

MAINE STATE LEGISLATURE

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(Transmitted from the Revisor of Statutes Under Joint Order)

H. P. 1558

House of Representatives, February 14, 1941.

Referred to Committee on Taxation and sent up for concurrence. 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Eddy of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT Exempting Homesteads from Taxation.

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

Sec. 1. R. S., c. 13, additional. Chapter 13 of the revised statutes is hereby amended by adding thereto the following sections to be numbered 6-A, 6-B, 6-C, 6-D, and 6-E, and to read as follows:

'Sec. 6-A. Homestead tax imposed. 1. Imposition of tax. a. For the privilege of selling tangible personal property at retail, and services, as hereafter defined, in this state, every vendor shall pay a tax of 2% upon the receipts therefrom, except as hereinafter provided. This tax shall be in addition to all other taxes and shall be known as the "homestead tax".

b. The burden of proof that the sale of tangible personal property was not a sale at retail shall be upon the vendor, unless such vendor shall have taken from the vendee a certificate signed by and bearing the name and address of the vendee to the effect that the property was purchased for resale. For the purpose of the proper administration of this act, and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts from the sale of tangible personal property at retail and services are subject to the tax until the contrary is established.

c. In any case in which tangible personal property or services are sold under a contract made prior to January 1st, 1941, which specifies and fixes the sale price and such sale is taxable under this act, the vendor may add the tax imposed by this act and collect it from the vendee.

2. Minimum tax. If a vendor has receipts of not more than \$100 for any month for which a return is required to be made, he shall not be required to pay a tax under this act.

3. Exemptions. The following are exempted from the tax imposed herein:

a. Sales of motor fuels, upon which a tax is imposed.

b. Sales of telephone, telegraph and transportation services; sales of electricity and all other sales of goods or services to the extent to which the same may be subject to a tax upon the gross receipts therefrom under any other law of this state.

c. Sales of tangible personal property or services by or to the United States, the state of Maine, and its counties, municipalities and any other political subdivisions thereof, and sales of whatever character upon which this state is, by virtue of the constitution of the United States or otherwise, without power to impose a tax.

d. Sales of all goods for use in manufacturing or producing, including seeds, fertilizers, insecticides and fungicides, feeds and other materials purchased by farmers and used in producing farm products for sale, but not including goods or materials that are used in building or repairing buildings.

4. Records. Every vendor selling tangible personal property at retail or services in this state and subject to the tax imposed by this act shall keep such records of receipts and in such form as the tax assessor may by regulation require. Such records shall be offered for inspection and examination at any time upon demand by the tax assessor or his duly authorized agent or employee, and shall be preserved for a period of 3 years, except that the tax assessor may consent to their destruction within that period, or may require that they be kept longer.

5. Returns to be filed. Every vendor selling tangible personal property at retail, or services in this state, and subject to the tax imposed by this act shall file with the state tax assessor on or before the 15th day of the succeeding month a return of his receipts for each preceding month after the effective date of this act; with such return shall be accompanied a remittance to state treasurer for the full amount of the tax due for said period less 5% thereof, which is to be retained by the taxpayer for his expenses in making and filing such returns. The forms for such returns shall be pre-

scribed by and furnished by the state tax assessor and shall contain such information as he may deem necessary for the proper administration of this act.

6. Installment sales and cancelled sales, how reported. a. Installment sales. The tax assessor may provide by regulation that receipts from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due, in which event such receipts shall become subject to the tax at such times and not at the time when the contract of sale was entered into.

b. Cancelled sales. The tax assessor shall provide by regulation for the exclusion from receipts of amounts representing sales where the contract of sale has been cancelled, or the goods returned, or the purchase price or charge for the same or any part thereof, is proven uncollectible, or in case the tax has been paid upon such receipts, for a credit for the amount of the tax against future tax liability of the vendor.

7. Payment of tax. At the time of filing a return of receipts each vendor shall pay to the tax assessor the tax imposed by this act for the period covered by such return. All taxes for the period for which a return is required to be filed shall be due and payable on the date established for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed shows the correct amount of tax due. If any vendor shall make sales of tangible personal property at retail or services while his license is suspended, the tax prescribed by this act shall nevertheless be imposed and payable with respect to such sales, but the payment of such tax shall not afford relief from any of the penalties prescribed by this act for selling while a license is suspended.

8. Licenses. a. Every vendor engaged in the sale of tangible personal property at retail or services in this state on the effective date of this act shall be deemed to have a license so to do.

b. Every vendor engaging in the sale of tangible personal property at retail or services in this state after the effective date of this act shall first apply to and procure from the tax assessor a license so to do, giving the name and address of the vendor and the address of the place or places where such sales are to be made. With each such application there shall be paid the sum of \$10 to be credited against the tax found to be due under this act.

c. The tax assessor shall have power to suspend the license of any vendor who shall violate or fail to comply with any provision of this act or any rule or regulation adopted by him pursuant to this act and shall also have power

to restore licenses after such suspension. A license shall be suspended in case a return or corrected return is not filed as in this act provided, or in case any tax under any assessment made by the tax assessor, or penalty thereon, shall not be paid within 30 days from the giving of notice of such assessment, unless proceedings instituted to contest the tax are pending, or the tax assessor shall have granted an extension of time for the filing of the return or the payment of the tax, but any such extension shall not have the effect of changing the due date of the tax.

d. The filing of delinquent returns or the payment of delinquent taxes and penalties shall have the effect of restoring the license.

e. Any vendor who shall sell tangible personal property at retail or services in this state after his license shall have been suspended, or without procuring a license as provided in subsection b of this section, and the officers of any corporation which shall so sell, shall be guilty of a misdemeanor.

f. The license to sell tangible personal property at retail or services provided for in this act shall be in addition to any and all other licenses which may be required by law.

Sec. 9. Definitions. For the purposes of this act and unless the context clearly indicates a different meaning:

1. The word "sale" means any exchange, barter or transfer in any manner or by any means whatsoever for a consideration;

2. The term "retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale;

3. The word "consumer" means any person who buys tangible personal property or services for consumption by himself or others, without subsequent resale, trade or exchange for profit;

4. The word "vendor" means any individual, partnership, association or corporation who sells tangible personal property or services to a consumer;

5. The term "tangible personal property" means all chattels, movables, including boats and vessels, merchandise and stock in trade, furniture and personal effects, live stock, vehicles, farming implements, movable machinery and equipment, but such words do not include any structure, improvement, machinery equipment or fixtures attached to and forming a part of real property.

6. The word "services" means:

(a) Any beneficial act performed or rendered in connection with and

incident to the sale of tangible personal property by a vendor for or on behalf of a consumer, for a consideration;

(b) Admission to theaters, recreation parks and any other places of recreation and amusement;

(c) The use of rooms and suites in hotels and lodging houses;

(d) The cleaning, dyeing or repairing of clothing and household or other furnishings and equipment by laundries, dry cleaning and dyeing establishments;

(e) The use of billiard halls, pool tables and other similar equipment for recreation, whether payment for such use is evidenced by tickets of admission or by the amounts paid for each separate act of use of said halls, tables or other equipment.

7. The word "receipts" means the total amount of the sale of tangible personal property sold at retail in this state, valued in money, whether received in money, credits, or property of any kind or nature, or otherwise, and also any amount for which credit is allowed by the seller to the purchaser, without any deductions therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest or discount paid or any other expense whatsoever. It shall also include the total amount of the consideration received for performing services taxable under this act, valued in money, whether received in money or otherwise.'

'Sec. 6-B. Homesteads exempted from taxation; definitions; procedure. Every person who is a citizen and resident of the state of Maine and who has the legal or beneficial title in equity to real property in the state of Maine, including vendees in possession under bona fide contracts to purchase when the instruments by and under which such title is claimed are properly recorded in the registry of deeds in the county in which said real property lies; and who resides thereon and in good faith makes the same his or her permanent home shall be entitled to make a claim for an exemption from all taxation, except for special assessments for benefits, up to the assessed valuation of \$3000 on said real property. The said exemption shall extend to widows and widowers who have such title, or who reside on said property by virtue of dower or by right of descent or who have an estate therein limited in time by deed, will, jointure or settlement, or otherwise, and to widowers and other single persons who make their home upon property to which they have the legal or equitable beneficial title. The title herein referred to may be held by the entireties, jointly or in common with others, and said exemption may be apportioned among such of the owners as shall reside thereon as their respective interests shall

appear, but no such exemption of more than \$3000 shall be allowed to any one person or on any single parcel of real property, nor shall the amount of the exemption allowed any person exceed the proportionate assessed valuation based upon the interest owned by such person.

Provided, however, that if the revenue derived from the tax imposed in section 6-B is not sufficient to reimburse the various cities and towns for the revenue lost by them through this exemption, this exemption shall be for that portion of the exempted amount which the total amount raised by the tax bears to the total exemptions.

The words "resident," "residence," "permanent residence" and those of like import, shall not be construed so as to require continuous physical residence on the property, but mean only that place which the person claiming the exemption may rightfully and in good faith call his or her home to the exclusion of all other places where he or she may, from time to time, temporarily reside. "Homestead" shall mean the house and lot in urban territory, and buildings and farm land in rural territory.

The state tax assessor shall furnish to the assessors of each city and town a sufficient number of printed forms to be filed by taxpayers claiming to be entitled to said exemption. Said forms shall be substantially as follows:

Tax Assessors of Maine;

I hereby make application for an exemption from all taxation up to the valuation of \$3000 on the following described property:

.....
.....

The title to said property is in

.....

(Name all owners and their proportionate interest)

and my interest or title in this property is as follows:

.....

(If title is not in applicant or is held jointly with others, give relationship of the owner or joint owner, to applicant)

.....

I reside on the above property and in good faith make the same my permanent home and do hereby declare that I am a bona fide citizen of the state of Maine.

The statements contained and agreed to herein are true and made in good faith.

.....
Applicant

Subscribed and sworn to before me this day of
..... 194....
.....

(See other side for copy of law)

A copy of the 1st and 2nd paragraphs of this section shall be printed on the back of the form.

It shall be the duty of each taxpayer who claims said exemption to file one of said forms, properly filled out and executed, with the tax assessors of his city or town on or before April 1st of each year; and the failure to do so shall constitute a waiver of said exemption for such year.

The tax assessors shall examine each claim for exemption filed with them or referred to them and shall allow the same if it is found to be in accordance with law, by marking the same approved subject, however, to the pro rata return to be received from the state, and by making the proper notations on the tax books. In every case the property shall be assessed whether the value be more or less than \$3000, and an appropriate notation shall be made as the case may be.

The tax assessors of the several cities and towns of the state of Maine shall, as soon as practicable after the 1st day of April of each current year and prior to the 1st Monday in May of said year, carefully consider all applications for tax exemption that shall have been filed in their respective offices on or before the 1st day of April of that year and if upon such investigation the tax assessors find the applicant entitled to the claim for tax exemption applied for under the law they shall mark the application approved and file same in the permanent records of their office and shall make such entries upon the tax rolls of their city or town as will be necessary to allow such claim of exemption to the applicant. If, after due consideration, the tax assessors should find the applicant not to be entitled under the law to the claim of exemption asked for, it shall be the duty of such tax assessors to immediately make out in triplicate form a notice of such disapproval, giving their reasons therefor, a copy of which notice shall be served upon the applicant by the tax assessors either by personal delivery or by registered mail to the post office address given by the applicant and shall make return of the manner in which such notice was served upon said applicant upon the original notice thereof and immediately file same with the clerk of the city or town. The 3rd copy of said notice shall likewise have entered upon it the return of the tax assessors as to service had and filed among the permanent records of their office.

Three referees may be chosen in the manner hereafter specified to review the facts and to have the power and authority to reverse the decision

of the assessors and grant the claim to exemption to the applicant if in their judgment the applicant is entitled thereto, or to affirm the decision of the assessors, and such decision shall be final. All referees chosen shall be persons who have adequate knowledge of real estate values in the community. The applicant may appeal from the findings by filing a notice with the clerk of the city or town within 15 days of the receipt of his notice, of his appeal together with the name of a referee. The tax assessors shall be forthwith notified of such appeal, and shall choose a referee within 7 days of such notice. The 2 referees chosen shall select a 3rd referee within 7 days of the choice of the 2nd referee. The referees shall report their decision to the tax assessors within 30 days of the time the 3rd referee has been selected, and file their report with the clerk of the city or town in which the property is located. For the purpose of administering the provisions of this section or performing any other duties pertaining to proper administration of the duties of the office of tax assessor or the making and filing of tax returns and application for tax exemption as provided under this section, the duly elected tax assessors of the several cities and towns or their lawful deputies are hereby authorized and empowered to administer oaths and to attest the same in the same manner as notaries public and justices of the peace. All claims for exemptions within their various precincts shall be totaled by the various cities and towns and reported to the state tax assessor on or before August 1 of each year.'

'Sec. 6-C. "Homestead fund." The treasurer of state shall set up a fund to be called the "Homestead Fund." The state tax assessor shall pay over to the treasurer of state all monies received under the provisions of section 6-A to be credited to said fund. All of the expenses of the state administration of the provisions of sections 6-A and 6-B shall be paid from this fund.

After July 1 of each year the state tax assessor shall determine the amount of the net revenue derived from the tax imposed by section 6-A herein, and on receipt of the returns from all of the various cities, towns, and plantations of the claims for exemptions granted under the provisions of section 6-B which returns shall be made before August 1 of each year, shall apportion the amounts due the cities, towns and plantations and shall certify the amounts to the treasurer of state who shall forthwith pay the same out of said fund.'

'Sec. 6-D. Reimbursement to towns; ratio. The exemptions provided for in section 6-B shall be effective in such proportion as the total amount of the net revenue derived from the taxes collected under the provisions of section 6-A shall bear to the total amount of the exemptions granted within

the state under the provisions of section 6-B; and the net revenue from the tax herein set forth shall be paid to the various cities, towns and plantations in such proportion as the exemptions granted under the provisions of section 6-B in the particular city, town or plantation bear to the net revenue derived by the state from the taxes collected hereunder. The treasurers of the various cities and towns shall grant a rebate of taxes to those whose claims of exemptions have been granted in such percentage as the total amount received from the state for that purpose shall bear to the total amount of the claims for exemption in that city or town.'

'Sec. 6-E. Appropriation. The revenue derived from the tax imposed by section 6-A hereof, is hereby appropriated for the purposes set forth in sections 6-A to 6-E, inclusive.'

Sec. 2. Validating clause. If any sentence, section, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining provisions of this act.