

# MAINE STATE LEGISLATURE

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L.D. 1147

Date: **5-19-11** MAJORITY

(Filing No. S- **133**)

**TAXATION**

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**STATE OF MAINE  
SENATE  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "**A**" to S.P. 347, L.D. 1147, Bill, "An Act To Conform Maine's Estate Tax to the Federal Estate Tax"

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

**Sec. 1. 36 MRSA §135, sub-§1**, as amended by PL 2007, c. 438, §7, is further amended to read:

**1. Taxpayers.** Persons subject to tax under this Title shall maintain such records as the State Tax Assessor determines necessary for the reasonable administration of this Title. Records pertaining to taxes imposed by chapters 371 ~~and~~ 575 ~~and~~ 577 and by Part 8 must be retained as long as is required by applicable federal law and regulation. Records pertaining to the special fuel tax user returns filed pursuant to section 3209, subsection 2 and the International Fuel Tax Agreement pursuant to section 3209, subsection 1-B must be retained for 4 years. Records pertaining to all other taxes imposed by this Title must be retained for a period of at least 6 years. The records must be kept in such a manner as to ensure their security and accessibility for inspection by the assessor or any designated agent engaged in the administration of this Title.

**Sec. 2. 36 MRSA §144, sub-§2, ¶A**, as enacted by PL 1997, c. 668, §10, is amended to read:

A. Subsection 1 does not apply in the case of sales and use taxes imposed by Part 3, estate taxes imposed by chapter 575 ~~or~~ 577, income taxes imposed by Part 8 and any other tax imposed by this Title for which a specific statutory refund provision exists.

**Sec. 3. 36 MRSA §4061**, as enacted by PL 1981, c. 451, §7, is amended to read:

**§4061. Applicability of provisions**

This chapter applies to the estates of persons who die after June 30, 1986 and before January 1, 2012.

1           **Sec. 4. 36 MRSA §4062, sub-§1-A, ¶A**, as amended by PL 2009, c. 213, Pt. E,  
2 §1 and affected by §6, is further amended to read:

3           A. For the estates of decedents dying after December 31, 2002, "federal credit"  
4 means the maximum credit against the tax on the federal taxable estate for state death  
5 taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of  
6 the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the  
7 period of limitations under the Code, Section 2011(c); and the termination provision  
8 contained in the Code, Section 2011(f). The state death tax deduction contained in the  
9 Code, Section 2058 must be disregarded. The unified credit must be determined  
10 under the Code, Section 2010 as of December 31, 2000. The termination provision  
11 contained in the Code, Section 2210 must be disregarded. Notwithstanding any other  
12 provision of this Title to the contrary, the tax determined by this chapter for estates of  
13 decedents dying after December 31, 2009 must be determined in accordance with the  
14 law applicable to decedents dying during calendar year 2009, except that for purposes  
15 of calculation of the amount of property that may be treated as Maine qualified  
16 terminable interest property under subsection 2-B, paragraph C, the applicable  
17 exclusion amount must be determined in accordance with the law applicable as of the  
18 decedent's actual date of death; and

19           **Sec. 5. 36 MRSA §4062, sub-§3**, as enacted by PL 1981, c. 451, §7, is amended  
20 to read:

21           **3. Nonresident.** "Nonresident" means a natural person domiciled in a jurisdiction  
22 other than ~~Maine~~ this State at the time of ~~his~~ that person's death.

23           **Sec. 6. 36 MRSA §4062, sub-§6**, as enacted by PL 1981, c. 451, §7, is amended  
24 to read:

25           **6. Resident.** "Resident" means a natural person domiciled in this State at the time of  
26 ~~his~~ that person's death.

27           **Sec. 7. 36 MRSA §4064**, as amended by PL 2007, c. 466, Pt. A, §62 and affected  
28 by §63, is further amended to read:

29           **§4064. Tax on estate of nonresident**

30           A tax is imposed upon the transfer of real property and tangible personal property  
31 situated in this State and held by an individual who dies prior to January 1, 2002 or after  
32 December 31, 2002 and who at the time of death was not a resident of this State. ~~When~~  
33 ~~real or tangible personal property has been transferred into a trust or a limited liability~~  
34 ~~company or other pass-through entity, the tax imposed by this section applies as if the~~  
35 ~~trust or limited liability company or other pass-through entity did not exist and the~~  
36 ~~property was personally owned by the decedent.~~ Maine property is subject to the tax  
37 imposed by this section to the extent that such property is either included in the  
38 decedent's federal gross estate or is Maine elective property. The amount of this tax is  
39 equal to that proportion of the federal credit that the value of the decedent's Maine real  
40 and tangible personal property in this State bears to the value of the decedent's federal  
41 gross estate. The share of the federal credit used to determine the amount of a  
42 nonresident individual's estate tax under this section is computed without regard to

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1 whether the specific real or tangible personal property located in the State is marital  
2 deduction property.

3 ~~Proceeds from the sale of property are taxable under this section if those proceeds are~~  
4 ~~included in the federal gross estate and the sale was made in contemplation of death. A~~  
5 ~~sale of property made within 6 months prior to the death of the grantor is deemed to be in~~  
6 ~~contemplation of death within the meaning of this section.~~

7 When real or tangible personal property is owned by a pass-through entity, the entity  
8 must be disregarded and the property must be treated as personally owned by the  
9 decedent if the entity does not actively carry on a business for the purpose of profit and  
10 gain; the ownership of the property in the entity was not for a valid business purpose; or  
11 the property was acquired by other than a bona fide sale for full and adequate  
12 consideration and the decedent retained a power with respect to or interest in the property  
13 that would bring the real or tangible personal property located in this State within the  
14 decedent's federal gross estate.

15 **Sec. 8. 36 MRSA §4068, sub-§2, ¶B,** as enacted by PL 2005, c. 218, §43, is  
16 amended to read:

17 B. The federal gross estate, increased by the amount of adjusted taxable gifts made  
18 by the decedent after December 31, 1976 and by the aggregate amount of any specific  
19 gift tax exemption under former Code, Section 2521 used by the decedent after  
20 September 8, 1976 ~~exceed~~ and by Maine elective property, exceeds the exclusion and  
21 related unified credit amounts specified in section 4062, subsection 1-A.

22 **Sec. 9. 36 MRSA c. 577** is enacted to read:

23 **CHAPTER 577**

24 **MAINE ESTATE TAX AFTER 2011**

25 **§4101. Applicability of provisions**

26 This chapter applies to the estates of persons who die after December 31, 2011.

27 **§4102. Definitions**

28 As used in this chapter, unless the context otherwise indicates, the following terms  
29 have the following meanings.

30 **1. Adjusted federal gross estate.** "Adjusted federal gross estate" means a  
31 decedent's federal gross estate as modified by Maine qualified terminable interest  
32 property, Maine elective property and the value of all taxable gifts as defined under the  
33 Code, Section 2503 made by the decedent during the one-year period ending on the date  
34 of the decedent's death.

35 **2. Federal gross estate.** "Federal gross estate" means the gross estate of a decedent  
36 as determined by the assessor in accordance with the Code. The termination provision  
37 contained in the Code, Section 2210 must be disregarded.

38 **3. Federal taxable estate.** "Federal taxable estate" means the taxable estate of a  
39 decedent as determined using the applicable provisions of the Code as of the decedent's

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1 date of death, except that the state death tax deduction contained in the Code, Section  
2 2058 and the termination provision contained in the Code, Section 2210 must be  
3 disregarded.

4 **4. Maine elective property.** "Maine elective property" means all property in which  
5 a decedent at the time of death had a qualified income interest for life and with respect to  
6 which for purposes of determining the tax imposed by this chapter or chapter 575 on the  
7 estate of a predeceased spouse of the decedent the federal taxable estate of that  
8 predeceased spouse was decreased pursuant to subsection 7, paragraph A or section 4062,  
9 subsection 1-B, paragraph B. The value of Maine elective property is the value  
10 determined by the assessor in accordance with the Code as if such property were  
11 includible in the decedent's federal gross estate pursuant to the Code, Section 2044 and, in  
12 the case of estates that do not incur a federal estate tax, as if the estate had incurred a  
13 federal estate tax.

14 **5. Maine exclusion amount.** "Maine exclusion amount" means \$5,000,000.

15 **6. Maine qualified terminable interest property.** "Maine qualified terminable  
16 interest property" means property:

17 A. That is eligible to be treated as qualified terminable interest property under the  
18 Code, Section 2056(b)(7);

19 B. For which no election allowable under the Code, Section 2056(b)(7) is made with  
20 respect to the federal estate tax; and

21 C. With respect to which an election is made, on a return timely filed with the  
22 assessor, to treat the property as Maine qualified terminable interest property for  
23 purposes of the tax imposed by this chapter. The amount of property with respect to  
24 which the election is made may not be less than zero or greater than the amount by  
25 which the federal applicable exclusion amount under the Code, Section 2010 exceeds  
26 the Maine exclusion amount. For the purposes of this paragraph, "federal applicable  
27 exclusion amount" does not include any deceased spousal unused exclusion amount  
28 under the Code.

29 **7. Maine taxable estate.** "Maine taxable estate" means the federal taxable estate:

30 A. Decreased by the value of Maine qualified terminable interest property;

31 B. Increased by the value of Maine elective property; and

32 C. Increased by, notwithstanding the Code, Section 2035, the value of all taxable  
33 gifts as defined under the Code, Section 2503 made by the decedent during the  
34 one-year period ending on the date of the decedent's death.

35 **8. Nonresident.** "Nonresident" means a natural person domiciled in a jurisdiction  
36 other than this State at the time of death.

37 **9. Personal representative.** "Personal representative" means a personal  
38 representative of a decedent or, if there is no personal representative appointed, qualified  
39 and acting within this State, any person who is in the actual or constructive possession of  
40 any property included in the federal gross estate of the decedent, any Maine elective  
41 property or any taxable gifts made during the one-year period ending on the date of the  
42 decedent's death.

1        **10. Resident.** "Resident" means a natural person domiciled in this State at the time  
2 of death.

3        **11. Transfer.** "Transfer" includes the passing of property or any interest therein, in  
4 possession or enjoyment, present or future, by inheritance, descent, devise, succession,  
5 bequest, grant, deed, bargain sale, gift or appointment in the manner described in this  
6 chapter.

7        **12. Value.** "Value" means, when determining value for purposes of this chapter,  
8 with respect to an estate or to property included in an estate, including Maine qualified  
9 terminable interest property, the value as determined by the assessor in accordance with  
10 the Code.

11        **§4103. Tax on estate of resident**

12        **1. Imposition of tax.** A tax is imposed on the transfer of the Maine taxable estate of  
13 every person who, at the time of death, was a resident of this State. The amount of tax is  
14 determined as provided in this section.

15            A. If the Maine taxable estate is less than \$5,000,000, the tax is \$0.

16            B. If the Maine taxable estate is at least \$5,000,000 but less than \$8,000,000, the tax  
17 is 10% of the excess over \$5,000,000.

18            C. If the Maine taxable estate is \$8,000,000 or more, the tax is \$300,000 plus 12% of  
19 the excess over \$8,000,000.

20        The amount of this tax is multiplied by a fraction, the numerator of which is the value of  
21 that portion of the decedent's adjusted federal gross estate that consists of real and  
22 tangible personal property located in this State plus the value of all intangible personal  
23 property and the denominator of which is the value of the decedent's adjusted federal  
24 gross estate.

25        **2. Other jurisdiction death tax credit.** A credit against the tax imposed by this  
26 section is allowed for all constitutionally valid estate, inheritance, legacy and succession  
27 taxes actually paid to another jurisdiction upon the value of real or tangible personal  
28 property owned by the decedent or subject to those taxes as a part of or in connection  
29 with the estate and located in that jurisdiction if the value of that property is also included  
30 in the value of the decedent's intangible personal property subject to taxation under this  
31 section. The credit provided by this subsection may not exceed the amount of tax  
32 otherwise due multiplied by a fraction, the numerator of which is the value of the  
33 property located in the other taxing jurisdiction subject to this credit on which tax was  
34 actually paid and the denominator of which is the value of the decedent's adjusted federal  
35 gross estate. For the purposes of this section, "another jurisdiction" means another state,  
36 the District of Columbia, a possession or territory of the United States or any political  
37 subdivision of a foreign country that is analogous to a state.

38        **§4104. Tax on estate of nonresident**

39        A tax is imposed on the Maine taxable estate of every person who, at the time of  
40 death, was a nonresident. The amount of tax equals the tax computed under section 4103,  
41 as if the nonresident were a resident, multiplied by the ratio of the value of that portion of

1 the decedent's adjusted federal gross estate that consists of real and tangible personal  
2 property located in this State to the value of the decedent's adjusted federal gross estate.

3 When real or tangible personal property is owned by a pass-through entity, the entity  
4 must be disregarded and the property must be treated as personally owned by the  
5 decedent if the entity does not actively carry on a business for the purpose of profit and  
6 gain; the ownership of the property in the entity was not for a valid business purpose; or  
7 the property was acquired by other than a bona fide sale for full and adequate  
8 consideration and the decedent retained a power with respect to or interest in the property  
9 that would bring the real or tangible personal property located in this State within the  
10 decedent's adjusted federal gross estate.

11 **§4105. Personal representative's liability for tax**

12 **1. Payment of tax.** The tax imposed by this chapter must be paid by the personal  
13 representative to the extent of assets subject to the personal representative's control. The  
14 assessor may accept payment of estate taxes in works of art in accordance with Title 27,  
15 chapter 2, subchapter 2.

16 **2. Certification of payment.** A final account of a personal representative of an  
17 estate may not be allowed by the Probate Court unless the personal representative has  
18 filed in the Probate Court a certificate of the assessor showing either that the amount of  
19 tax has been paid, that payment has been secured as provided in section 4108 or that no  
20 tax is due.

21 **§4106. Discharge of personal representative's personal liability**

22 If the personal representative makes a written application, accompanied by a copy of  
23 the final determination of the federal estate tax liability, if any, and other supporting  
24 documentation that the assessor may require, to the assessor for determination of the  
25 amount of the tax and discharge of personal liability for that tax, the assessor, as soon as  
26 possible and in any event within one year after the making of the application or, if the  
27 application is made before the return is filed, within one year after the return is filed, shall  
28 notify the personal representative of the amount of the tax and of any interest on that  
29 amount. The personal representative, on payment of that amount, is discharged from  
30 personal liability for any deficiency in tax subsequently found to be due and is entitled to  
31 a certificate of discharge.

32 **§4107. Tax due date; filing of return and payment of tax**

33 **1. Date due.** Except as otherwise provided by this chapter, a return required by this  
34 section is due 9 months after the date of the decedent's death and any tax due under this  
35 chapter is due at the same time. Interest accrues on any amount of tax not paid by the due  
36 date.

37 **2. Return required.** The personal representative shall file a Maine estate tax return  
38 whenever:

39 A. The Code requires that a federal estate tax return be filed; or

40 B. The federal gross estate, increased by the amount of adjusted taxable gifts made  
41 by the decedent after December 31, 1976 and by the aggregate amount of any specific

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1 gift tax exemption under former Code, Section 2521 used by the decedent after  
2 September 8, 1976 exceed the Maine exclusion amount.

3 The return must be in the form prescribed by the assessor, and it must be accompanied by  
4 a copy of the federal estate tax return, if any, and by other supporting documentation that  
5 the assessor may require.

6 **3. No tax liability.** In all cases where a Maine estate tax return is not required to be  
7 filed:

8 A. If the personal representative makes no election pursuant to section 4102,  
9 subsection 5, paragraph C, the personal representative, surviving joint tenant of real  
10 estate or any other person whose real estate might be subject to a lien for taxes  
11 pursuant to this chapter may at any time file with the assessor in the form prescribed  
12 by the assessor a statement of the value of the federal gross estate; and

13 B. If the personal representative makes an election pursuant to section 4102,  
14 subsection 5, paragraph C, the personal representative shall make the election on a  
15 timely filed return. The return must be in the form prescribed by the assessor, and it  
16 must be accompanied by a copy of the federal estate tax return, if any, and other  
17 supporting documentation that the assessor may require, including documentation  
18 related to an election made pursuant to section 4102, subsection 5, paragraph C.

19 **§4108. Extension of due date for payment of tax**

20 The assessor may extend the time for payment of the tax or any part of the tax for a  
21 reasonable period of time not to exceed one year from the date fixed for payment and  
22 may grant successive extensions. The aggregate of extensions with respect to any estate  
23 may not exceed 10 years, unless a longer period is called for by a payment arrangement  
24 elected pursuant to section 4109. If an extension is granted, the assessor may require the  
25 taxpayer to:

26 **1. Bond.** Give a bond to the Treasurer of State in an amount the assessor determines  
27 necessary; or

28 **2. Other security.** Deposit with the Treasurer of State bonds or other negotiable  
29 obligations of governmental entities with an aggregate value sufficient to adequately  
30 secure payment of the tax.

31 **§4109. Extension of time for payment of estate tax when estate consists largely of**  
32 **interest in closely held business**

33 **1. Deferred payment arrangement.** If the United States Internal Revenue Service  
34 has approved a federal estate tax deferral and installment payment arrangement under the  
35 Code, Section 6166, the personal representative may elect a similar deferred payment  
36 arrangement under this section for payment of the tax imposed by this chapter, subject to  
37 acceptance by the assessor. The assessor may approve a deferral and installment  
38 arrangement under similar circumstances and on similar terms with respect to an estate of  
39 a decedent dying after December 31, 2011 that does not incur a federal estate tax.

40 **2. Time and manner of election; rejection by assessor.** An election under this  
41 section may be made by attaching a payment deferral election in a form prescribed by the  
42 assessor to a timely filed Maine estate tax return, in addition to any documentation



1 required by section 4107 and copies of all documentation required by the United States  
2 Internal Revenue Service and submitted in support of a federal payment deferral.  
3 Documentation submitted to the assessor must clearly indicate the amount of Maine  
4 estate tax and interest to be paid in installments; the number of separate installments; and  
5 the due date of each installment payment. The assessor may reject the election. An  
6 election not rejected in writing by the assessor within 60 days after the election is made is  
7 considered accepted.

8 **3. Interest and penalties.** The amount of Maine estate tax deferred under this  
9 section is subject to interest pursuant to section 186. Interest payable on the unpaid tax  
10 attributable to a 5-year deferral period pursuant to the Code, Section 6166 must be paid  
11 annually. Interest payable on any unpaid tax attributable to any period after the 5-year  
12 deferral period must be paid annually at the same time as, and as part of, each installment  
13 payment of the tax. If any payment of principal or interest under this section is not made  
14 on or before the due date, the penalties provided by section 187-B apply.

15 **§4110. Extension of time for filing return**

16 **1. General.** The assessor may grant a reasonable extension of time for filing a return  
17 required by this chapter on terms and conditions as the assessor may require as long as  
18 payment reasonably estimating the tax due has been made on or before the original  
19 payment due date. Except as provided in subsection 2, an extension for filing any return  
20 may not exceed 8 months.

21 **2. Federal extension.** When an extension of time is granted within which to file a  
22 federal estate tax return, the due date for filing the Maine estate tax return is  
23 automatically extended for an equivalent period, as long as payment reasonably  
24 estimating the tax due has been made on or before the original payment due date.

25 **§4111. Effect of federal determination**

26 **1. Final federal determination.** Except as provided in subsection 2, a final federal  
27 determination as to any of the following issues also determines the same issue for  
28 purposes of the tax under this chapter:

29 A. The inclusion in the federal gross estate of any item of property or interest in  
30 property; and

31 B. The allowance of any item claimed as a deduction from the federal gross estate.

32 **2. State determination of certain estates.** The assessor is not bound by a final  
33 federal determination under subsection 1 if the assessor determines the issue for purposes  
34 of the tax under this chapter within one year of the date the return was filed or the date  
35 the return is due, whichever is later.

36 **3. Items entering computation of tax.** If there has been a final federal  
37 determination with respect to a decedent's federal estate tax, any item, but not its value,  
38 entering into the computation of the tax is deemed to have been the subject of the final  
39 federal determination, whether or not specifically adjusted thereby.

40 **4. Definition.** For purposes of this section, "final federal determination" means:

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- 1       A. A decision by the United States Tax Court or a judgment, decree or other order by  
2       any court of competent jurisdiction that has become final;
- 3       B. A final disposition by the United States Secretary of the Treasury or the  
4       secretary's delegate of a claim for a refund. The disposition is deemed to have  
5       occurred:
  - 6           (1) As to items of the claim that are allowed, upon allowance of a refund or upon  
7           disallowance of the claim by reason of offsetting items; and
  - 8           (2) As to items of the claim that are disallowed or as to items applied by the  
9           United States Secretary of the Treasury or the secretary's delegate as an offset  
10          against the claim, upon expiration of the time for instituting suit for refund with  
11          respect to those items, unless suit is instituted before the expiration of that time,  
12          or upon filing with the assessor a written statement that suit will not be instituted;
- 13       C. A closing agreement made under the Code, Section 7121;
- 14       D. An assessment pursuant to a waiver of restrictions on assessment or a notification  
15       in writing issued by the United States Secretary of the Treasury or the secretary's  
16       delegate that the federal estate tax return has been accepted as filed, unless the  
17       personal representative notifies the assessor that a claim for refund of federal estate  
18       taxes has been or will be filed; or
- 19       E. An assessment pursuant to a compromise entered into by the personal  
20       representative and the United States Secretary of the Treasury or the secretary's  
21       delegate.

22       **§4112. Lien for taxes**

23       All property subject to taxes under this chapter, in whatever form of investment it  
24       may happen to be, is charged with a lien for all taxes, interest and penalties that are or  
25       may become due on that property. The lien does not attach to any real or personal  
26       property after the property has been sold or disposed of for value by the personal  
27       representative, trustee or surviving joint tenant. Upon payment of those taxes, interest  
28       and penalties due under this chapter or upon determination that no tax is due, the assessor  
29       shall upon request execute a discharge of the tax lien for recording in the appropriate  
30       registry or registries of deeds.

31       **§4113. Authority of State Tax Assessor**

32       The assessor shall collect all taxes, interest and penalties provided by chapter 7 and  
33       by this chapter and may institute proceedings of any nature necessary or desirable for that  
34       purpose, including proceedings for the removal of personal representatives and trustees  
35       who have failed to pay the taxes due from estates in their hands.

36       The assessor may enforce the collection of any taxes secured by bond in a civil action  
37       brought on the bond regardless of the fact that some other official may be named as  
38       obligee in the bond.

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**§4114. Amount of tax determined**

The assessor shall determine the amount of tax due and payable under this chapter upon any estate or part of that estate. If, after determination and certification of the full amount of the tax upon an estate or any interest in or part of an estate, the estate receives or becomes entitled to property in addition to that shown in the estate tax return filed with the assessor or the United States Internal Revenue Service changes any item increasing the estate's liability shown in the Maine estate tax return filed with the assessor, the personal representative shall within 180 days of any receipt, entitlement or change file an amended Maine estate tax return. The assessor shall determine the amount of additional tax and shall certify the amount due, including interest and penalties, to the person by whom the tax is payable.

**§4115. Authority to make refunds**

**1. Refund.** A personal representative or responsible party otherwise liable for the tax imposed by this chapter may request a refund of any tax imposed by this chapter within 3 years from the date the Maine estate tax return was filed or 3 years from the date the tax was paid, whichever period expires later. A claim for refund must be submitted to the assessor in writing and must state the specific grounds upon which the claim is founded. The claimant may in writing request an informal conference regarding the claim for refund pursuant to section 151.

**2. Limitation on payment of interest.** Interest may not be paid by the assessor on an overpayment of the tax imposed by this chapter that is refunded within 60 days after the date prescribed or permitted by extension of time for filing the Maine estate tax return or within 60 days after the return is filed or within 60 days after a return requesting a refund of the overpayment is filed, whichever is later.

**§4116. Appointment of personal representative on probate delay**

If, upon the death of a person leaving an estate that may be liable to pay tax under this chapter, a will is not offered for probate or an application for administration is not made within 6 months after the date of death or if the personal representative does not qualify within that period, the Probate Court, upon application by the assessor, may appoint a personal representative. Nothing may prevent the assessor from petitioning for appointment within 6 months after the date of death, if in the opinion of the assessor that action is necessary.

**§4117. Persons liable**

Personal representatives, trustees, grantees or donees under nonexempt conveyances or nonexempt gifts made during the life of the grantor or donor and persons to whom beneficial interests accrue by survivorship are liable for the taxes imposed by this chapter with interest, as provided, until the taxes are paid. For purposes of this section, "nonexempt conveyances" and "nonexempt gifts" mean any transfer to a person that is includable in the federal gross estate of the decedent and with respect to which no deduction is allowed in computing the federal estate tax liability.

If the tax or any part of the tax is paid or collected out of that part of the estate passing to or in possession of any person other than the personal representative in that

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1 capacity, that person is entitled to a reimbursement out of any part of the estate still  
2 undistributed or by a just and equitable contribution by the person whose interest in the  
3 estate of the decedent would have been reduced if the tax had been paid before the  
4 distribution of the estate or whose interest in the estate is subject to an equal or prior  
5 liability for the payment of tax, debts or other charges against the estate.

6 **§4118. Civil action by State; bond**

7 Personal representatives are liable to the State on their administration bonds for all  
8 taxes assessable under this chapter and interest on those taxes. If no administration bond  
9 is otherwise required and except as otherwise provided in this section, the judge of  
10 probate, notwithstanding any provision of Title 18-A, shall require a bond payable to the  
11 judge or the judge's successor sufficient to secure the payment of all estate taxes and  
12 interest conditioned in substance to pay all estate taxes due to the State from the estate of  
13 the deceased with interest thereon. A bond to secure the payment of estate taxes is not  
14 required when the judge of probate finds that any estate tax due and to become due the  
15 State is reasonably secured by the lien upon real estate as provided in this chapter or by  
16 any other adequate security. An action for the recovery of estate taxes and interest lies on  
17 either of the bonds.

18 **Sec. 10. Application.** Those sections of this Act that amend the Maine Revised  
19 Statutes, Title 36, section 4061; section 4062, subsection 1-A, paragraph A; section 4062,  
20 subsections 3 and 6; section 4064; and section 4068, subsection 2, paragraph B apply to  
21 estates of decedents dying on or after January 1, 2011.'

22 **SUMMARY**

23 This amendment strikes and replaces the bill. With respect to the estate tax for  
24 estates of decedents dying after December 31, 2011, it provides an exclusion amount of  
25 \$5,000,000 and provides for the calculation of the estate tax according to a progressive  
26 rate structure of 10% for estates of at least \$5,000,000 but less than \$8,000,000 and 12%  
27 for estates of \$8,000,000 or more. For estates of decedents dying on or after January 1,  
28 2011, it provides conformance with federal law with respect to the treatment of Maine  
29 qualified terminable interest property. It also clarifies provisions related to the estates of  
30 nonresidents.

31 **FISCAL NOTE REQUIRED**

32 **(See attached)**



# 125th MAINE LEGISLATURE

LD 1147

LR 254(02)

An Act To Conform Maine's Estate Tax to the Federal Estate Tax

Fiscal Note for Bill as Amended by Committee Amendment "A" S-133

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	\$137,500	\$29,124,565	\$35,607,599	\$37,600,297
<b>Revenue</b>				
General Fund	(\$137,500)	(\$29,124,565)	(\$35,607,599)	(\$37,600,297)

### Fiscal Detail and Notes

Raising the Maine estate tax exclusion amount to \$5 million and establishing a progressive rate structure of 10% for estates of at least \$5 million but less than \$8 million and 12% for estates of \$8 million or more for estates of decedents dying after December 31, 2011, providing for conformity with federal law regarding qualified terminable interest property (QTIP), allowing a credit against estate taxes that are paid to another jurisdiction and changing taxation for nonresidents in the manner envisioned by the bill will reduce General Fund revenues starting in fiscal year 2011-12.