

# MAINE STATE LEGISLATURE

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Date: 6/2/11

Majority

L.D. 441  
(Filing No. H-477)

TAXATION

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 334, L.D. 441, Bill, "An Act To Make Telecommunications Personal Property Tax Law Equitable"

Amend the bill by striking out the title and substituting the following:

'An Act To Reform Telecommunications Taxation'

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

'Sec. 1. 36 MRSA §457, as amended by PL 2009, c. 213, Pt. P, §1 and affected by §3, is further amended to read:

§457. State telecommunications excise tax

1. Definitions. As used in this section ~~subchapter~~, unless the context otherwise indicates, the following terms have the following meanings.

A. "Telecommunications business" means a person engaged in the activity of providing interactive 2-way communication services for compensation.

B. "~~Telecommunications personal property~~ Qualified telecommunications equipment" means ~~personal property equipment~~ used for the transmission of any interactive 2-way communications, including voice, image, data and information, via a medium such as wires, cables, microwaves, radio waves, light waves or any combination of those or similar media. "~~Telecommunications personal property~~ Qualified telecommunications equipment" includes ~~qualifying property equipment~~ used to provide telegraph service. "~~Telecommunications personal property~~ Qualified telecommunications equipment" does not include ~~property equipment~~ used solely to provide value-added nonvoice services in which computer processing applications are used to act on the form, content, code and protocol of the information to be transmitted, unless those services are provided under a tariff approved by the Public Utilities Commission. "~~Telecommunications personal property~~ Qualified telecommunications equipment" does not include single or multiline standard telephone instruments. Notwithstanding section 551, "~~telecommunications personal~~

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1 property qualified telecommunications equipment" includes any interest of a  
2 telecommunications business in poles.

3 C. "Distribution facilities" means facilities used primarily to transport  
4 communications between fixed locations, including but not limited to cables, wires,  
5 wireless transmitters and utility poles.

6 ~~2. Tax imposed. A state tax is imposed on telecommunications personal property at~~  
7 ~~the rate provided in this subsection times the just value of the property. Just value and~~  
8 ~~ownership of the property must be determined as of the April 1st preceding the~~  
9 ~~assessment. The rate of tax is:~~

- 10 ~~A. For assessments made in 2004, 26 mills;~~
- 11 ~~B. For assessments made in 2005, 25 mills;~~
- 12 ~~C. For assessments made in 2006, 24 mills;~~
- 13 ~~D. For assessments made in 2007, 23 mills;~~
- 14 ~~E. For assessments made in 2008, 22 mills;~~
- 15 ~~F. For assessments made in 2009, 22 mills;~~
- 16 ~~G. For assessments made in 2010, 22 mills;~~
- 17 ~~H. For assessments made in 2011, 22 mills;~~
- 18 ~~I. For assessments made in 2012, 19 mills; and~~
- 19 ~~J. For assessments made in 2013 and subsequent years, 18 mills.~~

20 2-A. Excise tax levied. An excise tax is levied on a telecommunications business at  
21 the rate provided in this subsection times the just value of the qualified  
22 telecommunications equipment for the privilege of operating within the State as follows:

- 23 A. Just value of the qualified telecommunications equipment must be determined  
24 pursuant to section 701-A as of the April 1st preceding the assessment; and
- 25 B. The rate of tax is 19 mills for assessments made in 2012. For assessments made  
26 in 2013 and subsequent years, the State Tax Assessor shall apply the tax rate of the  
27 municipality or unorganized territory in which the qualified telecommunications  
28 equipment is located to the just value of the equipment as adjusted by the  
29 municipality's or unorganized territory's certified assessment ratio.

30 3-A. Returns to State Tax Assessor prior to July 1, 2012. Each Prior to July 1,  
31 2012, each telecommunications business owning or leasing telecommunications personal  
32 property qualified telecommunications equipment that on the first day of April in any  
33 year is situated, whether permanently or temporarily, within this State shall, on or before  
34 the 20th day of April in that year, return to the State Tax Assessor a complete list of such  
35 property equipment on a form to be furnished by the State Tax Assessor.

36 3-B. Returns to State Tax Assessor beginning July 1, 2012. Beginning July 1,  
37 2012, each telecommunications business owning or leasing qualified telecommunications  
38 equipment on April 1, 2012 and annually thereafter shall, on or before December 31,  
39 2012 and annually thereafter, return to the State Tax Assessor a complete list of such

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equipment and each municipality or unorganized territory where any such equipment is situated on the first day of April on a form to be furnished by the State Tax Assessor.

**4. Assessment.** The State Tax Assessor shall assess a tax on ~~telecommunications~~ ~~personal property~~ qualified telecommunications equipment owned or leased by a telecommunications business. ~~Telecommunications personal property~~ Qualified telecommunications equipment owned or leased by a person that is not a telecommunications business must be assessed a tax by the municipal assessor in the municipality in which the ~~property~~ equipment is located on April 1st of the taxable year. The date of assessment of ~~telecommunications personal property~~ qualified telecommunications equipment by municipalities must be consistent with ~~other~~ property subject to property taxation by the municipalities.

**5-B. Procedure.** The excise tax on ~~telecommunications personal property~~ qualified telecommunications equipment of a telecommunications business must be assessed and paid in accordance with this subsection.

A. ~~The~~ Prior to July 2012, the State Tax Assessor shall make the assessment by May 30th of each year. After July 1, 2012, the State Tax Assessor shall make the assessment by March 30, 2013 and by March 30th annually thereafter.

C. The tax assessment must be paid no later than the August 15th following the date of assessment.

**7. Collection.** Taxes assessed under this section by the State Tax Assessor must be enforced as generally provided by this Title. Taxes assessed under this section by municipal assessors must be enforced in the same way as ~~other~~ locally assessed personal property taxes.

**9. Appeal.** A taxpayer receiving an assessment under this section may appeal a decision of the State Tax Assessor in the manner set forth in section 151.

**Sec. 2. 36 MRSA §458**, as enacted by PL 1987, c. 507, §1, is amended to read:

**§458. Continuation of exemption**

~~Telecommunications personal property~~ Qualified telecommunications equipment subject to taxation under this chapter ~~shall continue~~ must be assessed through application of a state excise tax in lieu of a state property tax and continues to be exempt from ordinary local property taxation as formerly provided under section 2696. It is the intent of the Legislature that this section not be considered a new property tax exemption requiring state reimbursement under the Constitution of Maine, Article IV, Part Third, Section 23.

**Sec. 3. Rules.** The Department of Administrative and Financial Services, Bureau of Revenue Services shall adopt routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to implement the provisions of this Act. In developing rules, the bureau must include provisions for reporting the location of the qualified telecommunications equipment, which include a method for allowing a telecommunications business to apportion the values of distribution facilities among municipalities. The bureau shall establish a method of valuing qualified telecommunications equipment and procedures for the declaration of value of the

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1 qualified telecommunications equipment established in Title 36, Part 2 consistent with  
2 methods in place on January 1, 2011. In establishing a method of valuing qualified  
3 telecommunications equipment, the bureau may develop average age and depreciation  
4 formulas for classes of equipment.

5 **Sec. 4. Maine Revised Statutes headnote amended; revision clause.** In the  
6 Maine Revised Statutes, Title 36, chapter 103, subchapter 2, in the subchapter headnote,  
7 the words "assessment of state property taxes" are amended to read "assessment of state  
8 property and excise taxes" and the Revisor of Statutes shall implement this revision when  
9 updating, publishing or republishing the statutes.'

10 **SUMMARY**

11 The amendment replaces the bill and changes the title of the bill. The amendment  
12 replaces the telecommunications personal property tax with an excise tax on  
13 telecommunications businesses for the privilege of operating in the State. The excise tax  
14 is equal to the just value of qualified telecommunications equipment taxed at a rate of 19  
15 mills in fiscal year 2012. For fiscal year 2013 and subsequent years, the State Tax  
16 Assessor will apply the tax rate of the municipality or the unorganized territory in which  
17 the qualified telecommunications equipment is located to the just value of the equipment  
18 as adjusted by the municipality's or the unorganized territory's certified assessment ratio.  
19 The amendment establishes procedures for the assessment, collection and appeal of the  
20 excise tax. It provides for routine technical rules to implement this legislation.

21 **FISCAL NOTE REQUIRED**

22 (See attached)



# 125th MAINE LEGISLATURE

LD 441

LR 557(02)

## An Act To Make Telecommunications Personal Property Tax Law Equitable

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

Committee: Taxation

Fiscal Note Required: Yes

### Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$152,518	\$305,036	\$305,036
<b>Revenue</b>				
General Fund	\$0	(\$152,518)	(\$305,036)	(\$305,036)

#### Fiscal Detail and Notes

Repealing the existing telecommunications tax and establishing an excise tax on telecommunications at 19 mills in fiscal year 2011-12 with provision for later mill adjustments starting in fiscal year 2012-13 by the State Tax Assessor will reduce General Fund revenue starting in fiscal year 2012-13. Any rulemaking and other administrative costs can be absorbed by Maine Revenue Services within existing budgeted resources.