

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

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

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**Augusta, Maine**  
**2009**

the board shall automatically make an equal percentage increase or decrease in retirement benefits, beginning in September, up to a maximum annual increase or decrease of 4%.

**Sec. 6. 5 MRSA §18407, sub-§4, ¶A-1** is enacted to read:

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board as provided in paragraph A shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 17, 2009.

**CHAPTER 434**

**H.P. 755 - L.D. 1093**

**An Act Concerning Technical Changes to the Tax Laws**

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

**Sec. 1. 10 MRSA §1020, sub-§2, ¶D**, as amended by PL 2007, c. 464, §6, is amended to read:

D. All revenue received from the State Tax Assessor pursuant to former subsection 6 and subsection 6-A.

**Sec. 2. 10 MRSA c. 110, sub-c. 11**, as amended, is repealed.

**Sec. 3. 10 MRSA §1655** is amended to read:

**§1655. Description of contents; identity of manufacturer or distributor**

It ~~shall be~~ is unlawful for ~~any~~ a person, firm or corporation to store, keep, expose for sale, offer for sale or sell from any tank or container or from any pump or other distributing device or equipment; any internal combustion engine fuels, lubricating oils or other similar products than those indicated by the name, trade name, symbol, sign or other distinguishing mark or device of the manufacturer or distributor appearing upon the tank, container, pump or other distributing equipment from which the same are sold, offered for sale or distributed, and all tanks, containers, pumps or other distributing equipment containing internal combustion engine fuels, lubricating oils or other similar products ~~shall~~ must be plainly designated by the name, trademark, symbol, sign or other distinguishing mark or device of the manufacturer or dis-

tributor. ~~Any person, firm or corporation desiring to engage in the business of distribution of internal combustion engine fuels, lubricating oils or other similar products at wholesale shall apply to the State Tax Assessor for certificate allowing such distribution, and such applicant shall submit with such application to the State Tax Assessor samples or specifications of such fuels or oils as he desires to distribute. When such application, accompanied by such samples, has been received by the State Tax Assessor, he shall issue a certificate or permit to enable such person, firm or corporation to sell or distribute its products.~~

**Sec. 4. 36 MRSA §111, sub-§5**, as amended by PL 2007, c. 539, Pt. OO, §2, is further amended to read:

**5. Tax.** "Tax" means the total amount required to be paid, withheld and paid over or collected and paid over with respect to estimated or actual tax liability under this Title and any amount assessed by the State Tax Assessor pursuant to this Title, including any interest or penalties provided by law. For purposes of this chapter, "tax" also means any fee, fine, penalty or other debt owed to the State provided for by law if this debt is subject to collection by the assessor pursuant to statute or transferred to the bureau for collection pursuant to section 112-A.

**Sec. 5. 36 MRSA §112, sub-§8, ¶B**, as amended by PL 1981, c. 364, §7, is repealed.

**Sec. 6. 36 MRSA §112, sub-§8, ¶C**, as amended by PL 1983, c. 480, Pt. A, §39, is further amended to read:

C. Administration of the spruce budworm excise tax in accordance with Title 12, section 8427; and

**Sec. 7. 36 MRSA §112, sub-§8, ¶D** is enacted to read:

D. Administration of the premium imposed on bulk motor vehicle oil under Title 10, section 1020.

**Sec. 8. 36 MRSA §176-A, sub-§2, ¶B**, as amended by PL 2001, c. 583, §5, is further amended to read:

B. If ~~any~~ a person liable to pay any delinquent tax neglects or refuses to pay that tax within 10 days after receipt of ~~the~~ the notice ~~described in~~ described in pursuant to section 171, the State Tax Assessor may collect the tax and ~~such further sum as is~~ an additional amount sufficient to cover the expenses of the levy, by levy upon all property belonging to that person ~~liable to levy~~ except as provided in subsection 5. If the assessor makes a ~~finding that the collection of the tax is in~~ determination of jeopardy pursuant to section 145, having given notice of that determination and made demand for immediate payment of the tax may be made by the assessor and, upon failure or refusal to pay that

tax, the assessor may proceed immediately without regard to the 10-day period provided in section 171 to collect by levy the tax by levy without regard to the 10-day period provided in this section and an additional amount sufficient to cover the expenses of the levy.

**Sec. 9. 36 MRSA §176-A, sub-§5, ¶A**, as enacted by PL 1989, c. 880, Pt. E, §3, is amended to read:

A. The following property is exempt from levy:

- (1) Items of wearing apparel and school books necessary for the taxpayer or the members of the taxpayer's family;
- (2) If the taxpayer is the head of a family, the fuel, provisions, furniture and personal effects in the taxpayer's household, arms for personal use, livestock and poultry of the taxpayer, the total value of which does not exceed \$1,500;
- (3) Books and tools necessary for the trade, business or profession of the taxpayer, the value of which, in the aggregate, does not exceed \$1,000;
- (4) Any amount payable to the taxpayer with respect to the taxpayer's unemployment, including any portion payable with respect to dependents, under an unemployment compensation law of the United States or any state;
- (5) Mail, addressed to any person, that has not been delivered to the addressee;
- (6) Annuity or pension payments under the federal Railroad Retirement Act of 1974, 45 United States Code, ~~Section 231, et seq. Chapter 9, Subchapter IV~~, benefits under the federal Railroad Unemployment Insurance Act, 45 United States Code, ~~Section 354 Chapter 11~~, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force and Coast Guard Medal of Honor Roll, 38 United States Code, ~~Section 562 (1982), Chapter 15, Subchapter IV~~ and annuities based on retired or retainer pay under 10 United States Code, Chapter 73 (1982);
- (7) If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of minor children, as much of the taxpayer's salary, wages or other income as is necessary to comply with ~~such a~~ that judgment;
- (8) Any amount payable to or received by a taxpayer as wages or salary for personal services, during any period, to the extent that the

total of the amounts payable to or received by the taxpayer during that period does not exceed the applicable exempt amount determined under paragraph D; and

(9) The principal residence of the taxpayer, unless the assessor has made a finding determination of jeopardy pursuant to ~~subsection 2, paragraph B, that the tax is in jeopardy~~ section 145 or the assessor personally approves in writing the levy of ~~such~~ that property.

**Sec. 10. 36 MRSA §176-A, sub-§6, ¶B**, as amended by PL 1999, c. 699, Pt. D, §27 and affected by §30, is further amended to read:

B. The assessor, as soon as practicable after the seizure of ~~the~~ property, shall ~~give notice to the owner or possessor in the manner prescribed in paragraph A and~~ cause a notification notice to be published in a newspaper of general circulation within the county where the seizure is made, or, if there is no such newspaper, post the notice at the city or town hall nearest the place where the seizure is made and in ~~not less than~~ at least 2 other public places. In the case of real property, the notice must be served on all persons holding an interest of record, including, without limitation, recorded leases and security interest of all types, in the property as reflected at the time the notice of levy is recorded by the indices of the registry of deeds in the county where the property is located. In the case of personal property that is a motor vehicle subject to a ~~Certificate~~ certificate of ~~Title~~ title issued by the Secretary of State, notice must be served on all persons holding a security interest of record in the motor vehicle as set forth in the records of the Secretary of State. In the case of ~~the type~~ of personal property that may be the subject of a security interest perfected by filing in the office of the Secretary of State, notice must be served upon all secured parties claiming an interest in the property seized as reflected at the time the notice of levy is recorded in the records maintained by the Secretary of State pursuant to Title 11. The notice must specify the property to be sold, subject to the liabilities of prior encumbrances, if any, and the time, place, manner and conditions of the sale. If levy is made without regard to the 10-day period provided in ~~subsection 2 section 171~~, public notice of sale of the property seized may not be made within the 10-day period unless subsection 7 applies. It is a Class E crime to intentionally remove or deface the posted notice of sale prior to the scheduled sale date, unless the property has been redeemed or the sale is for some other reason canceled. The assessor or any law enforcement officer may enter onto the land if necessary to carry out the purposes of this section.

**Sec. 11. 36 MRSA §191, sub-§2, ¶O**, as amended by PL 1997, c. 537, §60 and affected by §62 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

O. The disclosure to an authorized representative of the Department of Health and Human Services of an individual's residence, employer, income and assets for child support enforcement purposes as required by the Social Security Act, 47 ~~42~~ United States Code, Chapter 7, subchapter IV, Part D (1966), when a request containing the payor's social security number is made by the department;

**Sec. 12. 36 MRSA §191, sub-§2, ¶Q**, as amended by PL 2001, c. 396, §11, is further amended to read:

Q. The listing of ~~licensed special fuel suppliers persons~~ possessing certificates under section 3204 and ~~registered suppliers possessing certificates under section 3205~~;

**Sec. 13. 36 MRSA §271, sub-§8**, as enacted by PL 1985, c. 764, §8, is repealed.

**Sec. 14. 36 MRSA §506-A**, as amended by PL 1995, c. 57, §5, is further amended to read:

**§506-A. Overpayment of taxes**

Except as provided in section 506, a taxpayer who pays an amount in excess of that finally assessed must be repaid the amount of the overpayment plus interest from the date of overpayment at a rate to be established by the municipality. ~~With respect to overpayments of taxes relating to property tax years beginning prior to April 1, 1996, the rate of interest may not exceed the interest rate established by the municipality for delinquent taxes reduced by 4% but may not be less than 8% nor greater than 12%. With respect to overpayments of taxes relating to property tax years beginning on or after April 1, 1996, the~~ The rate of interest may not exceed the interest rate established by the municipality for delinquent taxes ~~or~~ nor may it be less than that rate reduced by 4%. If a municipality fails to ~~set~~ establish a rate of interest for overpayments of taxes, it shall pay interest at the rate it has established for delinquent taxes.

**Sec. 15. 36 MRSA §574-B, sub-§1**, as amended by PL 1999, c. 33, §1, is further amended to read:

**1. Forest management and harvest plan.** A forest management and harvest plan ~~has been~~ must be prepared for ~~the~~ each parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor for a parcel in a municipality or with the State Tax Assessor for ~~parcels~~ a parcel in the unorganized territory that a forest management and harvest plan has been prepared for the parcel. ~~A landowner with a parcel taxed pursuant to this~~

~~subchapter on September 30, 1989 has until December 31, 1999 to comply with this requirement or to provide evidence to the municipal assessor or the State Tax Assessor for parcels in the unorganized territory that the landowner intends to develop a forest management and harvest plan by December 31, 2000 or has executed a contract with a licensed forester for the completion of a forest management and harvest plan by December 31, 2000. Until the plan is prepared or December 31, 2000, whichever is earlier, the land is subject to the applicability provisions under this section as it existed on April 1, 1982. A landowner who does not provide the municipal assessor or the State Tax Assessor for parcels in the unorganized territory by December 31, 1999 with a sworn statement that a forest management and harvest plan has been prepared or evidence that the landowner intends to develop a forest management and harvest plan or has executed a contract with a licensed forester for the completion of a forest management and harvest plan by December 31, 2000 shall pay a penalty of \$100 to the municipal tax collector or the State Tax Assessor for parcels in the unorganized territory. This penalty is in addition to any penalty that is assessed pursuant to section 581 for withdrawal of land from classification under this subchapter and may be enforced in the same manner as a supplemental assessment under section 713.~~

**Sec. 16. 36 MRSA §843, sub-§4**, as amended by PL 2001, c. 436, §1 and affected by §2, is further amended to read:

**4. Payment requirements for taxpayers.** If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, provided as long as that amount does not exceed the amount of taxes due in the current tax year, or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date or according to a payment schedule mutually agreed to in writing by the taxpayer and the municipal officers, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date or written payment schedule date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. ~~This section applies to any property tax appeal filed on or after April 1, 1993. This section subsection does not apply to property with a valuation of less than \$500,000.~~

**Sec. 17. 36 MRSA §844, sub-§4**, as amended by PL 2003, c. 72, §1 and affected by §2, is further amended to read:

**4. Payment requirements for taxpayers.** If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, ~~provided as long as~~ that amount does not exceed the amount of taxes due in the current tax year, or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date, or according to a payment schedule mutually agreed to in writing by the taxpayer and the municipal officers, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date or written payment schedule date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. ~~This section applies to any property tax appeal filed on or after April 1, 1993. This section subsection does not apply to property with a valuation of less than \$500,000.~~

**Sec. 18. 36 MRSA §1109, sub-§7,** as enacted by PL 1989, c. 748, §5, is repealed.

**Sec. 19. 36 MRSA §1112, last ¶,** as enacted by PL 1993, c. 452, §13, is repealed.

**Sec. 20. 36 MRSA §1483,** as amended by PL 2007, c. 627, §32, is further amended to read:

**§1483. Exemptions**

The following are exempt from the excise tax:

**1. State vehicles.** Vehicles owned by this State ~~and~~ or by political subdivisions thereof of the State;

**2. Driver education.** Motor vehicles registered by municipalities for use in driver education in the secondary schools or ~~motor vehicles registered by private secondary schools for use in driver education in such those schools;~~

**3. Volunteer fire departments.** Motor vehicles owned by volunteer fire departments;

**4. Dealers or manufacturers.** Vehicles owned by bona fide dealers or manufacturers of the vehicles, ~~which vehicles that~~ are held solely solely for demonstration and sale and constitute stock in trade, and aircraft registered in accordance with Title 6, section 53;

**5. Transporter registration.** Vehicles to be lawfully operated on transporter registration certificates;

**6. Railroads.** Vehicles owned by railroad companies ~~that are~~ subject to the excise tax imposed under chapter 361;

**7. Benevolent and charitable institutions.** Vehicles owned and used solely for their own purposes

by benevolent and charitable institutions that are incorporated by this State and entitled to exemption from property tax ~~exemption in accordance with~~ under section 652, subsection 1;

**8. Literary and scientific institutions.** Vehicles owned and used solely for their own purposes by literary and scientific institutions ~~and that are~~ entitled to exemption from property tax ~~exemption in accordance with~~ under section 652, subsection 1;

**9. Religious societies.** Vehicles owned and used solely for their own purposes by houses of religious worship or religious societies that are entitled to exemption from property tax under section 652, subsection 1, paragraph G;

**10. Certain nonresidents.** Motor vehicles permitted to operate without Maine registration under Title 29-A, section 109;

**11. Interstate commerce.** Vehicles traveling in the State only in interstate commerce, ~~and that are~~ owned in a state wherein where an excise or property tax ~~shall have~~ has been paid on the vehicle, ~~and which that grants to Maine-owned~~ Maine-owned vehicles the exemption ~~contained~~ provided in this subsection;

**12. Certain veterans.** Automobiles owned by veterans who are granted free registration of ~~such those~~ vehicles by the Secretary of State under Title 29-A, section 523, subsection 1;

**13. Certain buses.** Buses used for the transportation of passengers for hire in interstate or intrastate commerce, or both, by carriers engaged in furnishing common carrier passenger service under an operating authority license issued pursuant to Title 29-A, section 552. At the option of the appropriate municipality, those buses may be subject to the excise tax provided in section 1482;

**14. Antique and experimental aircraft.** Antique and experimental aircraft as defined in Title 6, section 3, subsections 10-A and 18-E ~~and that are~~ registered according to in accordance with the provisions of Title 6;

**15. Adaptive equipment.** Adaptive equipment installed on a motor vehicle owned by a disabled person or the family of a disabled person to make that vehicle operable or accessible by a disabled person; and

**16. Active military stationed in Maine.** Vehicles owned by a person on active duty serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State. A member of the Armed Forces of the United States stationed in the State who desires to register that member's vehicle in this State shall present certification from the commander of the member's post, station or base, or from the commander's designated agent, that the member is permanently stationed

at that post, station or base. For purposes of this subsection, "a person on active duty serving in the Armed Forces of the United States" does not include a member of the National Guard or the Reserves of the United States Armed Forces.

**Sec. 21. 36 MRSA §1487, sub-§2**, as amended by PL 2007, c. 541, Pt. E, §1 and c. 693, §13, is repealed and the following enacted in its place:

**2. State Tax Assessor.** The State Tax Assessor shall appoint agents to collect the excise tax in the unorganized territory. Agents, including municipalities designated as agents, are allowed a fee of \$6 for each tax receipt issued. The State Tax Assessor may authorize the offset of credit card fees incurred in the collection of the excise taxes against the receipts from those collections. Agents shall deposit the remainder on or before the 20th day of each month following receipt with the Treasurer of State. The Treasurer of State shall make quarterly payments to each county in an amount that is equal to the receipts for that period from each county. Those payments must be made at the same time as payments under section 1606. County receipts under this section must be deposited in the county's unorganized territory fund.

**Sec. 22. 36 MRSA §1752, sub-§11, ¶B**, as amended by PL 2007, c. 627, §42 and affected by §96 and amended by c. 693, §14, is repealed and the following enacted in its place:

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate unless the sale is made through a retailer or the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;
- (4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;
- (6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;

(7) The sale, to a person engaged in the business of renting furniture or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;

(8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

(10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale; or

(14) The sale of repair parts used in the performance of repair services on telecommunications equipment as defined in section 2551, subsection 19 pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the telecommunications equipment for a specific duration.

**Sec. 23. 36 MRSA §1752, sub-§8-C** is enacted to read:

**8-C. Pet.** "Pet" has the same meaning as under Title 7, section 3907, subsection 22-B.

**Sec. 24. 36 MRSA §1760, sub-§5-A**, as amended by PL 1975, c. 623, §57, is further amended to read:

**5-A. Prosthetic devices.** Sale of prosthetic aids, hearing aids or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity; and sale of crutches

and wheelchairs for the use of ~~invalids and crippled sick, injured or disabled~~ persons and not for rental.

**Sec. 25. 36 MRSA §1760, sub-§8, ¶B**, as amended by PL 1987, c. 798, §1, is further amended to read:

B. Internal combustion engine fuel, as defined in section 2902, bought and used for the purpose of propelling jet or turbojet engine aircraft; and

**Sec. 26. 36 MRSA §1760-B**, as amended by PL 1997, c. 526, §14, is repealed.

**Sec. 27. 36 MRSA §2520**, as repealed and replaced by PL 1973, c. 727, §10, is amended to read:

**§2520. Reciprocal contracts of indemnity**

Every attorney-in-fact of a reciprocal insurer by or through whom are issued policies or contracts of indemnity by a reciprocal insurer as ~~identified~~ defined in Title 24-A, ~~chapter 5 section 402, subsection 1~~, in lieu of all other taxation, state, county or municipal, in this State, shall pay a tax at the rate of 2% on gross premiums or deposits actually received during the year after deducting amounts that are actually returned to policyholders as the unused part of ~~such a~~ premium or deposit; or ~~such part as may be~~ credited on the renewal or extension of the indemnity.

**Sec. 28. 36 MRSA §2551, sub-§3**, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is amended to read:

**3. Fabrication services.** "Fabrication services" means the production of tangible personal property for a consideration for a person who furnishes, either directly or indirectly, the materials used in that production. ~~"Fabrication services" does not include the production of tangible personal property if a sale to the consumer of the tangible personal property so produced would be exempt or otherwise not subject to tax under Part 3.~~

**Sec. 29. 36 MRSA §2552, sub-§1, ¶I**, as amended by PL 2007, c. 539, Pt. DDD, §6, is further amended to read:

I. Community support services for persons with mental retardation or autism; ~~and~~

**Sec. 30. 36 MRSA §2552, sub-§1, ¶J**, as amended by PL 2007, c. 539, Pt. DDD, §7 and c. 627, §67, is repealed and the following enacted in its place:

J. Home support services; ~~and~~

**Sec. 31. 36 MRSA §2552, sub-§1, ¶K**, as repealed by PL 2007, c. 539, Pt. DDD, §8 and amended by c. 627, §68, is repealed.

**Sec. 32. 36 MRSA §2557, sub-§33**, as enacted by PL 2007, c. 627, §74, is amended to read:

**33. International telecommunications service.** Sales of international telecommunications service; ~~and~~

**Sec. 33. 36 MRSA §2557, sub-§34**, as enacted by PL 2007, c. 627, §75, is amended to read:

**34. Interstate telecommunications service.** Sales of interstate telecommunications service; ~~;~~

**Sec. 34. 36 MRSA §2557, sub-§35** is enacted to read:

**35. Certain fabrication services.** The production of tangible personal property if a sale to the consumer of that tangible personal property would be exempt or otherwise not subject to tax under Part 3; and

**Sec. 35. 36 MRSA §2557, sub-§36** is enacted to read:

**36. Fuel used at a manufacturing facility.** Ninety-five percent of the sale price of fabrication services for the production of fuel for use at a manufacturing facility as defined in section 1752, subsection 6-A.

**Sec. 36. 36 MRSA §2557**, as amended by PL 2009, c. 204, §13 and c. 211, Pt. B, §32, is further amended by adding at the end a new paragraph to read:

For the purposes of subsections 33 and 34, in determining whether a particular customer is a business or nonbusiness customer, a telecommunications company may rely upon existing customer classifications maintained in its books and records, such as "individual," "consumer," "enterprise," "business," "corporate" or "government." A telecommunications company is not required to change the customer classifications the telecommunications company maintains in its books and records. If as a result of an audit a telecommunications company is required to change a customer's status to that of a business customer or to a nonbusiness customer for purposes of applying the tax, the change applies prospectively only.

**Sec. 37. 36 MRSA §2902**, as amended by PL 2007, c. 438, §§63 and 64, is further amended to read:

**§2902. Definitions**

~~The terms As used in this chapter shall be construed as follows; unless the context otherwise indicates, the following terms have the following meanings.~~

**1. Distributor.** "Distributor" means ~~any a~~ person, ~~as defined, importing that imports internal combustion engine fuel into the State, or producing, refining, manufacturing or compounding within produces,~~ refines, manufactures or compounds internal combustion engine fuel in the State, ~~or purchasing within purchases internal combustion engine fuel in the State,~~ principally for resale to others in bulk, ~~internal combustion engine fuel as defined.~~ "Distributor" includes licensed distributors and registered distributors.



**1-A. Exporter.** "Exporter" means ~~any~~ a person, ~~as defined, other than that is not a licensed distributor, who that~~ purchases internal combustion engine fuel in this State and exports that fuel from the State, or causes that fuel to be exported ~~such fuel from the State~~, other than in fuel tanks attached to and forming a part of a motor vehicle ~~and used for use in the engine of said that~~ motor vehicle.

**1-B. Importer.** "Importer" means ~~any~~ a person, ~~as defined, other than that is not a licensed distributor, wherever resident or located, importing that imports~~ internal combustion engine fuel or causing causes internal combustion engine fuel to be imported for sale or for use in this State, ~~with the exception set forth, any internal combustion engine fuel as defined other than in fuel tanks attached to and forming a part of a~~ motor vehicle for use in the engine of that motor vehicle.

**1-C. Gross gallons.** "Gross gallons" means actual measured gallons of internal combustion engine fuel received, sold or used, without adjustment for temperature or barometric pressure.

**2. Internal combustion engine.** ~~"Internal combustion engine" shall mean any engine operated by explosion or quick burning therein of gasoline, benzol or other product.~~

**3. Internal combustion engine fuel.** ~~"Internal combustion engine fuel", except as respects fuel used for propelling aircraft, shall mean means all products that are commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classification or uses; and includes any liquid fuel that is prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in spark-ignition internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D 86) show not less than 10% distilled (recovered) below 347° Fahrenheit (175° Centigrade) and not less than 95% distilled (recovered) below 464° Fahrenheit (240° Centigrade) that has greater than 90% of the energy potential of an equivalent volume of gasoline, determined by the number of British Thermal Units in a standard volume. The term "internal combustion engine fuel" shall does not include commercial solvents or naphthas which distil, by American Society for Testing Materials Method D 86, nor more than 9% at 176° Fahrenheit and which have a distillation range of 150° Fahrenheit, or less, or liquefied gases which that would not exist as liquids at a temperature of 60° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.~~

"Internal combustion engine fuel" ~~shall mean~~ includes any motor fuel that is used or sold for use in the propulsion of aircraft.

**3-A. Licensed distributor.** ~~"Licensed distributor" means a distributor that is not a registered distributor.~~

**3-B. Registered distributor.** ~~"Registered distributor" means a distributor that purchases or imports only internal combustion engine fuel on which the tax imposed by this chapter has been paid to a licensed distributor and that makes sales of internal combustion engine fuel only to retail dealers or directly into the fuel tanks of motor vehicles.~~

**4-A. Retail dealer.** "Retail dealer" means a person that operates in this State a place of business from which internal combustion engine fuel is sold at retail and delivered directly into the fuel tanks of motor vehicles or watercraft. A distributor or wholesaler is a retail dealer only with respect to internal combustion engine fuel delivered into a retail storage tank operated by that distributor or wholesaler or into a retail storage tank of a consignee or commission agent.

**5. Terminal.** "Terminal" means a storage and distribution facility for internal combustion engine fuel supplied by a pipeline or marine vessel, or both, that has been registered as a qualified terminal by the Internal Revenue Service.

**6. Wholesaler.** "Wholesaler" means a person that owns, operates or otherwise controls a terminal or a person that holds the internal combustion engine fuel inventory position in a terminal when that person has a contract with the terminal operator for the use of storage facilities and terminal services for fuel at the terminal.

**Sec. 38. 36 MRS §2903, sub-§1-C**, as enacted by PL 2001, c. 688, §3, is amended to read:

**1-C. Inventory tax.** On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed ~~by this subsection~~ upon all internal combustion engine fuel that is held in inventory by a distributor, importer, wholesaler or retail dealer as of the end of the day prior to that date with respect to which the tax imposed pursuant to subsection 1 has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Distributors, importers, wholesalers and retail dealers that hold ~~such~~ tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the distributor, importer, wholesaler or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor. This ~~section~~ subsection

does not apply to internal combustion engine fuel that is purchased or used for the purpose of propelling jet or turbojet engine aircraft.

**Sec. 39. 36 MRSA §2903, sub-§4, ¶D**, as amended by PL 2007, c. 627, §78, is further amended to read:

D. Bought or used to propel ~~an~~ a jet engine aircraft in international flights. For purposes of this paragraph, fuel is bought or used to propel ~~an~~ a jet engine aircraft in an international flight if either the point of origin of the flight leg immediately preceding the delivery of the fuel into the fuel tanks of the jet engine aircraft or the destination point of the flight leg immediately following the delivery of the fuel into the fuel tanks of the jet engine aircraft is outside the United States;

**Sec. 40. 36 MRSA §2904**, as amended by PL 2007, c. 407, §2, is repealed and the following enacted in its place:

**§2904. Certificates**

Every person that is a distributor, wholesaler, importer or exporter of internal combustion engine fuel in the State shall file an application for a certificate with the State Tax Assessor on forms prescribed and furnished by the assessor. A person may not sell or distribute internal combustion engine fuel until the certificate is furnished by the assessor and displayed as required by this section. One copy of the certificate, certified by the assessor, must be displayed in each place of business of the person. If the assessor has reasonable cause to believe that the person has ceased to do business or that the person has violated this chapter or rules adopted under this chapter, the assessor may on reasonable notice to the person suspend the person's certificate until satisfied to the contrary. A person whose certificate has been suspended may not act as a distributor, wholesaler, importer or exporter until the certificate is restored by the assessor. A suspended certificate must be surrendered to the assessor upon request. Notice is sufficient if sent by mail and addressed to the person at the address designated in the certificate. The suspension is subject to review as provided in section 151.

**Sec. 41. 36 MRSA §2904-A**, as enacted by PL 2007, c. 407, §3, is repealed.

**Sec. 42. 36 MRSA §2906, sub-§1**, as amended by PL 2007, c. 438, §66, is further amended to read:

**1. Monthly reports.** Every licensed distributor, wholesaler, importer and exporter shall file with the assessor State Tax Assessor on or before the 21st day of each month a return stating the number of gross gallons of internal combustion engine fuel received, sold and used in the State by that licensed distributor, wholesaler, importer or exporter during the preceding

calendar month. The return must be filed on a form prescribed and furnished by the assessor and must include any other information reasonably required by the assessor.

**Sec. 43. 36 MRSA §2906, sub-§2**, as amended by PL 2007, c. 438, §67, is further amended to read:

**2. Payment of tax.** At the time of filing the return required by this section, each licensed distributor and importer shall pay to the assessor the tax imposed by section 2903 on each gallon reported as sold, distributed or used.

**Sec. 44. 36 MRSA §2906, sub-§3**, as repealed and replaced by PL 1997, c. 738, §5, is amended to read:

**3. Allowance for certain losses.** An allowance of not more than 1/2 of 1% from the amount of internal combustion engine fuel received by a licensed distributor, plus 1/2 of 1% on all transfers in vessels, tank cars or full tank truck loads by a licensed distributor in the regular course of the licensed distributor's business from one of the licensed distributor's places of business to another within the State, may be granted by the assessor to cover losses sustained by the licensed distributor through shrinkage, evaporation or handling. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 1% of the receipts by the licensed distributor. The allowance must be calculated on an annual basis. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

**Sec. 45. 36 MRSA §2906, sub-§5**, as amended by PL 2007, c. 438, §69, is repealed.

**Sec. 46. 36 MRSA §2907** is repealed and the following enacted in its place:

**§2907. Application of tax in special cases**

A person that receives internal combustion engine fuel under circumstances that preclude the collection of the tax imposed under this chapter by the distributor, other than internal combustion engine fuel brought into the State in the ordinary standard equipment fuel tank attached to and forming a part of a motor vehicle for use in the engine of that motor vehicle, and that sells or uses that internal combustion engine fuel in this State is subject to the tax imposed by section 2903 and to the requirements of section 2906, subsections 1 and 2 on the same basis as a licensed distributor.

**Sec. 47. 36 MRSA §3202, sub-§2-E** is enacted to read:

**2-E. Licensed supplier.** "Licensed supplier" means a supplier that is not a registered supplier.

**Sec. 48. 36 MRSA §3202, sub-§5-D** is enacted to read:

**5-D. Registered supplier.** “Registered supplier” means a supplier that purchases or imports only distillates on which the tax imposed by this chapter has been paid to a licensed supplier and that makes sales of distillates only to retail dealers or directly into the fuel tanks of motor vehicles. A registered supplier may also purchase and sell dyed fuel.

**Sec. 49. 36 MRSA §3202, sub-§7**, as amended by PL 1999, c. 733, §2 and affected by §17, is repealed and the following enacted in its place:

**7. Supplier.** “Supplier” means a person that imports distillates into the State, exports distillates from the State, produces, refines, manufactures or compounds distillates in the State or purchases distillates in the State, principally for resale to others in bulk. “Supplier” includes licensed suppliers and registered suppliers.

**Sec. 50. 36 MRSA §3203, sub-§5**, as amended by PL 2007, c. 627, §81, is further amended to read:

**5. Allowance for certain losses of undyed distillates.** An allowance of not more than 1/4 of 1% from the amount of undyed distillates received by a licensed supplier, plus 1/4 of 1% on all transfers in vessels, tank cars or full tank truck loads by the licensed supplier in the regular course of business from one of the licensed supplier's places of business to another of the licensed supplier's places of business within the State, may be allowed by the assessor to cover the loss through shrinkage, evaporation or handling sustained by the licensed supplier. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 1/2 of 1% of the receipts by the licensed supplier. The allowance must be calculated on an annual basis. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

**Sec. 51. 36 MRSA §3203-C**, as amended by PL 2003, c. 390, §15, is further amended to read:

**§3203-C. Inventory tax**

On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all distillates that are held in inventory by a supplier, wholesaler or retail dealer as of the end of the day prior to that date on which the tax imposed by section 3203, ~~subsection~~ subsections 1 and 1-B has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Suppliers, whole-

salers and retail dealers that hold such tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the supplier, wholesaler or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor.

**Sec. 52. 36 MRSA §3204**, as amended by PL 1999, c. 733, §7 and affected by §17, is further amended to read:

**§3204. Licenses**

Every person operating as a supplier, wholesaler or retailer in the State, ~~other than those who qualify under section 3205~~, shall file an application for a certificate with the State Tax Assessor on forms prescribed and furnished by the assessor, ~~which contain the name under which the person is transacting business within the State, the place or places of business, location of distributing stations, agencies of the person, the names and addresses of the several persons constituting the firm or partnership, and, if a corporation, its corporate name and the names and addresses of its principal officers and agents within the State.~~ A person may not sell or distribute any special fuel until the certificate is furnished by the State Tax Assessor assessor and displayed as required by this section. ~~One copy of each such the certificate, certified by the State Tax Assessor assessor, must be displayed in each place of business of the person. The State Tax Assessor, having~~ If the assessor has reasonable cause to believe that the person has ceased to do business or that the person has violated this chapter or ~~the~~ has failed to appear in court for any violation of this chapter, the assessor may on reasonable notice to the person suspend the person's certificate until satisfied to the contrary. ~~In such case, the~~ A person whose certificate has been suspended may not act as a supplier, wholesaler or retailer until the certificate is restored by the State Tax Assessor, either of the assessor's own initiative or at the person's request, and upon the State Tax Assessor being satisfied that cause for suspension no longer exists, or upon order of court assessor. ~~In case of that suspension, all Suspended certificates must at once be surrendered to the State Tax Assessor assessor upon request. This revocation~~ The suspension is reviewable in accordance with section 151.

**Sec. 53. 36 MRSA §3205**, as amended by PL 2001, c. 396, §29, is repealed.

**Sec. 54. 36 MRSA §3209, sub-§1**, as amended by PL 2007, c. 438, §80, is further amended to read:

**1. Suppliers and wholesalers.** Every licensed supplier and wholesaler shall file on or before the last day of each month a return with the State Tax Asses-

sor stating the gross gallons of distillates received, sold and used in this State by that licensed supplier or wholesaler during the preceding calendar month, on a form prescribed and furnished by the assessor. The return must include any further information reasonably required by the assessor. At the time of filing the return required by this subsection, each licensed supplier or wholesaler must pay to the assessor a tax as prescribed in section 3203 upon each gallon reported as a taxable sale or as taxable gallons used.

**Sec. 55. 36 MRSA §3209, sub-§5**, as amended by PL 2007, c. 438, §80, is repealed.

**Sec. 56. 36 MRSA §3211**, as amended by PL 2007, c. 438, §82, is further amended to read:

**§3211. Cancellation of licenses, registrations**

If ~~any~~ a person licensed or registered under this chapter files a false report of the information required by this chapter, or fails, refuses or neglects to file a return required by this chapter or to pay the full amount of the tax as required by this chapter ~~or is in violation of the registration certificate as prescribed in section 3205~~, the State Tax Assessor may cancel the license or registration and ~~notify~~ give notice to that person ~~in writing of the cancellation by registered mail to the last known address of that person.~~

Upon receipt of a written request from ~~any~~ a person licensed or registered under this chapter to cancel the license or registration issued to that person, the assessor may cancel that license or registration effective 30 days from the date of the written request, in which event the license or registration certificate issued to that person must be surrendered to the assessor. ~~If, upon investigation, the assessor finds determines that any a person to whom a license or registration has been issued under this chapter is no longer engaged in the sale or use of special fuel and has not been so engaged for a period of 6 months, the assessor may cancel that license or registration by giving that person 30 days' notice of the cancellation mailed to the last known address of that person, in which event the license or registration certificate issued to that person must be surrendered to the assessor.~~

**Sec. 57. 36 MRSA §3212**, as amended by PL 2007, c. 438, §83, is further amended to read:

**§3212. Discontinuance**

When a ~~supplier, retailer or user person~~ ceases to engage in business as a supplier, wholesaler, retailer or user of special fuel within this State, that ~~supplier, retailer or user person~~ shall notify the State Tax Assessor in writing within 15 days after discontinuance. All taxes, penalties and interest under this chapter become due and payable concurrently with that discontinuance. The ~~supplier, retailer or user person~~ shall file a return and pay all the taxes, interest and penalties and surrender to the assessor the license or registration

certificate issued to that ~~supplier, retailer or user person~~ by the assessor.

~~Any~~ A person ~~violating that violates~~ any of the provisions of this section commits a Class E crime.

**Sec. 58. 36 MRSA §3214**, as amended by PL 2007, c. 438, §84, is further amended to read:

**§3214. Credit for tax paid on worthless accounts**

The tax paid on sales made on credit and reported by a licensed supplier, wholesaler or retailer pursuant to section 3209 ~~that are~~ found to be worthless and actually charged off may be credited upon the tax due on a subsequent return, ~~but if any such.~~ If those accounts are ~~thereafter~~ subsequently collected by the licensed supplier, wholesaler or retailer, a tax must be paid upon the amounts so collected. The credit must be reported on the return for the month in which the charge-off occurred.

**Sec. 59. 36 MRSA §3321, sub-§1**, as amended by PL 2007, c. 650, §3, is further amended to read:

**1. Generally.** Beginning in 2003, and each calendar year thereafter, the excise tax imposed upon internal combustion engine fuel pursuant to section 2903, subsection 1 and the excise tax imposed upon distillates pursuant to section 3203, subsections 1 and 1-B are subject to an annual rate of adjustment pursuant to this section. On or about February 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying the rates in effect on the calculation date by an inflation index ~~as computed as~~ provided in subsection 2. The adjusted rates must then be rounded to the nearest 1/10 of a cent and become effective on the first day of July immediately following the calculation. The assessor shall publish the annually adjusted fuel tax rates and shall provide all necessary forms and reports ~~to suppliers, distributors and retail dealers.~~

**Sec. 60. 36 MRSA §3321, sub-§3**, as enacted by PL 2001, c. 688, §8, is further amended to read:

**3. Exclusion.** This section does not apply to internal combustion engine fuel purchased or used for the purpose of propelling jet ~~or turbojet~~ engine aircraft.

**Sec. 61. 36 MRSA §4901, sub-§6**, as enacted by PL 2005, c. 396, §8, is repealed.

**Sec. 62. 36 MRSA §5111, sub-§4**, as amended by PL 1999, c. 521, Pt. B, §1 and affected by §11, is further amended to read:

**4. Additional tax.** Additionally, a tax is imposed for each taxable year ~~beginning on or after January 1, 1989~~, on the Maine adjusted gross income of every nonresident individual. The amount of the tax equals the tax computed under this section and chapter 805, as if the nonresident individual were a resident indi-

vidual, multiplied by the ratio of the nonresident individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the ~~nonresident's~~ nonresident individual's entire federal adjusted gross income, as modified by section 5122.

**Sec. 63.** **36 MRSA §5111, sub-§5**, as enacted by PL 1991, c. 528, Pt. ZZ, §1 and affected by §4 and Pt. RRR and enacted by c. 591, Pt. ZZ, §1 and affected by §4, is repealed.

**Sec. 64.** **36 MRSA §5122, sub-§1, ¶O**, as amended by PL 2003, c. 20, Pt. II, §1, is repealed.

**Sec. 65.** **36 MRSA §5122, sub-§1, ¶P**, as amended by PL 2003, c. 20, Pt. II, §1, is repealed.

**Sec. 66.** **36 MRSA §5122, sub-§1, ¶Z**, as enacted by PL 2007, c. 539, Pt. CCC, §4, is amended to read:

Z. For income tax years beginning on or after January 1, 2008, the amount of any qualified state and local tax benefit and any qualified payment excluded from gross income pursuant to the Code, Section ~~439(b)~~ **139B**; and

**Sec. 67.** **36 MRSA §5122, sub-§2, ¶AA**, as corrected by RR 2007, c. 2, §23, is amended to read:

AA. For taxable years beginning on or after January 1, 2009, an amount equal to the net decrease in the depreciation deductions allowable under sections 167 and 168 of the Code that would have been applicable to that property had the 50% bonus depreciation deduction under Section 103 of the Economic Stimulus Act of 2008, Public Law 110-185 not been claimed with respect to such property for which an addition was required under subsection 1, paragraph AA in a prior year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph AA and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph AA for the same property; ~~and~~

**Sec. 68.** **36 MRSA §5122, sub-§2, ¶BB**, as reallocated by RR 2007, c. 2, §24, is amended to read:

BB. The amount of pension benefits to the extent included in federal adjusted gross income under a military retirement plan as defined in paragraph M that exceed the amount of military retirement plan pension benefits deducted under paragraph M and that are received by a person who practices as a li-

censed dentist in this State for an average of at least 20 hours per week during the tax year and who accepts patients who receive benefits under the MaineCare program administered under Title 22, chapter 855; ~~and~~

**Sec. 69.** **36 MRSA §5122, sub-§2, ¶CC** is enacted to read:

CC. To the extent included in federal adjusted gross income, an amount constituting benefits received under a municipal property tax assistance program established pursuant to section 6232, subsection 1-A.

**Sec. 70.** **36 MRSA §5175**, as amended by PL 2003, c. 390, §37, is repealed.

**Sec. 71.** **36 MRSA §5142, sub-§1**, as amended by PL 2005, c. 12, Pt. LLLL, §1, is further amended to read:

**1. General.** A tax is imposed for each taxable year on the Maine adjusted gross income of every nonresident individual. The amount of the tax equals the tax computed under section 5111 and chapter 805, as if the nonresident were a resident, multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the nonresident's entire federal adjusted gross income, as modified by section 5122. The Maine adjusted gross income of a nonresident individual derived from or connected with sources in this State is the sum of the following:

A. The net amount of items of income, gain, loss, and deduction entering into the nonresident individual's federal adjusted gross income that are derived from or connected with sources in this State including (i) the individual's distributive share of partnership or limited liability company income and deductions determined under section 5192, (ii) the individual's share of estate or trust income and deductions determined under section 5176, and (iii) the individual's pro rata share of the income of an S corporation derived from or connected with sources in this State; and

B. The portion of the modifications described in section 5122, subsections 1 and 2 that relates to income derived from or connected with sources in this State, including any modifications attributable to the nonresident individual as a partner of a partnership, shareholder of an S corporation, member of a limited liability company or beneficiary of an estate or trust.

**Sec. 72.** **36 MRSA §5175-A** is enacted to read:

**§5175-A. Maine taxable income of a nonresident estate or trust**

The Maine taxable income of a nonresident estate or trust is equal to its share in that portion of the distributable net income of the estate or trust that is derived from or connected with sources in this State, including items of income, gain, loss and deduction from another estate or trust of which the first estate or trust is a beneficiary, increased or reduced by the amount of any items that are recognized for federal income tax purposes but excluded from the distributable net income of the estate or trust and modified by the addition or subtraction of its share of the fiduciary adjustment determined under section 5164, less the amount of the deduction for its federal exemption. The source of items of income, gain, loss or deduction must be determined in accordance with section 5142 as if the estate or trust were a nonresident individual.

**Sec. 73. 36 MRSA §5176**, as amended by PL 1995, c. 639, §19, is repealed and the following enacted in its place:

**§5176. Share of a nonresident estate, trust or beneficiary in income from sources in this State**

**1. General rule.** The share of a nonresident estate or trust in items of income, gain, loss and deduction derived from or connected with sources in this State that are included in the distributable net income of the nonresident estate or trust and the share for purposes of section 5142 of a nonresident beneficiary of an estate or trust in items of income, gain, loss and deduction of that estate or trust must be determined pursuant to this subsection. A modification may not be made under this section that has the effect of duplicating an item already included in the distributable net income of the estate or trust.

A. To the extent the modifications relate to items of income, gain, loss and deduction derived from or connected with sources in this State that are included in the distributable net income of a nonresident estate or trust, the modifications provided under section 5122 must be added to or subtracted from the amount of those items.

B. The amount determined under paragraph A must be allocated among the nonresident estate or trust and its beneficiaries, including, solely for the purpose of this allocation, resident beneficiaries, in proportion to their respective shares in the distributable net income of the estate or trust. The amounts so allocated have the same character as for federal income tax purposes. An item that is not characterized for federal income tax purposes is deemed to have been realized directly from the source from which it was realized by the estate or trust or incurred in the same manner as it was incurred by the estate or trust.

C. If the estate or trust has no distributable net income for the taxable year, the share of each beneficiary in the net amount determined under paragraph A must be in proportion to the beneficiary's share of the estate or trust income for the taxable year that is required to be distributed currently and any other income that is actually distributed in that taxable year. The balance of the net amount must be allocated to the estate or trust.

**2. Alternate methods.** The State Tax Assessor may authorize, upon the taxpayer's written request, the use of another method of determining the respective shares of the beneficiaries and of the estate or trust in its income derived from sources in this State, and in the modifications related to that income, that the assessor determines to be appropriate and equitable.

**Sec. 74. 36 MRSA §5200-A, sub-§1, ¶O**, as amended by PL 2003, c. 20, Pt. II, §3, is repealed.

**Sec. 75. 36 MRSA §5200-A, sub-§1, ¶P**, as amended by PL 2007, c. 539, Pt. CCC, §13, is repealed.

**Sec. 76. 36 MRSA §5203-B**, as amended by PL 2003, c. 673, Pt. JJ, §2 and affected by §6, is repealed.

**Sec. 77. 36 MRSA §5203-C, sub-§1, ¶F**, as enacted by PL 2003, c. 673, Pt. JJ, §3 and affected by §6, is amended to read:

F. "Regular income tax" means:

(1) For resident individuals, estates and trusts, the amount derived by multiplying the applicable tax rate or rates by taxable income under section 5121 or 5163;

(2) For nonresident individuals, estates and trusts, the amount derived by multiplying the applicable tax rate or rates by taxable income under section 5121 or ~~§475~~ §5175-A, the result of which is adjusted for nonresident individuals in accordance with section 5111, subsection 4; or

(3) For taxable corporations, the amount derived by multiplying the applicable tax rate or rates against Maine net income under section 5102, subsection 8.

**Sec. 78. 36 MRSA §5217-D, sub-§5**, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

**5. Conditions for an employer claiming the credit.** A taxpayer constituting an employer may claim the credit under this section under the following circumstances. The employer may undertake to make partial or full loan payments directly to the relevant lender or lenders on behalf of a qualified employee, having taken reasonable steps to ascertain that the employee is in fact a qualified employee, and may claim

a credit based on amounts that came due and were paid by the employer during the term of employment. To receive the credit, the employer must retain for 5 years any proof of eligibility that the employee or independent contractor provides.

The employer may claim a credit for the amount that the qualified employee could have claimed during any months when the qualified employee was employed, had the qualified employee made the partial or full loan payments instead, under conditions where the qualified employee had sufficient income to claim the full credit for the taxable year. If the qualified employee is employed only on a part-time basis, the employer may claim a credit only up to half of the total that the qualified employee could have claimed had the qualified employee made all payments and earned sufficient income to claim the full credit for the taxable year, but the amount the employer claims must still be based on amounts actually paid.

~~An employer claiming this credit on behalf of a qualified employee for a taxable year may not simultaneously claim a credit under section 5219-V on the behalf of the same employee.~~

**Sec. 79. 36 MRSA §5220, sub-§4, ¶A**, as amended by PL 2005, c. 618, §15 and affected by §22, is further amended to read:

A. Any Maine taxable income as determined under section ~~5175, subsection 2~~ 5175-A;

**Sec. 80. 36 MRSA §5334**, as repealed and replaced by PL 1979, c. 701, §34, is amended to read:

**§5334. Venue**

~~The failure to do any act required by or under A violation of this Part shall be is deemed an act to have been committed in part at the principal office of the assessor in Kennebec County. Any prosecution under this Part Prosecution may be conducted brought in any county where the person or corporation to whose liability the proceeding relates resides or has a place of business; or in any county; in which such crime is the violation was committed.~~

**Sec. 81. 36 MRSA §6209, sub-§4**, as enacted by PL 2007, c. 700, Pt. A, §4, is amended to read:

**4. Income eligibility adjustment.** Beginning March 1, 2009, the State Tax Assessor shall annually multiply the household income eligibility adjustment factor by the maximum income eligibility amounts specified in section 6207, subsection ~~2~~ 2-A, as previously adjusted. The result must be rounded to the nearest \$50 and applies to the application period beginning the next August 1st.

**Sec. 82. 36 MRSA §6753, sub-§12**, as amended by PL 2005, c. 351, §23 and affected by §26, is further amended to read:

**12. Qualified employee.** "Qualified ~~employees~~ employee" means a new, full-time ~~employees em-~~ employee hired in this State by a qualified business ~~and~~, for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, ~~Sections 101 to 1461, as amended, Chapter 18~~ and group health insurance are provided, and whose income derived from employment with the applicant, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed ~~and whose state, as long as~~ Maine income tax withholding taxes are attributed to the qualified employee is subject to reimbursement to the qualified business under this chapter. "Qualified ~~employees~~ employee" does not include ~~employees an~~ employee who is shifted to a qualified business from an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

**Sec. 83. 36 MRSA §6754, sub-§1, ¶D**, as amended by PL 2003, c. 688, Pt. D, §6, is further amended to read:

D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A, section 5250-I, subsection 18, employed directly in the qualified business activity of a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for whom a certificate of qualification has been issued in accordance with Title 30-A, section 5250-O, the reimbursement under this subsection is equal to 80% of the withholding taxes withheld each year for which reimbursement is requested and attributed to those qualified employees for a period of no more than 10 years. In no event may reimbursement under this ~~subsection~~ paragraph be paid for years beginning after December 31, 2018.

**Sec. 84. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 10, section 1020, subsection 2, paragraph D applies retroactively to July 18, 2008. That section of this Act that amends Title 36, section 2903, subsection 4, paragraph D applies retroactively to July 18, 2008. That section of this Act that amends Title 36, section 3203-C applies retroactively to July 18, 2008. That section of this Act that amends Title 36, section 5122, subsection 1, paragraph Z applies retroactively to tax years beginning on or after January 1, 2008. That section of this Act that enacts Title 36, section 5122, subsection 2, paragraph CC applies retroactively to tax years beginning on or after January 1, 2008.

**Sec. 85. Application.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 5142, subsection 1 applies to tax years beginning on or after January 1, 2010.

**Sec. 86. Contingent effective date.** That section of this Act that enacts the Maine Revised Stat-

utes, Title 36, section 1752, subsection 8-C takes effect only if Title 36 is amended in the First Regular Session of the 124th Legislature to enact a sales tax on pet grooming or pet boarding services.

See title page for effective date, unless otherwise indicated.

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## CHAPTER 435

### S.P. 438 - L.D. 1190

#### An Act To Amend the Motor Vehicle Laws

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

**Sec. 1. 29-A MRSA §453, sub-§3-A**, as enacted by PL 2003, c. 434, §9 and affected by §37, is amended to read:

**3-A. Restrictions.** The Secretary of State, in the Secretary of State's discretion, may refuse to issue or may recall a vanity plate that:

- A. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial;
- B. Promotes abusive or unlawful activity;
- C. Falsely suggests an association with public institutions; or
- D. Is duplicative.

**Sec. 2. 29-A MRSA §456-A, sub-§1**, as enacted by PL 2001, c. 623, §4, is amended to read:

**1. Lobster plates.** The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the annual motor vehicle registration fee required by section 501 and the contribution provided for in subsection 2, shall issue a registration certificate and a set of lobster special registration plates to be used in lieu of regular registration plates. These plates must bear identification numbers and letters. The Secretary of State may issue lobster plates to certain state-owned vehicles in accordance with section 517.

**Sec. 3. 29-A MRSA §456-F, sub-§1**, as enacted by PL 2007, c. 703, §10, is amended to read:

**1. Agriculture education plates.** The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the annual motor vehicle registration fee required by section 501, section 504, subsection 1 or section 505 and the contribution provided for in subsection 2, shall issue a registration certificate and a set of agriculture education special registration plates to be used in lieu of regular registration plates. These

plates must bear identification numbers and letters. The Secretary of State may issue agricultural education plates to certain state-owned vehicles in accordance with section 517.

**Sec. 4. 29-A MRSA §517, sub-§2**, as amended by PL 2003, c. 490, Pt. D, §2, is further amended to read:

**2. Plates.** The Secretary of State shall issue distinctive plates that expire at the end of a 6-year period for state plates and a 10-year period for municipal plates within the semipermanent plate program. Notwithstanding section 501, subsection 11, the Secretary of State shall issue distinctive municipal plates under this subsection to a low-speed vehicle owned by a municipality or loaned by a dealer to a municipality. Vehicles owned by the State may display a marker or insignia, approved by the Secretary of State, plainly designating them as owned by the State.

The Secretary of State may issue environmental registration plates to a state-owned vehicle assigned to the Department of Inland Fisheries and Wildlife or the Department of Conservation with authorization from the department's commissioner. The Secretary of State may issue environmental registration plates to a state-owned vehicle assigned to the Baxter State Park Authority with authorization from the Commissioner of Inland Fisheries and Wildlife in the commissioner's capacity as a member of the Baxter State Park Authority. A state-owned vehicle issued environmental registration plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 455, subsection 4.

The Secretary of State may issue agricultural education plates to a state-owned vehicle assigned to the Department of Agriculture, Food and Rural Resources with authorization from the Commissioner of Agriculture, Food and Rural Resources. A state-owned vehicle issued agricultural education plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 456-F, subsection 2.

The Secretary of State may issue lobster plates to a state-owned vehicle assigned to the Department of Marine Resources with authorization from the Commissioner of Marine Resources. A state-owned vehicle issued lobster plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 456-A, subsection 2.

**Sec. 5. 29-A MRSA §517-B** is enacted to read: