

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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Legislative Document

No. 1338

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H.P. 852

House of Representatives, March 28, 2023

### **An Act to Amend the Maine Exclusion Amount in the Estate Tax**

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Reference to the Committee on Taxation suggested and ordered printed.

*Robert B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Representative COLLINGS of Portland.

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

2 **Sec. 1. 36 MRSA §4102, sub-§5**, as amended by PL 2017, c. 474, Pt. G, §1, is  
3 repealed and the following enacted in its place:

4 **5. Maine exclusion amount.** "Maine exclusion amount" means:

5 A. For estates of decedents dying on or after January 1, 2013 but before January 1,  
6 2016, \$2,000,000;

7 B. For estates of decedents dying on or after January 1, 2016 but before January 1,  
8 2018, the basic exclusion amount determined for the calendar year in accordance with  
9 the Code, Section 2010(c)(3);

10 C. For estates of decedents dying on or after January 1, 2018 but before January 1,  
11 2024, \$5,600,000; and

12 D. For estates of decedents dying on or after January 1, 2024, \$2,000,000 plus any  
13 additional exclusion amount allowed under section 4120.

14 **Sec. 2. 36 MRSA §4119**, as amended by PL 2019, c. 607, Pt. D, §5, is further  
15 amended to read:

16 **§4119. Annual adjustments for inflation**

17 Beginning in 2018 and ~~each year thereafter ending in 2021~~, annually, on or about  
18 September 15th, for the estates of decedents who die during the succeeding calendar year,  
19 the assessor shall multiply the cost-of-living adjustment by the dollar amount contained in  
20 section 4102, subsection 5, ~~paragraph C~~ applicable to estates of decedents dying ~~on or after~~  
21 ~~January 1, 2018~~ before January 1, 2024. Beginning in 2025 and each year thereafter, on or  
22 about September 15th, for the estates of decedents who die during the succeeding calendar  
23 year, the assessor shall multiply the cost-of-living adjustment by the dollar amount  
24 contained in section 4102, subsection 5, paragraph D and section 4120 applicable to estates  
25 of decedents dying on or after January 1, 2024. For the purposes of this section, the "cost-  
26 of-living adjustment" is the Chained Consumer Price Index for the 12-month period ending  
27 June 30th of the preceding calendar year divided by the Chained Consumer Price Index for  
28 the 12-month period ending June 30, 2017. If the dollar amount, adjusted by the application  
29 of the cost-of-living adjustment, is not a multiple of \$10,000, any increase must be rounded  
30 to the nearest multiple of \$10,000.

31 **Sec. 3. 36 MRSA §4120** is enacted to read:

32 **§4120. Additional exclusion amount for family farms and aquaculture, fishing and**  
33 **wood harvesting businesses**

34 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
35 following terms have the following meanings.

36 A. "Commercial agricultural production" means commercial production of crops,  
37 maple syrup, honey, plants, trees, compost and livestock.

38 B. "Commercial aquacultural production" means the commercial production of  
39 cultured fish, shellfish, seaweed or other marine plants for human and animal  
40 consumption, including:

1           (1) All cultivating activities occurring at hatcheries or nurseries, from the egg,  
2           larval or spore stage to the transfer of the product to a growing site; and

3           (2) All cultivating activities occurring on water, from the receipt of fish, shellfish,  
4           seaweed or other marine plants from onshore facilities to the delivery of harvested  
5           products to onshore facilities for processing.

6           C. "Commercial fishing" means attempting to catch fish or any other marine animals  
7           or organisms with the intent of disposing of them for profit or trade in commercial  
8           channels and does not include subsistence fishing for personal use, sport fishing or  
9           charter boat fishing in which the vessel is used for carrying sport anglers to available  
10          fishing grounds.

11          D. "Commercial wood harvesting" means the commercial severance and yarding of  
12          trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud wood,  
13          poles, pilings, biomass or fuel wood or other products commonly known as forest  
14          products.

15          E. "Depreciable machinery and equipment" means, except as otherwise provided by  
16          this paragraph, that part of the following machinery and equipment for which  
17          depreciation is allowable under the Code and repair parts for that machinery and  
18          equipment:

19           (1) New or used machinery and equipment used directly and primarily in  
20           commercial agricultural production, including self-propelled vehicles; attachments  
21           and equipment for the production of field and orchard crops; new or used  
22           machinery and equipment for use directly and primarily in production of milk,  
23           maple syrup or honey, animal husbandry and production of livestock, including  
24           poultry; new or used machinery and equipment used in the removal and storage of  
25           manure; and new or used machinery and equipment not used directly and primarily  
26           in commercial agricultural production but used to transport potatoes from a truck  
27           into a storage location;

28           (2) New or used watercraft, nets, traps, cables, tackle and related equipment  
29           necessary to and used directly and primarily in commercial fishing;

30           (3) New or used watercraft, machinery or equipment used directly and primarily  
31           for commercial aquacultural production, including, but not limited to: nets; ropes;  
32           cables; anchors and anchor weights; shackles and other hardware; buoys; fish  
33           tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating  
34           systems; boilers and related pumping systems; diving equipment; feeders and  
35           related equipment; power-generating equipment; tank water-level sensors;  
36           aboveground piping; water-oxygenating systems; fish-grading equipment; safety  
37           equipment; and sea cage systems, including walkways and frames, lights, netting,  
38           buoys, shackles, ropes, cables, anchors and anchor weights; and

39           (4) New or used machinery and equipment used directly and primarily in  
40           commercial wood harvesting, including, but not limited to, chain saws, skidders,  
41           delimbers, forwarders, slashers, feller bunchers and wood chippers.

42          "Depreciable machinery and equipment" does not include a motor vehicle as defined  
43          in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

1 F. "Family member" means, whether by blood or legal adoption, the decedent's sibling  
2 or the spouse of a sibling; parent or grandparent or the spouse of a parent or  
3 grandparent; ancestor; or lineal descendant.

4 G. "Farmland" means land that is or could be classified as farmland under chapter 105,  
5 subchapter 10 and includes personal property that is exempt from property tax under  
6 section 655, subsection 1, paragraph C, D, M or O.

7 **2. Additional exclusion amount.** Notwithstanding any provision of law to the  
8 contrary, an additional exclusion amount from the estate tax under this chapter of up to  
9 \$3,800,000 is allowed for farmland or depreciable machinery and equipment that is part of  
10 an estate of a decedent dying on or after January 1, 2024 that is transferred to a family  
11 member of the decedent.

12 **3. Requirements for additional exclusion; report.** In order to qualify for the  
13 additional exclusion from the estate tax pursuant to this section:

14 A. The farmland or depreciable machinery and equipment must be transferred to a  
15 family member;

16 B. For at least 5 years following the transfer, the farmland or depreciable machinery  
17 and equipment must remain the property of the family member to whom the farmland  
18 or depreciable machinery and equipment was transferred or, in the event of the death  
19 of that transferee, a family member of that transferee; and

20 C. During the 5 years under paragraph B following the transfer:

21 (1) The land transferred must continue to meet the requirements for classification  
22 as farmland under chapter 105, subchapter 10, except that the gross income  
23 requirements of section 1102, subsection 4 must be met for every year of the 5  
24 years following transfer; and

25 (2) The depreciable machinery and equipment transferred must continue to be used  
26 for commercial agricultural production, commercial aquacultural production,  
27 commercial fishing or commercial wood harvesting for every year of the 5 years  
28 following transfer.

29 A family member to whom farmland or depreciable machinery and equipment is  
30 transferred who wishes to claim the additional exclusion under this section shall file a report  
31 annually for the 5 years following the transfer with the assessor certifying that the farmland  
32 or depreciable machinery and equipment continues to qualify for the additional exclusion.

33 **4. Failure to maintain requirements for additional exclusion.** If, at any time during  
34 the 5 years following the decedent's death, the farmland or depreciable machinery and  
35 equipment transferred does not meet the requirements of subsection 3, the owner of the  
36 farmland or depreciable machinery and equipment is subject to the applicable tax specified  
37 in this chapter based on the fair market value of the farmland or depreciable machinery and  
38 equipment as of the date of the decedent's death.

39 **5. Rules.** The assessor shall adopt routine technical rules pursuant to Title 5, chapter  
40 375, subchapter 2-A to implement this section, including determining the method of  
41 providing certification of qualification for the additional exclusion provided by this section.

42 **Sec. 4. 36 MRSA §4121** is enacted to read:

1 **§4121. Distribution of revenue**

2 Beginning January 1, 2024, on a monthly basis, the Treasurer of State shall credit 100%  
3 of the revenues generated by the reduction in the exclusion amount as described in section  
4 4102, subsection 5, paragraph D to the Maine State Housing Authority to be used solely to  
5 support affordable housing. Twenty-five percent of the funds credited to the Maine State  
6 Housing Authority pursuant to this section must be used to support affordable housing for  
7 veterans.

8 **SUMMARY**

9 This bill returns the exclusion amount, below which the Maine estate tax does not  
10 apply, to \$2,000,000 from the \$5,600,000 in current law for estates of decedents dying on  
11 or after January 1, 2024. The Treasurer of State must credit 100% of the revenues generated  
12 by the reduction in the exclusion amount to the Maine State Housing Authority to be used  
13 to support affordable housing. Twenty-five percent of the amount credited must be used  
14 to support affordable housing for veterans.

15 The bill also creates an additional exclusion amount from the estate tax for family farms  
16 and aquaculture, fishing and wood harvesting businesses of up to \$3,800,000. This  
17 additional exclusion applies to farmland or depreciable machinery and equipment used in  
18 agriculture, aquaculture, fishing or wood harvesting that is inherited by a family member  
19 and remains in commercial use for 5 years following transfer.