

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

3/16/12
ROES

Date: 3/16/12

L.D. 1749
(Filing No. H-792)

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

TAXATION

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1290, L.D. 1749, Bill, "An Act To Amend the Tax Laws"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 29-A MRSA §525, sub-§11, as amended by PL 2009, c. 598, §6, is further amended to read:

11. Cooperation. The State Tax Assessor, the Department of Public Safety and the Secretary of State shall cooperate in the issuance of decals, licenses and permits, the processing of tax returns, enforcement of this section and to ensure that timely information is readily available to all enforcement personnel of the status of those in noncompliance with the fuel use tax laws and motor vehicle registration laws.

Subject to the provisions of Title 36, the State Tax Assessor may by mutual agreement with the Secretary of State delegate to the Secretary of State responsibility for the audit and processing of motor carrier fuel tax returns, motor carrier fuel tax assessment and collection and compliance with the administrative requirements of the International Fuel Tax Agreement.

Amend the bill by inserting after section 3 the following:

'Sec. 4. 36 MRSA §191, sub-§2, ¶UU, as reallocated by RR 2011, c. 1, §52, is amended to read:

UU. The production in court on behalf of the assessor or any other party to an action or proceeding under this Title, or the production pursuant to a discovery request under the Maine Rules of Civil Procedure or a request under the freedom of access laws, of any reconsideration decision or other document setting forth or discussing the assessor's practice, interpretation of law or application of the law to particular facts, in redacted format so as not to reveal information from which the taxpayer may be identified. A person requesting the production of any such document shall pay, at the time the request is made, all direct and indirect costs associated with the redacting

COMMITTEE AMENDMENT

ROFS

1 of information from which the taxpayer or other interested party may be identified,
2 plus an additional fee of \$100 per request; and

3 **Sec. 5. 36 MRSA §191, sub-§2, ¶VV**, as reallocated by RR 2011, c. 1, §53, is
4 amended to read:

5 VV. The disclosure by the assessor to the taxpayer advocate under section 151-C of
6 information related to a petition for reconsideration filed by a taxpayer pursuant to
7 section 151. The taxpayer advocate is prohibited from disclosing information
8 obtained pursuant to this paragraph other than to the particular taxpayer to whom the
9 information pertains; and

10 **Sec. 6. 36 MRSA §191, sub-§2, ¶WW** is enacted to read:

11 WW. The disclosure of information to the Department of Inland Fisheries and
12 Wildlife necessary for the administration of the credit for Maine fishery infrastructure
13 investment under section 5216-D.

14 **Sec. 7. 36 MRSA §1140-B, sub-§2**, as enacted by PL 2007, c. 466, Pt. A, §58, is
15 repealed.'

16 Amend the bill by inserting after section 5 the following:

17 '**Sec. 6. 36 MRSA §3202, sub-§2-C**, as enacted by PL 2001, c. 396, §27, is
18 amended to read:

19 **2-C. IFTA governing documents.** "IFTA governing documents" means the IFTA
20 Articles of Agreement, the IFTA Audit Manual and the IFTA Procedures Manual, as
21 amended as of December 31, 2011.

22 **Sec. 7. 36 MRSA §3209, sub-§1-B**, as enacted by PL 2001, c. 396, §30, is
23 amended to read:

24 **1-B. International Fuel Tax Agreement.** The State Tax Assessor shall enforce the
25 IFTA governing documents and take all steps necessary to maintain the State's
26 membership in the IFTA, in order to:

27 A. Facilitate the administration of this chapter;

28 B. Promote the fullest and most efficient possible use of the highway system; and

29 C. Make uniform the administration, collection and enforcement of special fuel use
30 taxation laws with respect to motor vehicles operated in multiple jurisdictions; by
31 ensuring this State's full participation in the single-base jurisdiction system embodied
32 in the IFTA governing documents, ~~agreed to by other IFTA member jurisdictions and~~
33 ~~approved by the United States Congress in the Intermodal Surface Transportation~~
34 ~~Efficiency Act of 1991.~~

35 If a provision of chapter 7 or this chapter is inconsistent with the IFTA governing
36 documents, the IFTA governing documents prevail for purposes of this chapter except
37 when prohibited by the Constitution of Maine or the United States Constitution. The
38 assessor is authorized to ratify amendments to the IFTA governing documents on behalf
39 of this State, except that the assessor may not ratify any provision that infringes on the
40 substantive taxation authority of the Legislature, including the power to impose taxes, set

ROFS

1 tax rates and determine exemptions. ~~Subject to the provisions of this Title, the~~ The
2 assessor may by mutual agreement with the Secretary of State delegate to the Secretary of
3 State the assessor's responsibilities under this subsection, as well as the responsibility for
4 the audit, assessment and processing of IFTA special fuel tax returns, IFTA special fuel
5 tax collection, the administrative appeal of IFTA special fuel tax assessments and
6 compliance with IFTA administrative requirements. The assessor shall consult with the
7 Secretary of State and the Commissioner of Public Safety with respect to rules adopted by
8 the Secretary of State pertaining to IFTA. Notwithstanding section 151, if the
9 administrative appeal of IFTA special fuel tax assessments has been delegated to the
10 Secretary of State, such appeals must be taken under Title 29-A, section 111 and the
11 Maine Administrative Procedure Act. For purposes of this Title and Title 29-A, an IFTA
12 special fuel tax assessment is considered final and subject to demand and enforced
13 collection under this Title and Title 29-A if the tax assessed has not been paid by its due
14 date and no further administrative or judicial review is available pursuant to this Title or
15 Title 29-A.

16 **Sec. 8. 36 MRSA §5122, sub-§1, ¶EE**, as amended by PL 2011, c. 380, Pt. O,
17 §4, is further amended to read:

18 EE. The amount claimed as a deduction in determining federal adjusted gross
19 income that is included in the credit for wellness programs under section 5219-FF;
20 and

21 **Sec. 9. 36 MRSA §5122, sub-§1, ¶FF**, as enacted by PL 2011, c. 380, Pt. O, §5,
22 is amended to read:

23 FF. For taxable years beginning in 2011 and 2012:

24 (1) An amount equal to the depreciation deduction claimed by the taxpayer
25 under the Code, Section 168(k) with respect to property placed in service in the
26 State during the taxable year for which a credit is claimed under section
27 5219-GG; and

28 (2) An amount equal to the net increase in depreciation attributable to the
29 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
30 with respect to property for which a credit is not claimed under section
31 5219-GG; and

32 **Sec. 10. 36 MRSA §5122, sub-§1, ¶GG** is enacted to read:

33 GG. The amount claimed as a deduction in determining federal adjusted gross
34 income that is used to calculate the credit for Maine fishery infrastructure investment
35 under section 5216-D.'

36 Amend the bill in section 9 in paragraph KK in the last line (page 3, line 14 in L.D.)
37 by striking out the following: "new markets capital investment credit" and inserting the
38 following: 'income tax credit under the Maine New Markets Capital Investment Program
39 under Title 10, section 1100-Z'

40 Amend the bill by inserting after section 9 the following:

41 **'Sec. 10. 36 MRSA §5200-A, sub-§1, ¶X**, as amended by PL 2011, c. 380, Pt. O,
42 §12, is further amended to read:

ROFS

1 X. The amount claimed as a deduction in determining federal taxable income that is
2 included in the credit for wellness programs under section 5219-FF; ~~and~~

3 **Sec. 11. 36 MRSA §5200-A, sub-§1, ¶Y**, as enacted by PL 2011, c. 380, Pt. O,
4 §13, is amended to read:

5 Y. For taxable years beginning in 2011 and 2012:

6 (1) An amount equal to the depreciation deduction claimed by the taxpayer
7 under the Code, Section 168(k) with respect to property placed in service in the
8 State during the taxable year for which a credit is claimed under section
9 5219-GG; and

10 (2) An amount equal to the net increase in depreciation attributable to the
11 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
12 with respect to property for which a credit is not claimed under section
13 5219-GG; and

14 **Sec. 12. 36 MRSA §5200-A, sub-§1, ¶Z** is enacted to read:

15 Z. The amount claimed as a deduction in determining federal taxable income that is
16 used to calculate the credit for Maine fishery infrastructure investment under section
17 5216-D.'

18 Amend the bill in section 13 in paragraph X in the 2nd line (page 4, line 9 in L.D.) by
19 striking out the following: "new markets capital investment credit" and inserting the
20 following: 'income tax credit under the Maine New Markets Capital Investment Program
21 under Title 10, section 1100-Z'

22 Amend the bill in section 14 in paragraph A in the 7th and 8th lines (page 4, lines 18
23 and 19 in L.D.) by striking out the following: "new markets capital investment credit"
24 and inserting the following: 'income tax credit under the Maine New Markets Capital
25 Investment Program under Title 10, section 1100-Z'

26 Amend the bill by inserting after section 14 the following:

27 '**Sec. 15. 36 MRSA §5216-D, sub-§6**, as enacted by PL 2011, c. 380, Pt. HHHH,
28 §3, is repealed.'

29 Amend the bill in section 15 in subsection 1 in the 2nd line (page 4, line 25 in L.D.)
30 by striking out the following: "new markets capital investment credit" and inserting the
31 following: 'income tax credit under the Maine New Markets Capital Investment Program
32 under Title 10, section 1100-Z'

33 Amend the bill by inserting after section 15 the following:

34 '**Sec. 16. PL 2009, c. 356, Pt. A, §5** is repealed.

35 **Sec. 17. P&SL 2009, c. 12, §1** is amended to read:

36 **Sec. 1. Electronic filing requirements.** With regard to electronic filing
37 requirements established by the Department of Administrative and Financial Services,
38 Bureau of Revenue Services that begin on April 1, 2009, the bureau shall continue the
39 practice of leniency in granting waivers of the electronic filing requirement for any
40 taxpayer who has difficulty in meeting the requirements of electronic filing and shall

ROFS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

provide clear explanation to taxpayers by the most expeditious method of the availability of waivers. ~~The bureau shall report by January 15th annually to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the status of electronic filing requirements and the number of waivers requested and granted. The bureau's reporting requirement under this section ends January 15, 2015.'~~

Amend the bill in section 17 in the last line (page 4, line 38 in L.D.) by inserting after the following: "2011." the following: 'That section of this Act that amends Private and Special Law 2009, chapter 12, section 1 applies retroactively to April 21, 2009. Those sections of this Act that enact Title 36, section 5122, subsection 1, paragraph GG and Title 36, section 5200-A, subsection 1, paragraph Z and repeal Title 36, section 5216-D, subsection 6 apply retroactively to June 20, 2011.'

Amend the bill by inserting after section 17 the following:

'Sec. 18. Appropriations and allocations. The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF
Revenue Services - Bureau of 0002**

Initiative: Removes Highway Fund allocation from Maine Revenue Services for the transfer of 4 Senior Revenue Agent positions and related All Other from Maine Revenue Services to the Department of Secretary of State, Administration - Motor Vehicles.

HIGHWAY FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(4.000)
Personal Services	\$0	(\$302,202)
All Other	\$0	(\$64,748)
HIGHWAY FUND TOTAL	\$0	(\$366,950)

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2011-12	2012-13
HIGHWAY FUND	\$0	(\$366,950)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$366,950)

**SECRETARY OF STATE, DEPARTMENT OF
Administration - Motor Vehicles 0077**

Initiative: Provides Highway Fund allocation for the transfer of 4 Senior Revenue Agent positions and related All Other from Maine Revenue Services to the Department of Secretary of State, Administration - Motor Vehicles.

ROFS

COMMITTEE AMENDMENT "A" to H.P. 1290, L.D. 1749

1	HIGHWAY FUND	2011-12	2012-13
2	POSITIONS - LEGISLATIVE COUNT	0.000	4.000
3	Personal Services	\$0	\$302,202
4	All Other	\$0	\$64,748
5			
6	HIGHWAY FUND TOTAL	<u>\$0</u>	<u>\$366,950</u>
7	SECRETARY OF STATE, DEPARTMENT OF		
8	DEPARTMENT TOTALS	2011-12	2012-13
9			
10	HIGHWAY FUND	\$0	\$366,950
11			
12	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$366,950</u>
13	SECTION TOTALS	2011-12	2012-13
14			
15	HIGHWAY FUND	\$0	\$0
16			
17	SECTION TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$0</u>
18			

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

21 **SUMMARY**

22 This amendment makes additional changes to the laws governing taxation.

23 The amendment clarifies the State Tax Assessor's responsibilities with regard to
24 special fuel tax obligations reported or assessed under the International Fuel Tax
25 Agreement and provides the statutory authority for the further delegation of those
26 responsibilities to the Secretary of State, including the audit of International Fuel Tax
27 Agreement tax returns and the administrative appeal of International Fuel Tax Agreement
28 assessments.

29 The amendment clarifies that the International Fuel Tax Agreement governing
30 documents referenced in the Maine special fuel tax law include amendments to those
31 documents that have been adopted as of December 31, 2011.

32 The amendment repeals the requirement for the Bureau of Revenue Services to
33 submit to the Legislature a biennial report on the value of working waterfront land and
34 sales of the land.

35 The amendment repeals the requirement for the Department of Agriculture, Food and
36 Rural Resources and the Bureau of Revenue Services to jointly submit an annual report to
37 the Legislature on federal estate tax changes affecting Maine farmland.

COMMITTEE AMENDMENT

ROFS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

Under current law, a taxpayer may not claim a Maine fishery infrastructure investment tax credit if the taxpayer claims a deduction for the investment under another provision of the Maine income tax law. This amendment replaces this prohibition with an income tax addition modification for individuals and corporations to increase Maine taxable income by the amount of any deduction claimed for expenses that are used to calculate the Maine fishery infrastructure investment tax credit. The change applies retroactively to the effective date of the enactment of the Maine fishery infrastructure investment tax credit. The amendment authorizes the Department of Administrative and Financial Services, Bureau of Revenue Services to disclose information to the Department of Inland Fisheries and Wildlife necessary to administer the Maine fishery infrastructure investment tax credit.

The amendment repeals a requirement that the Bureau of Revenue Services submit a report to the Legislature regarding electronic filing mandates.

FISCAL NOTE REQUIRED

(See attached)



125th MAINE LEGISLATURE

LD 1749

LR 2465(02)

An Act To Amend the Tax Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-792)
 Committee: Taxation
 Fiscal Note Required: Yes

Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
Net Cost (Savings)				
Highway Fund	\$0	\$0	\$0	\$0
Appropriations/Allocations				
Highway Fund	\$0	\$0	\$0	\$0

Fiscal Detail and Notes

The bill makes multiple technical changes to the tax laws that collectively have no net fiscal impact. The bill also clarifies the State Tax Assessor's responsibilities with regard to special fuel tax obligations reported or assessed under the International Fuel Tax Agreement and provides for the further delegation of those responsibilities to the Secretary of State. The bill includes Highway Fund deallocations of \$366,950 to Maine Revenue Services and Highway Fund allocations of \$366,950 to the Secretary of State for the Personal Services and All Other costs of 4 Senior Revenue Agent positions transferred from Maine Revenue Services to the Secretary of State beginning in fiscal year 2012-13.