

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1110

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H.P. 779

House of Representatives, March 19, 2013

### An Act To Simplify the Tax Code

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PARRY of Arundel.  
Cosponsored by Senator COLLINS of York and  
Representatives: BENNETT of Kennebunk, CHASE of Wells, GOODE of Bangor, TURNER  
of Burlington, WILSON of Augusta.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 36 MRSA §1752, sub-§17-B**, as amended by PL 2011, c. 684, §2 and  
3 affected by §3, is repealed and the following enacted in its place:

4 **17-B. Taxable service.** "Taxable service" means an activity engaged in for another  
5 person for a fee, retainer, commission or other monetary charge that involves the  
6 performance of a service as distinguished from the sale of tangible personal property.

7 **Sec. 2. 36 MRSA §1760**, as amended by PL 2011, c. 501, §1, c. 542, Pt. A, §135,  
8 c. 548, §§15 and 16, c. 622, §2 and c. 655, Pt. PP, §3 and affected by §4; amended by c.  
9 657, Pt. N, §1 and affected by §3; amended by c. 657, Pt. W, §6, c. 670, §1 and c. 673,  
10 §1; and corrected by RR 2011, c. 2, §40, is repealed.

11 **Sec. 3. 36 MRSA §1760-C**, as amended by PL 2007, c. 437, §11, is repealed.

12 **Sec. 4. 36 MRSA §1760-D**, as amended by PL 2011, c. 285, §6 and affected by  
13 §15, is repealed.

14 **Sec. 5. 36 MRSA §1764**, as amended by PL 2011, c. 548, §17, is repealed.

15 **Sec. 6. 36 MRSA §1861**, as amended by PL 1995, c. 640, §6, is further amended  
16 to read:

17 **§1861. Imposition**

18 A tax is imposed, at the respective rate provided in section 1811, on the storage, use  
19 or other consumption in this State of tangible personal property or a taxable service, ~~the~~  
20 ~~sale of which would be subject to tax under section 1764 or 1811.~~ Every person so  
21 storing, using or otherwise consuming is liable for the tax until the person has paid the tax  
22 or has taken a receipt from the seller, as duly authorized by the assessor, showing that the  
23 seller has collected the sales or use tax, in which case the seller is liable for it. Retailers  
24 registered under section 1754-B or 1756 shall collect the tax and make remittance to the  
25 assessor. The amount of the tax payable by the purchaser is that provided in the case of  
26 sales taxes by section 1812. When tangible personal property purchased for resale is  
27 withdrawn from inventory by the retailer for the retailer's own use, use tax liability  
28 accrues at the date of withdrawal.

29 **Sec. 7. 36 MRSA §1861-A**, as amended by PL 2007, c. 240, Pt. W, §1 and  
30 affected by §2, is repealed and the following enacted in its place:

31 **§1861-A. Reporting use tax**

32 The assessor shall require that individuals report use tax in accordance with section  
33 1951-A. Taxpayers shall attest to the amount of their use tax liability for the period of the  
34 tax return.

35 **Sec. 8. 36 MRSA §1864**, as enacted by PL 2001, c. 439, Pt. II, §1 and affected by  
36 §2, is repealed.

1           **Sec. 9. 36 MRSA §1951-A, sub-§3**, as amended by PL 2011, c. 285, §7, is  
2 repealed.

3           **Sec. 10. 36 MRSA §2011, first ¶**, as amended by PL 2005, c. 218, §29, is further  
4 amended to read:

5           If the State Tax Assessor determines, upon written application by a taxpayer or  
6 during the course of an audit, that any tax under this Part has been paid more than once or  
7 has been erroneously or illegally collected or computed, the assessor shall certify to the  
8 State Controller the amount paid in excess of that legally due. That amount must be  
9 credited by the assessor on any taxes then due from the taxpayer and the balance refunded  
10 to the taxpayer or the taxpayer's successor in interest, but no such credit or refund may be  
11 allowed unless within 3 years from the date of overpayment either a written petition  
12 stating the grounds upon which the refund or credit is claimed is filed with the assessor or  
13 the overpayment is discovered on audit. Interest at the rate determined pursuant to  
14 section 186 must be paid on any balance refunded pursuant to this chapter from the date  
15 the return listing the overpayment was filed or the date the payment was made, ~~whichever~~  
16 ~~is later, except that no interest may be paid with respect to the refunds provided by~~  
17 ~~section 2013~~ and, in cases of excessive or erroneous collections, interest must be paid in  
18 accordance with section 1814, subsection 3. At the election of the assessor, unless the  
19 taxpayer specifically requests a cash refund, the refund may be credited to the taxpayer's  
20 sales and use tax account, but, in the case of a credit no further interest may accrue from  
21 the date of that election. The taxpayer may not apply for a refund of any amount assessed  
22 when administrative and judicial review under section 151 has been completed.

23           **Sec. 11. 36 MRSA §2011-A** is enacted to read:

24           **§2011-A. Refund of sales tax on grocery staples**

25           An individual with a federal adjusted gross income of \$20,000 or less may request a  
26 refund of sales tax paid under this Part on the purchase of grocery staples in accordance  
27 with section 2011.

28           **Sec. 12. 36 MRSA §2013**, as corrected by RR 2011, c. 2, §41, is repealed.

29           **Sec. 13. 36 MRSA §2014**, as enacted by PL 1983, c. 560, §§4 and 6, is repealed.

30           **Sec. 14. 36 MRSA §2016**, as amended by PL 2011, c. 655, Pt. L, §3, is repealed.

31           **Sec. 15. 36 MRSA §2017**, as amended by PL 2007, c. 693, §§17 to 21 and  
32 affected by §37, is repealed.

33           **Sec. 16. 36 MRSA §2019**, as enacted by PL 2007, c. 658, §3, is repealed.

34           **Sec. 17. 36 MRSA §2020**, as enacted by PL 2011, c. 425, §1 and affected by §3,  
35 is repealed.

36           **Sec. 18. 36 MRSA Pt. 8**, as amended, is repealed.

