

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1432, L.D. 2011, Bill, "An Act To Update Certain Provisions in the Income Tax and Service Provider Tax Laws"

Amend the bill in Part A in section 2 by striking out all of subsection 2-B (page 1, lines 26 to 33 in L.D.) and inserting the following:

2-B. Digital audio-visual and digital audio services. "Digital audio-visual and digital audio services" means the electronic transfer of digital audio-visual works and digital audio works to an end user with the right of less than permanent use granted by the seller, including when conditioned upon continued payment from the purchaser or a subscription.

For purposes of this subsection:

A. "End user" means a person other than a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to another person;

B. "Permanent" means perpetual or for an indefinite or unspecified length of time;

C. "Subscription" means an agreement with a seller that grants a purchaser the right to obtain products transferred electronically, in a fixed quantity or for a fixed period of time, or both; and

D. "Transfer electronically" or "electronic transfer" means obtainment by the purchaser by means other than tangible storage media.'

Amend the bill in Part A by striking out all of section 8 and inserting the following:

Sec. A-8. 36 MRSA §2556-A is enacted to read:

§2556-A. Sourcing for sales of digital audio-visual and digital audio services

The sale of digital audio-visual and digital audio services is sourced in this State pursuant to this section.

COMMITTEE AMENDMENT

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1. Sourced to address of purchaser in seller's business records. The sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

2. Sourced to address of purchaser not in seller's business records. For a sale when subsection 1 does not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

3. Sourced to address from which service provided. When subsections 1 and 2 do not apply, including the circumstance in which the seller is without sufficient information to apply subsection 1 or 2, the location is determined by the address from which the service was provided, disregarding for these purposes any location that was merely the site from which the digital transfer of the product sold was provided.

4. Mobile telecommunications service providers. Notwithstanding subsections 1 to 3, the sale of digital audio-visual and digital audio services by a provider of mobile telecommunications service is sourced in the same manner as mobile telecommunications services pursuant to section 2556.'

Amend the bill in Part B in section 1 in subsection 10 on the 2nd line (page 3, line 26 in L.D.) by striking out the following: "substantial"

Amend the bill in Part B in section 2 in §5200-B in subsection 1 on the first line (page 3, line 33 in L.D.) by striking out the following: "substantial"

Amend the bill in Part B in section 2 in §5200-B in subsection 3 on the 2nd line (page 4, line 14 in L.D.) by striking out the following: "substantial"

Amend the bill in Part B in section 2 in §5200-B by inserting at the end the following:

'4. Federal protection. A state that is without jurisdiction to impose a tax on the net income of a taxpayer because that taxpayer comes under the protection of 15 United States Code, Sections 381 to 384, does not gain jurisdiction to impose such a tax because the taxpayer's property, payroll or sales in the State exceed a threshold established in subsection 1.'

Amend the bill by inserting after Part D the following:

'PART E

Sec. E-1. 36 MRSA §1760, sub-§104 is enacted to read:

104. Section 501(c)(3) nonprofit organizations. Sales to a nonprofit organization that has been determined by the United States Internal Revenue Service to be exempt from federal income taxation under Section 501(c)(3) of the Code, if the tangible personal property or taxable services sold are to be used primarily for the purposes for which the nonprofit organization was organized.

Sec. E-2. 36 MRSA §2557, sub-§40 is enacted to read:

R.O.N.S

COMMITTEE AMENDMENT "A" to H.P. 1432, L.D. 2011

1 Code of 1986 if the property or services sold are to be used primarily for the purposes for
2 which the nonprofit organization was organized. The amendment requires the
3 Department of Administrative and Financial Services, Bureau of Revenue Services,
4 Office of Tax Policy to review sales tax and service provider tax exemptions to identify
5 provisions that should be repealed or amended because they are duplicative or otherwise
6 unnecessary and to submit legislation repealing or modifying those exemptions. The
7 amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

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COMMITTEE AMENDMENT



129th MAINE LEGISLATURE

LD 2011

LR 2993(02)

An Act To Update Certain Provisions in the Income Tax and Service Provider Tax Laws

Fiscal Note for Bill as Amended by Committee Amendment *A(H-767)*

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$0	(\$3,117,525)	(\$1,668,200)	(\$844,550)
Appropriations/Allocations				
General Fund	\$0	\$26,000	\$0	\$0
Revenue				
General Fund	\$0	\$3,143,525	\$1,668,200	\$844,550
Other Special Revenue Funds	\$0	\$122,475	\$87,800	\$44,450

Fiscal Detail and Notes

This bill makes changes to the state tax laws and will increase General Fund revenue by \$3,143,525 in fiscal year 2020-21 and increase Other Special Revenue Funds revenue by \$122,475 in fiscal year 2020-21. The bill includes a one-time General Fund appropriation to the Department of Administrative and Financial Services of \$26,000 in fiscal year 2020-21 for computer programming costs.