

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1808

H.P. 1153

House of Representatives, April 25, 2023

An Act to Amend the State Tax Laws

(EMERGENCY)

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PERRY of Bangor.

1 Government for total disability, service-connected or nonservice-connected, as a
2 veteran. A veteran of the Vietnam War must have served on active duty after
3 February 27, 1961 and before May 8, 1975. "Persian Gulf War" means service on
4 active duty on or after August 2, 1990 and before or on the date that the United
5 States Government recognizes as the end of that war period; or

6 **Sec. B-2. 36 MRSA §653, sub-§1, ¶D-1**, as amended by PL 2021, c. 682, §2, is
7 further amended to read:

8 D-1. The estates up to the just value of \$50,000, having a taxable situs in the place of
9 residence, for specially adapted housing units, of veterans who served in the Armed
10 Forces of the United States during any federally recognized war period, including the
11 Korean Conflict, the Vietnam War, the Persian Gulf War, the periods from August 24,
12 1982 to July 31, 1984 and December 20, 1989 to January 31, 1990, Operation Enduring
13 Freedom, Operation Iraqi Freedom and Operation New Dawn, or during the period
14 from February 1, 1955 to February 27, 1961, or who were awarded ~~the Armed Forces~~
15 ~~Expeditionary Medal~~ an expeditionary medal for service in the Armed Forces of the
16 United States, and who are ~~paraplegic veterans within the meaning of as described in~~
17 ~~38 United States Code, Chapter 21, Section 2101~~, and who received a grant from the
18 United States Government for any such housing, or of the unremarried widows or
19 widowers of those veterans. A veteran of the Vietnam War must have served on active
20 duty after February 27, 1961 and before May 8, 1975. "Persian Gulf War" means
21 service on active duty on or after August 2, 1990 and before or on the date that the
22 United States Government recognizes as the end of that war period. The exemption
23 provided in this paragraph applies to the property of the veteran including property
24 held in joint tenancy with a spouse or held in a revocable living trust for the benefit of
25 that veteran.

26 **Sec. B-3. 36 MRSA §694, sub-§2, ¶B**, as amended by PL 2013, c. 544, §4 and
27 affected by §7, is further amended to read:

28 B. In the case of a municipality that chooses reimbursement under this paragraph in
29 which the personal property factor exceeds 5%, the applicable percentage for exempt
30 business equipment is 50% plus an amount equal to 1/2 of the personal property factor.
31 For purposes of this paragraph, "personal property factor" means the percentage
32 derived from a fraction, the numerator of which is the value of taxable business
33 ~~personal property in the municipality, whether taxable or exempt~~ plus the value of
34 exempt eligible business equipment, and the denominator of which is the value of all
35 taxable property in the municipality plus the value of exempt business equipment. For
36 purposes of this paragraph, the ~~taxable~~ value of exempt business equipment is the value
37 that would have been assessed on that equipment if it were taxable.

38 **Sec. B-4. 36 MRSA §701-A, 3rd ¶**, as enacted by PL 2021, c. 663, §1, is amended
39 to read:

40 For the purpose of establishing the valuation of improved real property, the property
41 must be valued based on its highest and best use as of April 1st of each year, taking all of
42 the following 3 approaches to value into consideration: cost, income ~~capitalization~~ and
43 sales comparison. In establishing the valuation of improved real property, assessors shall
44 consider age, condition, use, type of construction, location, design, physical features and
45 economic characteristics.

1 **Sec. B-5. 36 MRSA §701-A, 4th ¶**, as enacted by PL 2021, c. 663, §2, is amended
2 to read:

3 In determining just value, consistent with the Constitution of Maine, Article IX,
4 Section 8, a property subject to restrictions, contractual or otherwise, that restrict the
5 permitted use of a property may not be considered comparable to property not so restricted,
6 unless the value of that restricted property is adjusted for the restriction.

7 **Sec. B-6. 36 MRSA §6260, sub-§2**, as amended by PL 1991, c. 846, §38, is further
8 amended to read:

9 **2. Deferred property taxes due.** The amounts of deferred property taxes, including
10 accrued interest, for all years are due and payable to the bureau ~~April 30th of the year~~
11 ~~following the calendar year in~~ within 12 months of the date on which the circumstance
12 ~~occurs, except as provided in subsection 3 and section sections 6261 and 6263;~~

13 **Sec. B-7. 36 MRSA §6263**, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to
14 read:

15 **§6263. Extension of time for payment upon death of claimant or spouse**

16 **1. Payment extension.** If the taxpayer who claimed homestead property tax deferral
17 dies, or if a spouse who continued the deferral under section 6261 dies, the bureau may
18 extend the time for payment of the deferred taxes and interest accruing with respect to the
19 taxes becoming due and payable under section 6260, subsection 2, if:

20 A. The homestead property becomes property of an individual or individuals:

21 (1) By inheritance or devise; or

22 (2) If the individual or individuals are heirs or devisees in the course of settlement
23 of the estate;

24 B. An individual or individuals commence occupancy of the property as a principal
25 residence ~~on or before August 15th of the calendar year following the calendar year~~
26 within 12 months of the date of death; or and

27 C. An individual or individuals make application to the bureau for an extension of time
28 for payment of the deferred taxes and interest ~~prior to August 15th of the calendar year~~
29 ~~following the calendar year~~ within 12 months of the date of death.

30 **2. Extension terms.** Subject to paragraph B, an extension granted under ~~this section~~
31 ~~shall subsection 1 must~~ be for a period not to exceed ~~5~~ 6 years ~~after August 15th of the~~
32 ~~calendar year following the calendar year~~ from the date of death. The terms and conditions
33 under which the extension is granted ~~shall~~ must be in accordance with a written agreement
34 entered into by the bureau and the individual or individuals.

35 An extension granted under this section ~~shall terminate~~ terminates immediately if:

36 A. The homestead property is sold or otherwise transferred by any party to the
37 extension agreement;

38 B. All of the heirs or devisees who are parties to the extension agreement cease to
39 occupy the property as a principal residence; or

40 C. The homestead property, a mobile or floating home, is moved out of the State.

1 Notwithstanding any provision of this Part to the contrary, an individual who
2 transferred, during the taxable year, real or tangible personal property located in this State
3 under an installment sale agreement may elect to recognize, for purposes of determining
4 the taxable income under this chapter, the total gain from that sale in the taxable year of
5 the transfer; or to recognize any remaining gain in a subsequent tax year to the extent of
6 the gain not reported in a prior tax year. An election under this section is not available to
7 an individual unless that individual is a nonresident of this State at the time of the transfer
8 or at the time the election is made by the individual. Any installment interest related to the
9 sale of property for which an election is made under this section is excluded from the
10 taxable income of the nonresident individual under chapter 807 for the taxable year for
11 which the election under this section is made and any subsequent taxable year. The interest
12 exclusion in this section does not apply to any loan interest arrangement which has as a
13 principal purpose the avoidance of any tax of this State. An election under this section must
14 be made on a timely filed original income tax return, including if filed by any extension
15 granted for filing the return, and, once made, is irrevocable.

16 **Sec. C-6. 36 MRSA §5219-PP, sub-§6** is enacted to read:

17 **6. Application.** Except for the credit allowed with respect to the carry-forward of
18 unused credit amounts pursuant to subsection 4, the tax credit allowed under this section
19 does not apply to taxable years beginning on or after January 1, 2024.

20 **Sec. C-7. 36 MRSA §5231, sub-§1-A**, as amended by PL 2019, c. 659, Pt. G, §2,
21 is further amended to read:

22 **1-A. Federal extension.** When an individual, estate or trust is granted an extension
23 of time within which to file a federal income tax return for any taxable year, an extension
24 to file the taxpayer's income tax return with respect to the tax imposed by this Part is
25 automatically granted for an equivalent period from the date prescribed for filing the return.
26 When a taxable corporation or a financial institution subject to the tax imposed by chapter
27 819 is granted an extension of time within which to file its federal income tax return for
28 any taxable year, an extension to file the taxpayer's income tax or franchise tax return with
29 respect to the tax imposed by this Part is automatically granted for an equivalent period
30 from the date prescribed for filing the return plus 30 days.

31 **Sec. C-8. 36 MRSA §6753, sub-§12**, as amended by PL 2015, c. 368, §5, is further
32 amended to read:

33 **12. Qualified employee.** Except for an employee in a call center in Aroostook County
34 or Washington County, "qualified employee" means a new, full-time employee hired in
35 this State by a qualified business, for whom a retirement program subject to the federal
36 Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18
37 and group health insurance are provided, and whose income derived from employment with
38 the applicant, calculated on a calendar year basis, is greater than the most recent annual per
39 capita personal income in the county in which the qualified employee is employed, as long
40 as ~~Maine income tax withholding~~ gross wages paid attributed to the qualified employee is
41 are subject to reimbursement to the qualified business under this chapter. "Qualified
42 employee" does not include an employee who is shifted to a qualified business from an
43 affiliated business. The commissioner shall determine whether a shifting of employees has
44 occurred.

1 For an employee in a call center in Aroostook County or Washington County, "qualified
2 employee" means a new, full-time employee hired in this State by a qualified business, for
3 whom a retirement program subject to the federal Employee Retirement Income Security
4 Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided,
5 and whose income derived from employment with the applicant, calculated on a weekly
6 basis, is greater than the average weekly wage for the most recent available calendar year
7 as derived from the quarterly census of employment and wages and provided annually by
8 the Department of Labor, as long as ~~Maine income tax withholding gross wages paid~~
9 attributed to the qualified employee is are subject to reimbursement to the qualified
10 business under this chapter. "Qualified employee" does not include an employee who is
11 shifted to a qualified business from an affiliated business. The commissioner shall
12 determine whether a shifting of employees has occurred. The calculation of the average
13 weekly wage must include data from the counties of Androscoggin, Aroostook, Franklin,
14 Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc,
15 Somerset, Waldo and Washington. Notwithstanding this subsection, with respect to a call
16 center in Aroostook or Washington county, in a county in which the average annual
17 unemployment rate at the time of certification for the most recent calendar year is greater
18 than the state average for the same year, the wage threshold is 90% of the average weekly
19 wage as derived from the quarterly census of employment and wages. Notwithstanding
20 this subsection, with respect to a call center in Aroostook or Washington county and upon
21 approval of the commissioner, a qualified business located in a county in which the average
22 annual unemployment rate at the time of certification for the most recent calendar year is
23 greater than the state average for that same year qualifies for a phase-in of salary threshold
24 requirements. A qualified business under this provision must meet 70% of the average
25 weekly wage as derived from the quarterly census of employment and wages in the first
26 year of certification, 80% of the average weekly wage as derived from the quarterly census
27 of employment and wages in the 2nd year of certification and 90% of the average weekly
28 wage as derived from the quarterly census of employment and wages in all following years
29 of certification. Failure to meet any of these requirements results in automatic revocation
30 of certification.

31 **Sec. C-9. Application.** Those sections of this Part that amend the Maine Revised
32 Statutes, Title 36, section 2521-A, first paragraph, section 2531, subsection 1 and section
33 5147 apply to taxable years beginning on or after January 1, 2024. The section of this Part
34 that amends Title 36, section 5231, subsection 1-A applies to taxable years beginning on
35 or after January 1, 2023.

36 **Sec. C-10. Application; retroactivity.** That section of this Part that repeals the
37 Maine Revised Statutes, Title 36, section 5122, subsection 1, paragraph Z applies
38 retroactively to taxable years beginning on or after January 1, 2020. The section of this
39 Part that amends Title 36, section 5122, subsection 2, paragraph HH applies retroactively
40 to taxable years beginning on or after January 1, 2016. The section of this Part that amends
41 Title 36, section 6753, subsection 12 applies retroactively to requests for reimbursement
42 for calendar years beginning on or after January 1, 2022.

43 **Sec. C-11. Effective date.** This Part takes effect 90 days following adjournment of
44 the First Regular Session of the 131st Legislature.

45 **PART D**

1 **Sec. E-1. 36 MRSA §4401, sub-§1-A, ¶A**, as enacted by PL 2011, c. 285, §11, is
2 amended to read:

3 A. The purchaser submits the order for the sale by means of telephonic or other
4 electronic method of voice transmission, the United States mail, the Internet or a
5 delivery service; or

6 **Sec. E-2. 36 MRSA §4401, sub-§1-B** is enacted to read:

7 **1-B. Consumer.** "Consumer" means an individual who purchases, receives or
8 possesses tobacco products for personal consumption and not for resale.

9 **Sec. E-3. 36 MRSA §4401, sub-§1-C** is enacted to read:

10 **1-C. Cost price.** "Cost price" means:

11 A. In the case of a manufacturer, the price set for tobacco products or, if a price has
12 not been set, the wholesale value of those products; or

13 B. In the case of a distributor, a remote seller or a consumer:

14 (1) The actual price paid for an item identified using a stock keeping unit that
15 identifies the item using a unique code or identifier; or

16 (2) If the actual price paid for an item is not available, the average of the actual
17 price paid for the item over the 12 calendar months before January 1 of the year in
18 which the remote sale occurs.

19 **Sec. E-4. 36 MRSA §4401, sub-§2**, as amended by PL 2011, c. 285, §12, is
20 repealed and the following enacted in its place:

21 **2. Distributor.** "Distributor" means:

22 A. A person engaged in the business of producing or manufacturing tobacco products
23 in this State for sale in this State;

24 B. A person engaged in the business of selling tobacco products in this State who
25 brings, or causes to be brought, into this State tobacco products for sale to a retailer;

26 C. A person with a place of business in this State engaged in the business of selling
27 tobacco products in this State who brings, or causes to be brought, into this State
28 tobacco products for sale to a person other than a retailer;

29 D. A person engaged in the business of selling tobacco products who ships or
30 transports tobacco products to retailers for sale in this State;

31 E. A retailer who imports, receives or acquires, from a person other than a licensed
32 distributor, tobacco products for sale within the State; or

33 F. A person who makes delivery sales.

34 **Sec. E-5. 36 MRSA §4401, sub-§4-A** is enacted to read:

35 **4-A. Premium cigar.** "Premium cigar" has the same meaning as in Title 22, section
36 1551, subsection 5.

37 **Sec. E-6. 36 MRSA §4401, sub-§4-B** is enacted to read:

38 **4-B. Remote sale.** "Remote sale" means any sale into this State of premium cigars or
39 pipe tobacco to a consumer when:

1 A. The consumer submits the order for the sale by means of a telephone or other
2 method of voice transmission, United States mail or the Internet or other online service
3 or the remote seller is otherwise not in the physical presence of the buyer when the
4 request for purchase or order is made; or

5 B. The premium cigars or pipe tobacco is delivered to the buyer by common carrier,
6 private delivery service or other method of remote delivery or the remote seller is not
7 in the physical presence of the buyer when the buyer obtains possession of the cigars
8 or pipe tobacco.

9 **Sec. E-7. 36 MRSA §4401, sub-§4-C** is enacted to read:

10 **4-C. Remote seller.** "Remote seller" means a person who makes a remote sale when:

11 A. The person's gross sales from sales of premium cigars or pipe tobacco into this State
12 in the previous calendar year or current calendar year exceeds \$100,000; or

13 B. The person made sales of premium cigars or pipe tobacco for delivery into this State
14 in at least 200 separate transactions in the previous calendar year or current calendar
15 year.

16 **Sec. E-8. 36 MRSA §4401, sub-§6**, as enacted by PL 1985, c. 783, §16, is repealed.

17 **Sec. E-9. 36 MRSA §4401, sub-§9**, as amended by PL 2019, c. 607, Pt. B, §7 and
18 PL 2021, c. 669, §5, is further amended to read:

19 **9. Tobacco products.** "Tobacco products" means cigars, including premium cigars;
20 cheroots; stogies; electronic smoking devices and liquids used in electronic smoking
21 devices whether or not they contain nicotine; periques, granulated, plug cut, crimp cut,
22 ready rubbed and other smoking tobacco; snuff; snuff flour; snus; cavendish; plug and twist
23 tobacco; finecut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and
24 sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as
25 to be intended for human consumption or as is likely to be consumed, whether smoked,
26 heated, chewed, absorbed, dissolved, inhaled or ingested by any other means. "~~Tobacco~~
27 products" does not include:

28 ~~A. Products that are subject to the tax provided by chapter 703;~~

29 ~~B. Drugs, devices or combination products authorized for sale by the United States~~
30 ~~Department of Health and Human Services, Food and Drug Administration, as those~~
31 ~~terms are defined in the Federal Food, Drug, and Cosmetic Act;~~

32 ~~C. Any product that contains adult use cannabis subject to tax under chapter 723; or~~

33 ~~D. Any product that contains cannabis or cannabis products subject to control under~~
34 ~~Title 22, chapter 558-C.~~

35 **Sec. E-10. 36 MRSA §4402, sub-§1**, as amended by PL 2019, c. 379, Pt. B, §15,
36 is further amended to read:

37 **1. Generally.** Every distributor or remote seller shall obtain a license from the State
38 Tax Assessor before engaging in business. A retailer required to be licensed as a distributor
39 or remote seller pursuant to this chapter ~~must also that is required to~~ hold a current retail
40 tobacco license issued under Title 22, chapter 262-A, subchapter 1 must hold that license
41 as a condition for licensure under this chapter. ~~A distributor's license must be prominently~~
42 ~~displayed on the premises of the business covered by the license and~~ A license issued

1 pursuant to this section may not be transferred to any other person. A distributor's license
2 issued pursuant to this section is not a license within the meaning of that term in the Maine
3 Administrative Procedure Act.

4 **Sec. E-11. 36 MRSA §4402, sub-§2**, as enacted by PL 2005, c. 627, §7, is amended
5 to read:

6 **2. Applications; forms.** Every license application must be made on a form prescribed
7 by the assessor and must state the name and address of the applicant, the address of the
8 applicant's principal place of business and such other information as the assessor may
9 require for the proper administration of this chapter. A person ~~outside the State who ships~~
10 ~~or transports tobacco products to a retailer in this State must make application as a~~
11 ~~distributor and be granted by the assessor a license subject to all the provisions of this~~
12 ~~chapter and agree, upon applying for a license, shall agree to submit that person's books,~~
13 accounts and records to examination by the bureau during reasonable business hours and
14 to accept service of process by mail when service is made in any proceeding involving
15 enforcement of this chapter.

16 **Sec. E-12. 36 MRSA §4402, sub-§4**, as enacted by PL 2005, c. 627, §7, is amended
17 to read:

18 **4. Penalties.** The following penalties apply to a violation of this section.

19 A. A distributor or remote seller that imports into this State any tobacco product
20 without holding a distributor's license issued by the assessor pursuant to this section
21 commits a civil violation for which a fine of not less than \$250 and not more than \$500
22 must be adjudged.

23 B. A distributor or remote seller that violates paragraph A after having been previously
24 adjudicated as violating paragraph A commits a civil violation for which a fine of not
25 less than \$500 and not more than \$1,000 must be adjudged for each subsequent
26 violation.

27 C. A distributor or remote seller that sells at wholesale or retail, offers for sale at
28 wholesale or retail or possesses with intent to sell at wholesale or retail any tobacco
29 product without holding a distributor's license issued by the assessor pursuant to this
30 section commits a civil violation for which a fine of not less than \$250 and not more
31 than \$500 must be adjudged.

32 D. A distributor or remote seller that violates paragraph C after having been previously
33 adjudicated as violating paragraph C commits a civil violation for which a fine of not
34 less than \$500 and not more than \$1,000 must be adjudged for each subsequent
35 violation.

36 **Sec. E-13. 36 MRSA §4402, sub-§5**, as amended by PL 2019, c. 379, Pt. B, §17,
37 is further amended to read:

38 **5. Surrender, revocation or suspension.** When the business with respect to which a
39 license was issued pursuant to this section is sold or ceases to do business in this State, the
40 holder of the license shall immediately surrender it to the assessor. The assessor may
41 revoke or suspend the license of any distributor or remote seller for failure to comply with
42 any provision of this chapter or if the person no longer imports or sells tobacco products.
43 A license that has been revoked or suspended pursuant to this subsection must be

1 immediately surrendered to the assessor. A person aggrieved by a revocation or suspension
2 may request reconsideration as provided in section 151.

3 **Sec. E-14. 36 MRSA §4402, sub-§6**, as amended by PL 2019, c. 379, Pt. B, §18,
4 is further amended to read:

5 **6. License directory maintained.** The assessor shall maintain a directory of
6 distributors and remote sellers licensed pursuant to this chapter. The assessor shall update
7 the directory as necessary, but not less than annually. Notwithstanding the provisions of
8 section 191, the list must be available to the public and must be posted on a publicly
9 accessible website maintained by the assessor. ~~The directory must be mailed annually to~~
10 ~~all retailers at or near the time of renewal of a retail tobacco license issued under Title 22,~~
11 ~~chapter 262-A, subchapter 1.~~

12 **Sec. E-15. 36 MRSA §4402, sub-§7**, as amended by PL 2019, c. 379, Pt. B, §18,
13 is further amended to read:

14 **7. Notification.** A distributor or remote seller that has its license suspended or
15 revoked, within 10 business days of the suspension or revocation, shall inform in writing
16 all its accounts in this State that it no longer holds a valid license under this section.
17 Notwithstanding the provisions of section 191, the assessor may publish the names of
18 distributors and remote sellers that have had a license suspended or revoked.

19 **Sec. E-16. 36 MRSA §4403, sub-§2**, as amended by PL 2019, c. 530, Pt. A, §4, is
20 further amended to read:

21 **2. Other tobacco.** ~~A tax is imposed on cigars, pipe tobacco and other tobacco intended~~
22 ~~for smoking at the rate of 20% of the wholesale sales price beginning October 1, 2005.~~
23 ~~Beginning January 2, 2020, a tax is imposed on all tobacco products, other than those~~
24 ~~subject to tax under subsection 1, at the rate of 43% of the wholesale sales price. Beginning~~
25 ~~January 1, 2024, a tax is imposed on all tobacco products, other than those subject to tax~~
26 ~~under subsection 1, at the rate of 43% of the cost price. Beginning January 2, 2020, the tax~~
27 ~~rate imposed pursuant to this subsection is subject to adjustment pursuant to subsection 5.~~

28 **Sec. E-17. 36 MRSA §4403, sub-§3**, as amended by PL 2005, c. 627, §9, is further
29 amended to read:

30 **3. Imposition.** The tax is imposed at the time the distributor or remote seller brings
31 or causes to be brought into this State tobacco products that are for sale ~~to consumers or to~~
32 ~~retailers~~ or for use or at the time tobacco products are manufactured or fabricated in this
33 State for sale in this State.

34 **Sec. E-18. 36 MRSA §4403, sub-§4**, as enacted by PL 1985, c. 783, §16, is
35 repealed.

36 **Sec. E-19. 36 MRSA §4403-A** is enacted to read:

37 **§4403-A. Exemptions from the tobacco tax**

38 **1. Exempt items.** The tax imposed on tobacco products does not apply to the
39 following products:

40 A. Products that are subject to the tax provided by chapter 703; or

1 B. Drugs, devices or combination products authorized for sale by the United States
2 Department of Health and Human Services, Food and Drug Administration, as those
3 terms are defined in the Federal Food, Drug and Cosmetic Act.

4 **2. Tobacco products containing cannabis.** The tax imposed on tobacco products
5 does not apply to the sale of an electronic smoking device or other tobacco product
6 containing adult use cannabis subject to tax under chapter 723 or an electronic smoking
7 device or other tobacco product containing cannabis or cannabis products subject to control
8 under Title 22, chapter 558-C.

9 **3. Exportation.** The tax imposed on tobacco products does not apply to those products
10 exported from this State or to any tobacco products that under laws of the United States
11 may not be subject to taxation by this State.

12 **Sec. E-20. 36 MRSA §4404,** as amended by PL 2019, c. 379, Pt. B, §§19 and 20,
13 is repealed and the following enacted in its place:

14 **§4404. Returns; payment of tax and penalty**

15 **1. Monthly returns.** Every distributor or remote seller subject to the licensing
16 requirement of section 4402 shall file, on or before the last day of each month, a return on
17 a form prescribed by the assessor together with payment of the tax due under this chapter.
18 The return must report all tobacco products held, purchased, manufactured, brought in or
19 caused to be brought in from outside the State or shipped or transported to retailers or
20 consumers within the State during the preceding calendar month.

21 **2. Exports.** The return must include further information as the assessor may prescribe
22 and must show a credit for any tobacco products exported on which the tax was previously
23 paid as provided in section 4403-A, subsection 3. The distributor or remote seller shall
24 maintain records to substantiate the credit.

25 **3. Tax previously paid on unsalable items.** Tax previously paid on tobacco products
26 that are returned to a manufacturer, a distributor or a remote seller because the product has
27 become unfit for use, sale or consumption and on tobacco products that are returned to a
28 distributor or remote seller that are subsequently destroyed by the distributor or remote
29 seller may be taken as a credit on a subsequent return. The assessor may either witness the
30 destruction of the product or may accept another form of proof that the product has been
31 destroyed by the distributor or remote seller or returned to the manufacturer.

32 **4. Person not a distributor or remote seller required to file.** A person who is not a
33 distributor or remote seller licensed pursuant to this chapter who imports, receives or
34 otherwise acquires tobacco products for use or consumption in the State from a person
35 other than a licensed distributor or licensed remote seller shall file, on or before the last day
36 of the month following each month in which tobacco products were acquired, a return on
37 a form prescribed by the assessor together with payment of the tax imposed by this chapter
38 at the rate provided in section 4403. The return must report the quantity of tobacco products
39 imported, received or otherwise acquired from a person other than a licensed distributor,
40 licensed remote seller or retailer during the previous calendar month and additional
41 information the assessor may require.

42 **Sec. E-21. 36 MRSA §4404-A, first ¶,** as enacted by PL 2005, c. 627, §11, is
43 amended to read:

1 Violation of this section by a person other than a retailer is a strict liability crime as
2 defined in Title 17-A, section 34, subsection 4-A. It is an affirmative defense to a
3 prosecution under this section that a retailer, alleged to have imported tobacco products or
4 caused tobacco products to be imported, reasonably relied on licensing information
5 ~~annually mailed to the retailer~~ provided by the assessor pursuant to section 4402, subsection
6 that listed the company from which the retailer obtained tobacco products as being a
7 licensed distributor or licensed remote seller.

8 **Sec. E-22. 36 MRSA §4404-A, sub-§3**, as amended by PL 2007, c. 438, §103, is
9 further amended to read:

10 **3. Exception for personal use.** A person who is not a licensed distributor or licensed
11 remote seller may:

12 A. Import or transport tobacco products other than cigars into this State and transport
13 those tobacco products from place to place within this State for personal use in a
14 quantity not greater than one pound; or

15 B. Import or transport cigars into this State and transport those cigars from place to
16 place within this State for personal use in a quantity of no more than 125 cigars.

17 Untaxed tobacco products imported or transported into this State in any quantity are subject
18 to the tax imposed by section 4403.

19 **Sec. E-23. 36 MRSA §4404-B**, as enacted by PL 2005, c. 627, §11, is amended to
20 read:

21 **§4404-B. Sales of tobacco products in contravention of law**

22 **1. Tobacco products.** A distributor or remote seller may not offer for sale or sell
23 tobacco products if the package containing the tobacco products:

24 A. Is subject to and does not comply with 15 United States Code, Section 4401, et
25 seq., for the placement of labels, warnings or any other information for a package of
26 tobacco products to be sold within the United States and 26 United States Code, Section
27 5723;

28 B. Is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S." or with
29 other wording indicating that the manufacturer did not intend that the product be sold
30 in the United States;

31 C. Has been altered by adding or deleting wording, labels or warnings described in
32 paragraphs A and B;

33 D. Has been imported into the United States in violation of 26 United States Code,
34 Section 5754; or

35 E. In any way violates federal trademark or copyright laws.

36 **2. Shipment only to licensed retailers.** A distributor may not sell or offer to sell
37 tobacco products to a retailer unless the retailer has provided documentation to the
38 distributor that the retailer holds a current retail tobacco license issued under Title 22,
39 section 1551-A.

1 **SUMMARY**

2 Part A makes changes to the sales tax law. Part A:

3 1. Requires a marketplace facilitator to collect recycling assistance fees on sales that
4 the marketplace facilitator facilitates; and

5 2. Adds the definition of "low-income" as used by the sales tax exemption for sales to
6 a nonprofit housing development organization in the Maine Revised Statutes, Title 36,
7 section 1760, subsection 72 to the corresponding exemption under the service provider tax.

8 Part B makes changes to the property tax law. Part B:

9 1. Simplifies eligibility for the property tax exemption for veterans who served in a
10 federally recognized war period or received an expeditionary medal by removing the
11 distinction between different expeditionary medals;

12 2. Simplifies and broadens eligibility for the property tax exemption for veterans with
13 specially adapted housing units to include all veterans who receive grants for specially
14 adapted housing;

15 3. Adjusts the personal property factor calculation used to determine state business
16 equipment tax exemption reimbursement rates to exclude business personal property
17 exempt from property taxation for reasons other than the business equipment tax
18 exemption;

19 4. Clarifies the 3 approaches to valuation;

20 5. Allows certain restricted property to be considered comparable to property not so
21 restricted for valuation purposes if the comparison is adjusted for the restriction; and

22 6. Changes the payment due date for the homestead property tax deferral program for
23 senior citizens from April 30th of the calendar year following the year in which the property
24 exited the program to 12 months after the property exited the program and changes the date
25 by which an extension must be requested from August 15th of the calendar year following
26 the year in which the property exited the program upon a death to 12 months after the
27 property exited the program.

28 Part C makes changes to the income tax law. Part C:

29 1. Provides that each required estimated tax payment for nonadmitted insurance
30 premiums be based on contracts written during the estimated tax period;

31 2. Clarifies that the nonadmitted insurance premiums tax is based on premiums on
32 contracts written by insurers, rather than on premiums paid to insurers;

33 3. Retroactively repeals the Maine modification related to the federal exclusion of
34 benefits for volunteer firefighters and emergency responders;

35 4. Eliminates a duplication of benefits by requiring that the military survivor benefits
36 subtraction modification be reduced by the amount of those benefits claimed as a pension
37 deduction under the Maine Revised Statutes, Title 36, section 5122, subsection 2,
38 paragraph M-2;

39 5. Provides that the interest associated with an installment sale of property for which
40 an election is made by a nonresident individual taxpayer to pay the Maine tax on the gain

1 in the year of the sale or in a subsequent year is excluded from Maine taxable income in
2 the year of the election and any year subsequent to the election;

3 6. Removes the credit for certain homestead modifications for taxable years beginning
4 on or after January 1, 2024, but allows taxpayers to carry forward unused credit amounts
5 for up to 4 years following the first year of eligibility. It also makes an additional technical
6 change;

7 7. Establishes the extended due dates for filing income tax returns of taxable
8 corporations and franchise tax returns of financial institutions as 30 days following the
9 extended due date for filing the related federal income tax return. This change applies to
10 taxable years beginning on or after January 1, 2024; and

11 8. Replaces a reference to "Maine income tax withholding" in the employment tax
12 increment financing program with a reference to "gross wages paid" in order to reflect a
13 recent change in the program to base the benefit on gross wages paid rather than on income
14 tax withholding.

15 Part D makes changes to the property tax stabilization for senior citizens program. Part
16 D:

17 1. Clarifies the property tax year for which individuals request stabilization;

18 2. Clarifies the form municipalities must use to apply for reimbursement; and

19 3. Authorizes the Department of Administrative and Financial Services, Maine
20 Revenue Services to audit municipal applications for reimbursement and provides for
21 municipal appeal rights. These changes take effect upon enactment.

22 Part E makes changes to the tobacco tax law. Part E:

23 1. Enacts a definition of "remote seller" to mean a seller of premium cigars and pipe
24 tobacco selling directly to consumers located in the State;

25 2. Enacts a definition of "remote sale" to establish clearly when an economic nexus
26 exists for purposes of regulation and taxation of distributors and remote sellers of tobacco
27 products located outside of the State; and

28 3. Makes other technical changes throughout to ensure clarity and consistency
29 regarding the imposition of the tax and the many different types of distributors who bring
30 or cause to be brought tobacco products into this State for sale.

31 Part F allows the disclosure of a taxpayer's current mailing address to the Treasurer of
32 State for purposes of returning unclaimed or abandoned property.