

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1212

S.P. 406

In Senate, March 28, 2017

**An Act To Amend the Definition of "Eligible Business Equipment"  
for the Purposes of the Business Equipment Tax Exemption  
Program**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator KATZ of Kennebec.  
Cosponsored by Representative SPEAR of South Thomaston and  
Senators: GRATWICK of Penobscot, MIRAMANT of Knox.

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

2 **Sec. 1. 36 MRSA §652, sub-§1, ¶K**, as amended by PL 2009, c. 425, §1, is  
3 repealed.

4 **Sec. 2. 36 MRSA §691, sub-§1, ¶A**, as amended by PL 2009, c. 571, Pt. II, §1  
5 and affected by §5, is further amended to read:

6 A. "Eligible business equipment" means qualified property that, in the absence of  
7 this subchapter, would first be subject to assessment under this Part on or after April  
8 1, 2008. "Eligible business equipment" includes, without limitation, repair parts,  
9 replacement parts, replacement equipment, additions, accessions and accessories to  
10 other qualified business property that first became subject to assessment under this  
11 Part before April 1, 2008 if the part, addition, equipment, accession or accessory  
12 would, in the absence of this subchapter, first be subject to assessment under this Part  
13 on or after April 1, 2008. "Eligible business equipment" also includes inventory  
14 parts. For property tax years beginning on or after April 1, 2017, "eligible business  
15 equipment" includes the personal property leased by a benevolent and charitable  
16 organization that is exempt from taxation under section 501 of the Code and the  
17 primary purpose of which is the operation of a hospital licensed by the Department of  
18 Health and Human Services, a health maintenance organization or a blood bank.

19 "Eligible business equipment" does not include:

- 20 (1) Office furniture, including, without limitation, tables, chairs, desks,  
21 bookcases, filing cabinets and modular office partitions;
- 22 (2) Lamps and lighting fixtures used primarily for the purpose of providing  
23 general purpose office or worker lighting;
- 24 (3) Property owned or used by an excluded person;
- 25 (4) Telecommunications personal property subject to the tax imposed by section  
26 457;
- 27 (5) Gambling machines or devices, including any device, machine, paraphernalia  
28 or equipment that is used or usable in the playing phases of any gambling activity  
29 as that term is defined in Title 8, section 1001, subsection 15, whether that  
30 activity consists of gambling between persons or gambling by a person involving  
31 the playing of a machine. "Gambling machines or devices" includes, without  
32 limitation:
- 33 (a) Associated equipment as defined in Title 8, section 1001, subsection 2;
- 34 (b) Computer equipment used directly and primarily in the operation of a  
35 slot machine as defined in Title 8, section 1001, subsection 39;
- 36 (c) An electronic video machine as defined in Title 17, section 1831,  
37 subsection 4;
- 38 (d) Equipment used in the playing phases of lottery schemes; and
- 39 (e) Repair and replacement parts of a gambling machine or device;

1 (6) Property located at a retail sales facility and used primarily in a retail sales  
2 activity unless the property is owned by a business that operates a retail sales  
3 facility in the State exceeding 100,000 square feet of interior customer selling  
4 space that is used primarily for retail sales and whose Maine-based operations  
5 derive less than 30% of their total annual revenue on a calendar year basis from  
6 sales that are made at a retail sales facility located in the State. For purposes of  
7 this subparagraph, the following terms have the following meanings:

8 (a) "Primarily" means more than 50% of the time;

9 (b) "Retail sales activity" means an activity associated with the selection and  
10 purchase of goods or services or the rental of tangible personal property.  
11 "Retail sales activity" does not include production as defined in section 1752,  
12 subsection 9-B; and

13 (c) "Retail sales facility" means a structure used to serve customers who are  
14 physically present at the facility for the purpose of selecting and purchasing  
15 goods or services at retail or for renting tangible personal property. "Retail  
16 sales facility" does not include a separate structure that is used as a  
17 warehouse or call center facility;

18 (7) Property that is not entitled to an exemption by reason of the additional  
19 limitations imposed by subsection 2; or

20 (8) Personal property that would otherwise be entitled to exemption under this  
21 subchapter used primarily to support a telecommunications antenna used by a  
22 telecommunications business subject to the tax imposed by section 457.

23 **Sec. 3. Application.** That section of this Act that repeals the Maine Revised  
24 Statutes, Title 36, section 652, subsection 1, paragraph K applies to tax years beginning  
25 on or after April 1, 2017.

## 26 SUMMARY

27 This bill changes the statutory location of the tax exemption for personal property  
28 occupied or used solely for its own purposes by an incorporated benevolent and  
29 charitable organization that is exempt from taxation under section 501 of the Code and  
30 the primary purpose of which is the operation of a hospital licensed by the Department of  
31 Health and Human Services, a health maintenance organization or a blood bank. This bill  
32 moves the exemption from the statutes regarding exemption of real and personal  
33 property, since the exemption no longer applies to real property, to the definition of  
34 "eligible business equipment" for the purposes of defining personal property that is  
35 exempt from property tax under the business equipment tax exemption, or "BETE,"  
36 program.