

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

(3) Has one or more prior convictions for violating Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

2. Section 9-A governs the use of prior convictions when determining a sentence.

Sec. 6. Review process and availability of data to determine the cost of new criminal penalties. The Office of Fiscal and Program Review, the Department of Corrections and the Judicial Department shall jointly review bills carried over from the First Regular Session of the 123rd Legislature that have a potential impact to future inmate populations of correctional facilities. The Director of the Office of Fiscal and Program Review or the director's designee shall chair the review and shall convene the first meeting no later than August 15, 2007. The objective of the review is to identify and implement within existing resources where possible the factors, processes and data that would assist in more accurately forecasting the cost of changes in law of criminal penalties. The Office of Fiscal and Program Review shall staff the review and report the findings on or about November 15, 2007 to the Joint Standing Committee on Appropriations and Financial Affairs, the Joint Standing Committee on Criminal Justice and Public Safety and the Joint Standing Committee on Judiciary.

Sec. 7. Effective date. Those sections of this Act that enact the Maine Revised Statutes, Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A take effect February 1, 2008.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective June 27, 2007.

CHAPTER 437

H.P. 1054 - L.D. 1504

An Act To Make Minor Substantive Changes to the Tax Laws

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

Sec. 1. 30-A MRSA §5681, sub-§2, ¶C, as amended by PL 2005, c. 2, Pt. G, §1 and affected by §2, is further amended to read:

C. "Annual growth ceiling" for fiscal year 2005-06 means \$100,000,000. For subsequent fiscal

years, "annual growth ceiling" must be determined by the State Tax Assessor by September 1st annually and means the annual growth ceiling for the previous fiscal year adjusted by the lower of the ~~increase percentage change~~ for the previous fiscal year in the Consumer Price Index ~~or compared to the fiscal year immediately preceding the previous fiscal year and the increase percentage change~~ in receipts for the previous fiscal year from the taxes imposed under Title 36, Parts 3 and 8 and Title 36, section 2552, subsection 1, paragraphs A to F and credited to the General Fund compared to the fiscal year immediately preceding the previous fiscal year. The annual growth ceiling may not be less than the annual growth ceiling for the previous year.

Sec. 2. 36 MRSA §182, sub-§1, as enacted by PL 2001, c. 583, §8, is amended to read:

1. Generally. The State Tax Assessor may, through the Attorney General, file an action in Superior Court applying for an order to enjoin from doing business any person who has:

A. Failed to register with the ~~bureau~~ assessor when the person is required to register by any provision of Part 3 ~~or, chapter 358 or~~ Part 5 or by any rule adopted pursuant to this Title, ~~provided that~~ as long as the assessor has provided written notice and the person continues to fail to register 15 days after receiving notice from the assessor of such failure;

B. Failed to file with the assessor any overdue return required by Part 3 ~~or, chapter 358 or~~ Part 5 within 15 days after receiving notice from the assessor of such failure;

C. Failed to pay any tax required by Part 3 ~~or, chapter 358 or~~ Part 5 when the tax is shown to be due on a return filed by that person, or that is otherwise conceded by that person to be due, or has been determined by the assessor to be due and that determination has become final;

D. Knowingly filed a false return required by Part 3 ~~or, chapter 358 or~~ Part 5; or

E. Failed to deduct and withhold, or truthfully account for or pay over or make returns of, income taxes in violation of the provisions of chapter 827.

Sec. 3. 36 MRSA §187-B, sub-§1-A is enacted to read:

1-A. Failure to file information return. Any partnership or S corporation that fails to make and file an information return required by section 5241 and that has received from the assessor a formal demand that the return be filed is liable for one of the following penalties:

A. If the return is filed within 30 days after the partnership or S corporation receives from the assessor a formal demand that the return be filed, the penalty is \$100. The 30-day period provided by this paragraph is extended for up to 120 days if the partnership or S corporation requests an extension in writing prior to the expiration of the 30-day period; or

B. Except as provided in paragraph A, if the return is not filed within 30 days after the partnership or S corporation receives from the assessor a formal demand that the return be filed, the penalty is \$500.

Sec. 4. 36 MRSA §187-B, sub-§4-B is enacted to read:

4-B. Excessive refund. A person who files a claim for refund or reimbursement under Part 5 that is the basis for the receipt of a refund or reimbursement that substantially exceeds the amount to which the person is legally entitled is liable for a penalty of \$5 or 1% of the excess amount, whichever is greater, for each month or fraction of a month during which the failure to repay that portion of the refund or reimbursement continues, to a maximum in the aggregate of \$25 or 25% of the overpayment, whichever is greater. For purposes of this subsection, a refund or reimbursement substantially exceeds the amount to which the person is legally entitled if the amount of the refund or reimbursement exceeds the amount to which the person is legally entitled by more than 10% of the corrected amount or \$1,000, whichever is greater. For purposes of this subsection, the amount by which a refund or reimbursement exceeds the amount to which the person is legally entitled and the excess amount that is subject to penalty under this subsection must be reduced by any portion of the excessive claim for which the person has substantial authority supporting its position.

Sec. 5. 36 MRSA §187-B, sub-§7, as amended by PL 2005, c. 332, §5, is further amended to read:

7. Reasonable cause. For reasonable cause, the State Tax Assessor shall waive or abate any penalty imposed by subsection 1; subsection 1-A; subsection 2, paragraphs A and B; subsections 4-A, 4-B, 5-A and 5-B; or by the terms of the International Fuel Tax Agreement. Reasonable cause includes, but is not limited to, the following:

A. The failure to file or pay resulted directly from erroneous information provided by the Bureau of Revenue Services;

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;

C. The failure to file or pay resulted directly from a natural disaster;

D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;

E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;

F. The taxpayer has supplied substantial authority justifying the failure to file or pay; or

G. The amount subject to a penalty imposed by subsections 1, 2 and 4-A; and subsection 5-A is de minimis when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history.

The burden of establishing grounds for waiver or abatement is on the taxpayer.

Sec. 6. 36 MRSA §193, as repealed and replaced by PL 2005, c. 332, §10 and affected by §30, is amended to read:

§193. Returns; declaration covering perjury; submission of returns and funds by electronic means

1. Declaration required. Any return, report or other document required to be filed pursuant to this Title must contain a declaration, in a form prescribed by the State Tax Assessor, that the statements contained in the return, report or other document are true and are made under the penalties of perjury. When a tax return is filed electronically by a taxpayer or with the taxpayer's permission, the filing of that return constitutes a sworn statement by the taxpayer, made under the penalties of perjury, that the tax liability shown on the return is correct.

2. Electronic filing. The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services may allow or, as provided in this subsection, require adopt a rule allowing or requiring the filing of a return or document by electronic data submission or by telephone. The rule must establish thresholds or phase-in periods to assist taxpayers and preparers in complying with any electronic data submission requirement.

A. ~~If~~ Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of an employer that submits returns in accordance with section 5253 with respect to 100 or more employees, whether the returns are submitted directly by the employer or by a 3rd party on behalf of the employer, the assessor may require that the returns be filed by electronic data submission.

B. ~~It~~ Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222 that submits returns pursuant to section 5253 or Title 26, chapter 13, subchapter 7 for 100 or more employers, the assessor may require that the returns be filed by electronic data submission.

3. Payment by electronic funds transfer. ~~The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services, may allow or, as provided in this subsection, require adopt a rule allowing or requiring the payment of a tax or the refund of a tax by electronic funds transfer. An electronic funds transfer allowed or required by the assessor pursuant to this subsection in payment of a tax obligation to the State is considered a return. For the purposes of this subsection, "tax" includes unemployment insurance contributions required to be paid to the State pursuant to Title 26.~~

A. ~~It~~ Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a person that is liable for \$200,000 or more per year pursuant to section 5253 or for \$400,000 or more per year in payments of any other single tax type, the assessor may require payment or refund of that tax by electronic funds transfer.

B. ~~It~~ Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222, the assessor may require payment or refund of taxes pursuant to section 5253 and unemployment insurance contributions pursuant to Title 26, chapter 13, subchapter 7 by electronic funds transfer.

4. Adoption of rules. ~~The State Tax Assessor may adopt rules to establish procedures necessary to implement the provisions of this section and shall adopt rules in the event that payment of taxes by electronic funds transfer is mandated. Rules adopted pursuant to this subsection section are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.~~

Sec. 7. 36 MRSA §653, sub-§1, ¶D-1, as amended by PL 2005, c. 622, §4, is further amended to read:

D-1. The estates up to the just value of \$50,000, having a taxable situs in the place of residence, for specially adapted housing units, of veterans who served in the Armed Forces of the United States during any federally recognized war period, including the Korean Campaign, the Vietnam War ~~and~~ the Persian Gulf War and the periods from August 24, 1982 to July 31, 1984 and December 20, 1989 to January 31, 1990, or who were awarded the Armed Forces Expeditionary Medal, and who are paraplegic veterans within the

meaning of 38 United States Code, Chapter 21, Section 2101, and who received a grant from the United States Government for any such housing, or of the unremarried widows or widowers of ~~such those~~ veterans. A veteran of the Vietnam War must have served on active duty for a period of more than 180 days, any part of which occurred after February 27, 1961 and before May 8, 1975 ~~in the case of a veteran who served in the Republic of Vietnam during that period and after August 4, 1964 and before May 7, 1975 in all other cases,~~ unless the veteran died in service or was discharged for a service-connected disability after that date. "Vietnam War" ~~means the period between August 5, 1964 and May 7, 1975 and the period beginning on February 28, 1961 and ending on May 7, 1978 in the case of a veteran who served in the Republic of Vietnam during that period.~~ "Persian Gulf War" means service on active duty on or after August ~~7~~ 2, 1990 and before or on the date that the United States Government recognizes as the end of that war period. The exemption provided in this paragraph applies to the property of the veteran including property held in joint tenancy with a spouse or held in a revocable living trust for the benefit of that veteran.

Sec. 8. 36 MRSA §691, sub-§1, ¶A, as enacted by PL 2005, c. 623, §1, is amended to read:

A. "Eligible business equipment" means qualified property that, in the absence of this subchapter, would first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became subject to assessment under this Part before April 1, 2008 if the part, addition, equipment, accession or accessory would, in the absence of this subchapter, first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" also includes inventory parts.

"Eligible business equipment" does not include:

- (1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;
- (2) Lamps and lighting fixtures used primarily for the purpose of providing general purpose office or worker lighting;
- (3) Property owned or used by an excluded person;
- (4) Telecommunications personal property subject to the tax imposed by section 457;
- (5) Gambling machines or devices, including any device, machine, paraphernalia or equip-

ment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

- (a) Associated equipment as defined in Title 8, section 1001, subsection 2;
 - (b) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;
 - (c) An electronic video machine as defined in Title 17, section 330, subsection 1-A;
 - (d) Equipment used in the playing phases of lottery schemes; and
 - (e) Repair and replacement parts of a gambling machine or device; ~~or~~
- (6) Property located at a retail sales facility and used primarily in a retail sales activity unless the property is owned by a business that operates a retail sales facility in the State exceeding 100,000 square feet of interior customer selling space that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue on a calendar year basis from sales that are made at a retail sales facility located in the State. For purposes of this subparagraph, the following terms have the following meanings:

- (a) "Primarily" means more than 50% of the time;
- (b) "Retail sales activity" means an activity associated with the selection and purchase of goods or services or the rental of tangible personal property. "Retail sales activity" does not include production as defined in section 1752, subsection 9-B; and
- (c) "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods or services at retail or for renting tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility; or

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

Sec. 9. 36 MRSA §693, sub-§1, as enacted by PL 2005, c. 623, §1, is amended to read:

1. Reporting. On or before May 1st of each year, a taxpayer claiming an exemption under this section shall file a report with the assessor of the taxing jurisdiction in which the property would otherwise be subject to taxation on April 1st of that year. The report must identify the property for which exemption is claimed that would otherwise be subject to taxation on April 1st of that year and must be made on a form prescribed by the State Tax Assessor or substitute form approved by the State Tax Assessor. The State Tax Assessor shall furnish copies of the form to each municipality in the State and the form must be made available to taxpayers prior to April 1st annually. The assessor of the taxing jurisdiction may require the taxpayer to sign the form and make oath to its truth. Upon written request, the assessor may at any time grant extensions of time to file the report. ~~Failure~~ If a taxpayer fails to file the report in a timely manner, ~~including any extensions of time, disqualifies the taxpayer may not obtain an exemption for that property involved from exemption under this subchapter~~ for that tax year. The assessor of the taxing jurisdiction may require in writing that a taxpayer answer in writing all reasonable inquiries as to the property for which exemption is requested. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. The answer to any such inquiry is not binding on the assessor.

All notices and requests provided pursuant to this subsection must be made by personal delivery or certified mail and must conspicuously state the consequences of the taxpayer's failure to respond to the notice or request in a timely manner.

If an exemption has already been accepted and the State Tax Assessor subsequently determines that the property is not entitled to exemption, a supplemental assessment must be made within 3 years of the original assessment date with respect to the property in compliance with section 713, without regard to the limitations contained in that section regarding the justification necessary for a supplemental assessment.

Sec. 10. 36 MRSA §1752, sub-§11, ¶A, as amended by PL 2005, c. 218, §14, is further amended to read:

A. "Retail sale" includes:

- (1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security

for the payment of the purchase price and is intended to be transferred later; ~~and~~

(2) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. The tax must be paid by the retailer to the State;

(3) A sale in the ordinary course of business by a retailer to a purchaser who is not engaged in selling that kind of tangible personal property or taxable service in the ordinary course of repeated and successive transactions of like character; and

(4) The sale or liquidation of a business or the sale of substantially all of the assets of a business, to the extent that the seller purchased the assets of the business for resale, lease or rental in the ordinary course of business, except when:

(a) The sale is to an affiliated entity and the transferee, or ultimate transferee in a series of transactions among affiliated entities, purchases the assets for resale, lease or rental in the ordinary course of business; or

(b) The sale is to a person that purchases the assets for resale, lease or rental in the ordinary course of business or that purchases the assets for transfer to an affiliate, directly or through a series of transactions among affiliated entities, for resale, lease or rental by the affiliate in the ordinary course of business.

For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct and indirect affiliates.

Sec. 11. 36 MRSA §1760-C, as amended by PL 2005, c. 622, §9, is further amended to read:

§1760-C. Exempt activities

The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes apply only if the property or service purchased is intended to be used by the person primarily in the activity identified by the particular exemption. The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes do not apply where title is held or taken by the person as security for any financing arrangement. Exemption certificates issued by the State Tax Assessor pursuant to section 1760 must identify the exempt activity and must state that the certificate may be used by the holder only when pur-

chasing property or services intended to be used by the holder primarily in the exempt activity. If the holder of an exemption certificate furnishes that certificate to a person for use in purchasing tangible personal property or taxable services that are physically incorporated in, and become a permanent part of, real property that is not used by the holder of the certificate primarily in the exempt activity, the State Tax Assessor may assess the unpaid tax against the holder of the certificate as provided in section 141. When an otherwise qualifying person is engaged in both exempt and non-exempt activities, an exemption certificate may be issued to the person only if the person has established to the satisfaction of the assessor that the applicant has adequate accounting controls to limit the use of the certificate to exempt purchases.

Sec. 12. 36 MRSA §2521-A, as amended by PL 2005, c. 218, §31, is further amended to read:

§2521-A. Returns; payment of tax

Every insurance company, captive insurance company, association, producer or attorney-in-fact of a reciprocal insurer subject to ~~the~~ tax as imposed by this chapter shall on or before the last day of each April, the 25th day of each June and the last day of each October file with the State Tax Assessor on forms prescribed by the ~~State Tax Assessor~~ assessor a return for the quarter ending on the last day of the preceding calendar month, except for the ~~month return due on the 25th day of June, which is for the quarter ending June 30th.~~ A final return must be filed on or before March 15th, covering the prior calendar year. The 3 quarterly returns may be on an estimated basis, as long as each April and June installment equals at least 35% of the total tax paid for the preceding calendar year or at least 35% of the total tax to be paid for the current calendar year. The remaining installments must equal and each October installment equals 15% of the total tax to be paid for the preceding calendar year or at least 15% of the total tax to be paid for the current calendar year. An authorized company official shall affirm which elective is selected. Such elective can not be changed during the current calendar year. The final return must be filed on or before March 15th covering the prior calendar year.

At the time of filing ~~such the~~ returns, each insurance company, captive insurance company, association, ~~producer~~ or attorney-in-fact of a reciprocal insurer shall pay to the ~~State Tax Assessor~~ assessor the amount of tax shown due.

Insurance companies, captive insurance companies, associations, ~~producers~~ or attorneys-in-fact of a reciprocal insurer ~~with whose~~ annual tax liability ~~under this chapter does not exceeding \$500~~ exceed \$1,000 may ~~with approval of the State Tax Assessor~~ file an annual return with payment on or before March 15th covering the prior calendar year.

Sec. 13. 36 MRSA §2551, sub-§19, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is amended to read:

19. Telecommunications equipment. "Telecommunications equipment" means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. "Telecommunications equipment" includes all transmission media that are used or capable of being used in the provision of 2-way interactive communications, including, without limitation, copper wire, coaxial cable and optical fiber, except those transmission media designed and primarily used to transmit electricity. "Telecommunications equipment" does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information.

Sec. 14. 36 MRSA §4641-D, as amended by PL 2003, c. 391, §3, is further amended to read:

§4641-D. Declaration of value

Except as otherwise provided in this section, any deed, when offered for recording, and any report of a transfer of a controlling interest must be accompanied by a ~~statement or declaration prepared in duplicate and, signed, subject to the penalties of perjury,~~ by the parties to the transaction or their authorized representatives, declaring the value of the property transferred and indicating the taxpayer identification numbers of the grantor and grantee. The statement or declaration of value with regard to a transfer by deed must include evidence of compliance with section 5250-A and reference to. The declaration of value must identify the appropriate tax map and parcel number of the property transferred unless no a tax map exists does not exist that includes that property, in which event the declaration must indicate that no an appropriate tax map exists does not exist. ~~The exceptions to the foregoing are the following are exempt from these requirements:~~

1. Governmental conveyances. Any conveyance by or to the United States of America, the State of Maine or any of their instrumentalities, agencies or subdivisions. For purposes of this subsection, only governmental entities are exempt from the requirement to file a declaration of value;

2. Mortgage. Any mortgage or mortgage discharge;

3. Partial release of mortgage. Any partial release of a mortgage deed;

4. Deed affecting previous deed. Any deed ~~which that~~, without additional consideration, confirms, corrects, modifies or supplements a previously recorded deed; and

~~**5. Deed dated prior to October 1, 1975.** Any deed dated or acknowledged prior to October 1, 1975, and offered for recording after that date; and~~

6. Deed of distribution. Any deed of distribution made pursuant to Title 18-A.

If the transfer is ~~declared not subject to exempt from~~ the tax imposed by this chapter, the reason ~~therefor shall~~ for the exemption must be stated on the declaration of value.

The declaration of value must be in a form prescribed by the State Tax Assessor, who shall provide an adequate supply of such forms to each register of deeds in the State. The State Tax Assessor shall prescribe a form for the declaration of value with regard to transfers of controlling interests subject to tax under this chapter. The State Tax Assessor, by rule, may establish grounds and procedures for waiver of the requirement that the taxpayer identification numbers of the grantor and grantee must be shown on the declaration of value. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The register of deeds shall transmit ~~both copies of~~ the declaration of value to the State Tax Assessor no later than 40 days from the date of recordation of the deed ~~subject to the tax~~ or, in the case of a transfer of a controlling interest subject to tax under this chapter, no later than the 10th day of the month following the month in which the report of the transfer is received by the register of deeds.

The State Tax Assessor shall, on or before the 20th day of ~~each~~ the month following the month of receipt, transmit ~~one copy of~~ each declaration of value to the assessors of the municipality or the chief assessor of a primary assessing area in which the real estate is situated.

Sec. 15. 36 MRSA §5122, sub-§1, ¶V, as amended by PL 2005, c. 519, Pt. CC, §1 and Pt. NNN, §1 and affected by §3, is repealed and the following enacted in its place:

V. For tax years beginning on or after January 1, 2003 and before January 1, 2006, the amount claimed as a federal income adjustment for student loan interest under the Code, Section 62(a)(17), but only for interest paid after 60 months from the start of the loan repayment period;

Sec. 16. 36 MRSA §5122, sub-§1, ¶X, as enacted by PL 2005, c. 12, Pt. P, §4 and affected by §10, is amended to read:

X. An amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the federal American Jobs Creation Act of 2004, Public Law 108-357-; and

Sec. 17. 36 MRSA §5122, sub-§1, ¶Y is enacted to read:

Y. Any amount of allowable deduction claimed for federal purposes in accordance with the election under Section 642(g) of the Code that is also used to determine the taxable estate for purposes of calculating the Maine estate tax under chapter 575.

Sec. 18. 36 MRSA §5219-C, as repealed and replaced by PL 1991, c. 377, §20, is amended to read:

§5219-C. Forest management planning income credits

Once every 10 years, an individual is allowed a credit against the tax otherwise due under this Part for the lesser of \$200 or the individual's cost for having a forest management and harvest plan developed for a parcel of forest land in this State greater than 10 acres. For purposes of this section, the licensed professional forester may not be in the regular employ of the individual. ~~In no case may this~~ This credit may not reduce the state income tax to less than zero. ~~Those taxpayers~~ An individual claiming this credit must attach a statement from the forester supporting the claim and swear that the credit has not been claimed by ~~them~~ the individual in the previous 10 years. ~~Those taxpayers deducting~~ An individual who deducts the cost of the forester as an expense under the Internal Revenue Code must ~~reduce~~ subtract the expense ~~by the amount of the credit~~ from federal adjusted gross income for purposes of the tax imposed by this Part. This credit may be used in any tax year beginning on or after January 1, 1989.

Sec. 19. 36 MRSA §5251, as amended by PL 2003, c. 20, Pt. AA, §2 and affected by §6, is further amended to read:

§5251. Information statement

Every person who is required to deduct and withhold tax under this Part, or who would have been required ~~to~~ deduct and withhold tax if an employee had claimed no more than one withholding exemption, shall furnish a written statement as prescribed by the assessor to each ~~such~~ person in respect to the items of income subject to withholding paid ~~by such person to such that~~ person during the calendar year on or before ~~February 15th~~ January 31st of the succeeding year, or, in the case of an employee who is terminated before the close of ~~such~~ the calendar year, within 30 days from the date ~~on which the last payment of wages is made, a written statement as prescribed by the assessor~~ showing of receipt of a written request from the employee if that 30-day period ends before January 31st. The statement must show the amount of wages paid by the employer to the employee, or, in the case of withholding pursuant to sections 5250-B and 5255-B, the total items of income that were subject to withholding, the amount deducted and withheld as tax and such

other information as the assessor ~~shall prescribe~~ requires.

Sec. 20. 36 MRSA §5251-A is enacted to read:

§5251-A. Fraudulent statement or failure to furnish statement

A person who is required by section 5251 to furnish a statement to a payee and who willfully fails to furnish that statement at the time required by section 5251, in the form and showing the information prescribed by the State Tax Assessor, or who willfully furnishes a false or fraudulent statement commits a civil violation for which a fine of \$50 for each such failure must be imposed.

Sec. 21. 36 MRSA §6651, sub-§1, as amended by PL 2005, c. 623, §2, is further amended to read:

1. Eligible property. "Eligible property" means qualified business property first placed in service in the State, or constituting construction in progress commenced in the State, after April 1, 1995, but does not include property that ~~qualifies for exemption pursuant to chapter 105, subchapter 4-C~~ is eligible business equipment as defined in section 691, subsection 1. "Eligible property" includes, without limitation, repair parts, replacement parts, additions, accessions and accessories to other qualified business property placed in service on or before April 1, 1995 if the part, addition, accession or accessory is first placed in service, or constitutes construction in progress, in the State after April 1, 1995, unless such property ~~qualifies for exemption pursuant to chapter 105, subchapter 4-C~~ is eligible business equipment as defined in section 691, subsection 1. "Eligible property" also includes inventory parts.

Sec. 22. Application. That section of this Act that amends the Maine Revised Statutes, Title 30-A, section 5681, subsection 2, paragraph C applies to fiscal years beginning on or after July 1, 2007. That section of this Act that enacts Title 36, section 187-B, subsection 1-A applies to tax years beginning on or after January 1, 2007. That section of this Act that amends Title 36, section 653, subsection 1, paragraph D-1 applies to taxes assessed based on the status of property on or after April 1, 2007. That section of this Act that amends Title 36, section 2521-A applies to periods beginning on or after January 1, 2008. That section of this Act that enacts Title 36, section 5122, subsection 1, paragraph Y applies to tax years beginning on or after January 1, 2007. That section of this Act that amends Title 36, section 5219-C applies to tax years beginning on or after January 1, 2007. That section of this Act that amends Title 36, section 5251 applies with respect to items of income paid in calendar years beginning on or after January 1, 2007. That section of this Act that enacts Title 36, section 5251-A

applies with respect to statements required to be furnished on or after January 1, 2007.

See title page for effective date.

CHAPTER 438

H.P. 1222 - L.D. 1739

An Act Concerning Technical Changes to the Tax Laws

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

Sec. 1. 29-A MRSA §525, sub-§2, as amended by PL 1999, c. 414, §1, is further amended to read:

2. Exceptions. A person operating a vehicle on a public way, subject to Title 36, chapter ~~457~~ or 459 shall obtain a fuel use identification decal for that vehicle, except for:

- A. A vehicle owned and operated by government agencies;
- B. A vehicle legally operating with dealer registration plates;
- C. A recreational vehicle;
- D. An authorized emergency vehicle registered in another jurisdiction and operating in response to a declared emergency; or
- E. A vehicle legally licensed for fuel use reporting under the International Fuel Tax Agreement.

Sec. 2. 29-A MRSA §525, sub-§10, as amended by PL 2001, c. 463, §1 and affected by §7, is further amended to read:

10. Suspension. If a person fails to file a fuel tax report or to pay any taxes, interest, penalties or audit assessment as required pursuant to Title 36, chapter ~~457~~ or 459 or any rule adopted pursuant to this section, the Secretary of State shall suspend the person's fuel tax license, all fuel decals issued to the person and that person's privilege to operate as a motor carrier. In order to be reinstated, the person must file all delinquent tax returns and pay all assessments, interest and penalties. In addition, the person must pay a \$35 reinstatement fee pursuant to section 2486, subsection 1.

Sec. 3. 29-A MRSA §2458, sub-§2, ¶T, as enacted by PL 2005, c. 433, §24 and affected by §28, is amended to read:

T. Has failed to comply with the provisions of Title 36, chapter ~~457~~ or 459; or

Sec. 4. 36 MRSA §113, sub-§2, ¶A, as enacted by PL 1999, c. 708, §5, is amended to read:

A. The collection of delinquent taxes imposed by this Title; and

Sec. 5. 36 MRSA §113, sub-§2, ¶B, as enacted by PL 1999, c. 708, §5, is amended to read:

B. The collection of property taxes in the unorganized territory; and.

Sec. 6. 36 MRSA §113, sub-§2, ¶C, as enacted by PL 1999, c. 708, §5, is repealed.

Sec. 7. 36 MRSA §135, sub-§1, as amended by PL 2001, c. 396, §3, is further amended to read:

1. Taxpayers. Persons subject to tax under this Title shall maintain such records as the State Tax Assessor determines necessary for the reasonable administration of this Title. Records pertaining to taxes imposed by chapters 371 and 575 and by Part 8 must be retained as long as is required by applicable federal law and regulation. Records pertaining to the special fuel tax user ~~reports~~ returns filed pursuant to section 3209, subsection 2 and the International Fuel Tax Agreement pursuant to section 3209, subsection 1-B must be retained for 4 years. Records pertaining to all other taxes imposed by this Title must be retained for a period of at least 6 years. The records must be kept in such a manner as to ensure their security and accessibility for inspection by the assessor or any designated agent engaged in the administration of this Title.

Sec. 8. 36 MRSA §177, sub-§3, as amended by PL 1999, c. 414, §8, is further amended to read:

3. Notice to segregate. Whenever the State Tax Assessor finds that the payment of the trust funds established under subsection 1 will be jeopardized by delay, neglect or misappropriation or whenever any person fails to make payment of taxes or file ~~reports~~ returns as required by Part 3, or by chapter 451, 459 or 827, the assessor may direct that person to segregate the trust funds from and not to commingle them with any other funds or assets of that person. All taxes that are collected after receipt of the notice of the segregation requirement must be paid on account to the assessor until the taxes are due. The assessor shall establish in the segregation notice the manner in which the taxes are to be paid. The segregation requirement remains in effect until a notice of cancellation is given by the assessor.

Sec. 9. 36 MRSA §187-B, sub-§1, ¶B, as amended by PL 1999, c. 521, Pt. A, §2, is further amended to read:

B. If the return is not filed within 30 days after the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is 100% of the tax due. The 30-day period provided by this paragraph is extended for up to 120 days if the taxpayer requests an extension in writing prior to the expiration of the 30-day period.