Tax Assessor as provided in section 2521-A, except that an insurance agency may elect to
8 collect and pay the tax on surplus lines premiums on behalf of all of its employees who
9 are surplus lines producers. For purposes of this section, the term "annuity
10 considerations" includes amounts paid to an insurance company ~~when received~~ for the
11 purchase of a contract that may result in an annuity, even ~~when~~ if the annuitization never
12 occurs or does not occur until some time in the future and the amounts are in the
13 meantime applied to an investment vehicle other than an annuity. This section does not
14 apply to mutual fire insurance companies subject to tax under section 2517 or to captive
15 insurance companies formed or licensed under Title 24-A, chapter 83 or under the laws of
16 another state.

17 **Sec. 6. 36 MRSA §2903, sub-§4, ¶A,** as enacted by PL 1997, c. 738, §4, is
18 amended to read:

19 A. Sold wholly for exportation from this State by a licensed distributor or an
20 exporter;

21 **Sec. 7. 36 MRSA §3204-A, sub-§5,** as enacted by PL 1995, c. 271, §7, is
22 amended to read:

23 **5. Exportation.** Special fuel sold only for exportation from this State by a licensed
24 supplier;

25 **Sec. 8. Application.** That section of this Act that amends the Maine Revised
26 Statutes, Title 36, section 2513 applies to tax periods beginning on or after January 1,
27 2010.

28 **SUMMARY**

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

30 The bill clarifies the procedure for apportionment of county taxes in the unorganized
31 territory, requires the county commissioners to issue their warrant for county taxes by
32 July 15th and provides that the county must bear the cost of a supplemental assessment if
33 they fail to do so.

34 The bill provides that a credit or reimbursement allowed or paid that is recoverable
35 by the State Tax Assessor is a tax for purposes of the administrative provisions of the
36 Maine Revised Statutes, Title 36.

37 The bill imposes interest on credits and reimbursements allowed or paid that are
38 recoverable by the State Tax Assessor.

1 The bill repeals the requirement that a nonresident purchaser must have been
2 employed or registered to vote in another state in order to qualify for exemption from
3 Maine use tax on an automobile purchased and used in the other state.

4 The bill provides that an insurance agency may elect to collect and pay the tax on
5 surplus lines premiums on behalf of its employees who are surplus lines producers.

6 The bill limits the exemption for internal combustion engine fuel sold wholly for
7 exportation from the State to sales by a licensed distributor or an exporter.

8 The bill limits the exemption for special fuel sold only for exportation from the State
9 to sales by a licensed supplier.