

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

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PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE FIRST REGULAR SESSION OF THE
ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE
2015

CHAPTER 1
H.P. 96 - L.D. 138

**An Act To Update References
to the United States Internal
Revenue Code of 1986
Contained in the Maine
Revised Statutes, Decouple
Federal Bonus Depreciation
Deductions and Create a Maine
Capital Investment Credit**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, state tax law needs to be updated to conform to federal law before the 90-day period expires to avoid delay in the processing of income tax returns for 2014; and

Whereas, legislative action is immediately necessary to ensure continued and efficient administration of the state income tax and certain other state taxes; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 36 MRSA §111, sub-§1-A, as amended by PL 2013, c. 472, §1 and affected by §2, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~2013~~ 2014.

Sec. 2. 36 MRSA §5122, sub-§1, ¶GG, as amended by PL 2013, c. 368, Pt. TT, §3, is further amended to read:

GG. The amount claimed as a deduction in determining federal adjusted gross income that is used to calculate the credit for Maine fishery infrastructure investment under section 5216-D; ~~and~~

Sec. 3. 36 MRSA §5122, sub-§1, ¶HH, as corrected by RR 2013, c. 1, §52, is amended to read:

HH. For taxable years beginning in 2013:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-JJ for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-JJ; ~~and~~

Sec. 4. 36 MRSA §5122, sub-§1, ¶II is enacted to read:

II. For taxable years beginning in 2014:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-MM for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-MM.

Sec. 5. 36 MRSA §5122, sub-§2, ¶LL, as repealed and replaced by PL 2013, c. 588, Pt. A, §46 and affected by §47, is amended to read:

LL. To the extent included in federal adjusted gross income and to the extent otherwise subject to Maine income tax, an amount equal to military compensation earned during the taxable year for service performed outside of this State pursuant to written military orders:

(1) For active duty service in the active components of the United States Army, Navy, Air Force, Marines or Coast Guard by a service member whose permanent duty station during such service is located outside of this State; and

(2) For active duty service in the active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard or in the Maine National Guard by a service member in support of a federal operational mission or a declared state or federal disaster response when the orders are either at federal direction or at the direction of the Governor of this State; ~~and~~

Sec. 6. 36 MRSA §5122, sub-§2, ¶MM, as enacted by PL 2013, c. 368, Pt. TT, §8, is amended to read:

MM. For taxable years beginning on or after January 1, 2014, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2013 for which an addition was required under subsection 1, paragraph HH, subparagraph (2) for the taxable year beginning in 2013.

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 HH, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph HH, subparagraph (2) for the same property; ~~and~~

Sec. 7. 36 MRSA §5122, sub-§2, ¶NN is enacted to read:

NN. For taxable years beginning on or after January 1, 2015, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2014 for which an addition was required under subsection 1, paragraph II, subparagraph (2) for the taxable year beginning in 2014.

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 II, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph II, subparagraph (2) for the same property.

Sec. 8. 36 MRSA §5200-A, sub-§1, ¶Z, as amended by PL 2013, c. 368, Pt. TT, §13, is further amended to read:

Z. The amount claimed as a deduction in determining federal taxable income that is used to calculate the credit for Maine fishery infrastructure investment under section 5216-D; ~~and~~

Sec. 9. 36 MRSA §5200-A, sub-§1, ¶AA, as corrected by RR 2013, c. 1, §53, is amended to read:

AA. For taxable years beginning in 2013:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-JJ for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-JJ; ~~and~~

Sec. 10. 36 MRSA §5200-A, sub-§1, ¶BB is enacted to read:

BB. For taxable years beginning in 2014:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-MM for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-MM.

Sec. 11. 36 MRSA §5200-A, sub-§2, ¶X, as amended by PL 2013, c. 368, Pt. TT, §16, is further amended to read:

X. To the extent included in federal taxable income, an amount equal to the refundable portion of the income tax credit under the Maine New

Markets Capital Investment Program under Title 10, section 1100-Z; ~~and~~

Sec. 12. 36 MRSA §5200-A, sub-§2, ¶Y, as enacted by PL 2013, c. 368, Pt. TT, §17, is amended to read:

Y. For taxable years beginning on or after January 1, 2014, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2013 for which an addition was required under subsection 1, paragraph AA, subparagraph (2) for the taxable year beginning in 2013.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable 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, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph AA, subparagraph (2) for the same property; ~~and~~

Sec. 13. 36 MRSA §5200-A, sub-§2, ¶Z is enacted to read:

Z. For taxable years beginning on or after January 1, 2015, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2014 for which an addition was required under subsection 1, paragraph BB, subparagraph (2) for the taxable year beginning in 2014.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable 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 BB, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph BB, subparagraph (2) for the same property.

Sec. 14. 36 MRSA §5219-MM is enacted to read:

§5219-MM. Maine capital investment credit for 2014

1. Credit allowed. A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during the taxable year beginning in 2014 is allowed a credit against the taxes imposed by this Part in an amount equal to 9% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph II, subparagraph (1) or section 5200-A, subsection 1, paragraph BB, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

2. Certain property excluded. The following property is not eligible for the credit under this section:

A. Property owned by a public utility as defined in Title 35-A, section 102, subsection 13;

B. Property owned by a person that provides radio paging services as defined in Title 35-A, section 102, subsection 15;

C. Property owned by a person that provides mobile telecommunications services as defined in Title 35-A, section 102, subsection 9-A;

D. Property owned by a cable television company as defined in Title 30-A, section 2001, subsection 2;

E. Property owned by a person that provides satellite-based direct television broadcast services;

F. Property owned by a person that provides multichannel, multipoint television distribution services; and

G. Property that is not in service in the State for the entire 12-month period following the date it is placed in service in the State.

3. Limitations; carry-forward. The credit allowed under subsection 1 may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 20 years.

4. Recapture. The credit allowed under this section must be fully recaptured to the extent claimed by the taxpayer if the property forming the basis of the credit is not used in the State for the entire 12-month period following the date it is placed in service in the State. The credit must be recaptured by filing an amended return in accordance with section 5227-A for the tax year in which that property was used to calculate the credit under this section. The amended return

must reflect the credit disallowed and the income modifications required by section 5122, subsection 1, paragraph II and section 5200-A, subsection 1, paragraph BB with respect to that property.

Sec. 15. Application. That section of this Act that amends the Maine Revised Statutes, Title 36, section 111, subsection 1-A applies to tax years beginning on or after January 1, 2014 and to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2014.

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

Effective February 12, 2015.

CHAPTER 2

S.P. 319 - L.D. 918

An Act To Allow Licensed Independent Practice Dental Hygienists To Expose and Process Radiographs under Protocols Developed by the Board of Dental Examiners

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, pursuant to Resolve 2011, chapters 67 and 153, independent practice dental hygienists in certain underserved areas of the State are allowed to expose and process radiographs; and

Whereas, this authorization is set to expire on March 15, 2015; and

Whereas, this legislation, which continues the authorization and expands its application to the entire State, needs to take effect prior to March 15, 2015 to avoid an interruption in the services; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 32 MRSA §1094-Q, sub-§1, ¶¶N and O, as enacted by PL 2007, c. 620, Pt. B, §1, are amended to read:

N. Place temporary restorations in compliance with the protocol adopted by the board; ~~and~~

O. Apply topical antimicrobials, excluding antibiotics, including fluoride, for the purposes of bacterial reduction, caries control and desensitization in the oral cavity. The independent practice dental hygienist shall follow current manufacturer's instructions in the use of these medications; ~~and~~

Sec. 2. 32 MRSA §1094-Q, sub-§1, ¶P is enacted to read:

P. Expose and process radiographs, including but not limited to vertical and horizontal bitewing films, periapical films, panoramic images and full-mouth series, under protocols developed by the board as long as the independent practice dental hygienist has a written agreement with a licensed dentist providing that the dentist will be available to interpret all dental radiographs within 21 days from the date the radiograph is taken and that the dentist will sign a radiographic review and findings form.

Sec. 3. 32 MRSA §1100-J, sub-§3, ¶¶C and D, as amended by PL 1993, c. 600, Pt. A, §96, are further amended to read:

C. A person serving in the United States Armed Forces or public health service or employed by the Veterans' Administration or other federal agency while performing official duties, if the duties are limited to that service or employment; ~~or~~

D. Those persons having a current license to perform radiologic technology pursuant to section 9854 and who are practicing dental radiography under the general supervision of a dentist or physician; ~~or~~

Sec. 4. 32 MRSA §1100-J, sub-§3, ¶E is enacted to read:

E. An independent practice dental hygienist licensed pursuant to subchapter 3-B who meets the requirements of section 1094-Q, subsection 1, paragraph P.

Sec. 5. Resolve 2011, c. 67, as amended by Resolve 2011, c. 153, §§1 to 3, is repealed.

Sec. 6. Rules. The Department of Professional and Financial Regulation, Board of Dental Examiners shall adopt rules by July 30, 2015 to implement this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Prior to adoption of rules by the board under this section, the rules adopted by the board in Rule Chapter 16 pursuant to Resolve 2011, chapter 67 in effect on March 11, 2015 apply to a licensed independent practice dental hygienist who wishes to expose and process radiographs pursuant to Title 32, section 1094-Q, subsection 1, paragraph P, except that the provisions of the rule contained in Chapter 16,