LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST SPECIAL SESSION
August 26, 2019

SECOND REGULAR SESSION
January 8, 2020 to March 17, 2020

THE GENERAL EFFECTIVE DATE FOR
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NON-EMERGENCY LAWS IS
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NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2020

Department of Corrections shall adopt rules to carry out the purposes of this section, except that the Department of Administrative and Financial Services shall adopt rules as required by subsection 1. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

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

Effective March 18, 2020.

CHAPTER 659

H.P. 1458 - L.D. 2047

An Act To Amend the State Tax Laws

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

PART A

Sec. A-1. 36 MRSA §191, sub-§2, ¶BBB, as amended by PL 2017, c. 475, Pt. B, §2, is further amended to read:

BBB. The disclosure to an authorized representative of the Department of Professional and Financial Regulation, Bureau of Insurance of information necessary ~~to determine whether a long-term disability income protection plan or short-term~~ for the administration of taxes pursuant to chapter 357 and the credit for disability income protection ~~plan as described in section 5219-OO, subsection 1 qualifies for the disability income protection plans in the workplace credit~~ plans in the workplace provided by section 5219-OO. Information disclosed pursuant to this paragraph may not be further disclosed by the Bureau of Insurance unless the disclosure is allowed pursuant to this section and Title 24-A, section 216;

PART B

Sec. B-1. 36 MRSA §691, sub-§1, ¶A, as amended by PL 2019, c. 379, Pt. A, §4, is further 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 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 property to the extent it is eligible for exemption from property tax under ~~section 652~~ any other provision of law.

"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 equipment 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 1831, subsection 4;

(d) Equipment used in the playing phases of lottery schemes; and

(e) Repair and replacement parts of a gambling machine or device;

(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 retail purchase of goods or 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 selection and retail purchase of goods or rental of tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility;

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

(8) Personal property that would otherwise be entitled to exemption under this subchapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457.

Sec. B-2. 36 MRSA §691, sub-§1, ¶F, as enacted by PL 2005, c. 623, §1, is amended to read:

F. "Qualified property" means tangible personal property that:

(1) Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and

(2) Either:

(a) Was subject to an allowance for depreciation under the Code on April 1st of the property tax year for which a claim for exemption under this subchapter is filed or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or

(b) In the case of construction in progress or inventory parts, would be subject under the Code to an allowance for depreciation when placed in service or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated.

"Qualified property" also includes all property that is affixed or attached to a building or other real estate if the property is used primarily to further a particular trade or business activity taking place in that building or on that real estate.

"Qualified property" does not include a building or components or attachments to a building if they are used primarily to serve the building as a building, regardless of the particular trade or activity taking place in or on the building. "Qualified property" also does not include land improvements if they are used primarily to further the use of the land as land, regardless of the particular trade or business activity taking place in or on the land. In the case of construction in progress or inventory parts, the term "used" means "intended to be used." "Qualified property" also does not include any vehicle ~~registered for on-road use~~ on which a tax assessed pursuant to chapter 111 has been paid or any watercraft registered for use on state waters on which a tax assessed pursuant to chapter 112 has been paid.

PART C

Sec. C-1. 36 MRSA §5126-A, sub-§1, as enacted by PL 2017, c. 474, Pt. B, §7, is amended to read:

1. Amount. For income tax years beginning on or after January 1, 2018, a resident individual is allowed a personal exemption deduction for the taxable year equal to $4,150, unless the individual may be claimed as a dependent on another return. A resident individual is allowed an additional personal exemption deduction for the taxable year equal to $4,150 if the individual is married filing a joint return~~, unless the~~. For income tax years beginning on or after January 1, 2020, a resident individual is allowed an additional personal exemption deduction for the taxable year equal to $4,150 if the individual is married and does not file a joint return, as long as the individual's spouse has no federal gross income during the taxable year and, notwithstanding the suspension of the exemption amount pursuant to the Code, Section 151(d)(5)(A), an exemption deduction would be allowed for the individual's spouse under the Code for the taxable year. No additional personal exemption deduction is allowed under this section if the individual's spouse may be claimed as a dependent on another return. The deduction allowed under this subsection is subject to the phase-out under subsection 2.

For purposes of this subsection, "dependent" has the same meaning as in the Code, Section 152.

Sec. C-2. 36 MRSA §5250-A, sub-§3, ¶C, as amended by PL 1995, c. 639, §25, is further amended to read:

C. The consideration for the property is less than $50,000 or, for sales occurring on or after January 1, 2021, less than $100,000;

PART D

Sec. D-1. 15 MRSA §1094, sub-§2-A, as amended by PL 2019, c. 113, Pt. C, §34, is further amended to read:

2-A. Violation of unsecured preconviction bail. If the court determines that an offender has violated unsecured preconviction bail and that the violation is not excused, the court shall enter an order of forfeiture of bail, which may not exceed the amount of the unsecured bail previously set. The attorney for the State may take action to collect the amount forfeited using measures authorized for the collection of unpaid restitution under Title 17-A, section 2006, including, but not limited to, entering into agreements with the offender for payment over a set period of time not to exceed one year. In order to satisfy an order of forfeiture entered under this subsection, pursuant to Title 36, section ~~5276-A~~ 185-A, the State Tax Assessor may withhold tax refunds owed to an offender.

Sec. D-2. 19-A MRSA §105, sub-§4, as enacted by PL 2005, c. 323, §1, is amended to read:

4. Interest; means of collection. Awards under this section are subject to the accumulation of statutory interest and may be collected by any means available under law, including, but not limited to, remedies available under Title 14 and Title 36, section ~~5276-A~~ 185-A. Additional fees may be assessed in appropriate cases when additional fees are incurred for prosecuting collection actions.

Sec. D-3. 19-A MRSA §2102, as amended by PL 2005, c. 323, §14, is further amended to read:

§2102. Enforcement of rights

The obligee may enforce the right of support against the obligor, and the State or any political subdivision of the State may proceed on behalf of the obligee to enforce that right of support against the obligor. When the State or a political subdivision of the State furnishes support to an obligee, it has the same right as the obligee to whom the support was furnished, for the purpose of securing an award for past support and of obtaining continuing support. An award of attorney's fees may be collected by any means available under the law, including, but not limited to, remedies available under Title 14 and Title 36, section ~~5276-A~~ 185-A.

Sec. D-4. 19-A MRSA §2103, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

4. Attorney's fees. The Office of the Attorney General or attorneys acting under Title 5, section 191 may seek appropriate attorney's fees at the prevailing community rate for legal representation of individuals under this section. An award of attorney's fees may be collected by any means available under the laws, including, but not limited to, remedies available under Title 14 and Title 36, section ~~5276-A~~ 185-A.

Sec. D-5. 22 MRSA §1714-A, sub-§7, as corrected by RR 2007, c. 2, §8, is amended to read:

7. Other collection actions. In addition to the other remedies provided in this section, the department may seek collection of any debt established under subsection 2 pursuant to Title 14, chapter 502, Title 36, chapter 7 and Title 36, section ~~5276-A~~ 185-A.

A business entity, including a sole proprietorship, is considered out of business for the purposes of the department's recovering indebtedness if, after reasonable investigation, the department or its legal counsel has certified in writing that the business entity is no longer conducting operations and that there is no realistic expectation of collecting any significant money from the entity based upon one or more of the following conditions:

A. The business entity has ceased offering retail or wholesale goods and services to the public;

B. Upon reasonable investigation, nonexempt assets of the business entity of substantial value can not be identified or are otherwise unavailable for attachment and recovery;

C. The business entity's physical location or locations of business are closed to the public;

D. The business entity's corporate status is no longer in good standing;

E. The business entity has admitted that it has insufficient assets to satisfy the debt;

F. After reasonable investigation, the department or its counsel can not locate the business entity or identify the debtor's nonexempt assets; and

G. The business entity has transferred substantially all of its business assets to a 3rd party and there are no recoverable assets as a result of the transfer.

Certification by the department that a business entity is out of business under this subsection does not preclude further collection and recovery procedures by the department, whether to formally adjudicate the indebtedness or to proceed with collection and recovery if the department becomes aware of facts that merit further recovery efforts.

Sec. D-6. 36 MRSA §185-A is enacted to read:

§185-A. Setoff of refunds to debts owed to other agencies of the State

1. Generally. An agency of the State, including the University of Maine System and the Maine Community College System, that is authorized to collect from a person a liquidated debt greater than $25, referred to in this section as "the creditor agency," may notify the State Tax Assessor in writing of the identity of the person and the amount of the debt. The assessor shall then set aside, to the extent of that debt, any amount due to the person under this Title, except for

amounts due to that person under Part 2 of this Title. A liquidated child support debt that the Department of Health and Human Services has contracted to collect, pursuant to Title 19-A, section 2103 or 2301, subsection 2, is eligible for setoff pursuant to this section.

2. Notice and hearing. At the time a setoff is made pursuant to this section, the assessor shall provide notice to the person of the setoff and of the person's right to request, within 60 days of receipt of notice of the setoff, a hearing before the creditor agency. The hearing must be held in accordance with the Maine Administrative Procedure Act and is limited to the issues of whether the person whose debt was set off is the same person who is indebted to the creditor agency, whether the debt became liquidated and whether any post-liquidation event has affected the liability.

3. Transfer of proceeds. After providing the notice required by subsection 2, the assessor shall transfer the set-off refund amount to the creditor agency. The assessor shall provide the creditor agency with information sufficient to identify each person whose refund is set off pursuant to this section. If the person is an individual, the information must include the individual's name, last known address and social security number.

4. Finalization of setoff; release of refund to person. If the person fails to make a timely request for hearing under subsection 2 or a hearing is held before the creditor agency and a liquidated debt is determined to be due to that agency, the setoff is final except as determined by further appeal. The creditor agency shall release to the person any set-off refund amount determined after hearing not to be a liquidated debt due to the agency within 90 days of the determination or as otherwise provided by the agency in an adopted rule.

5. Appeal. The decision of the creditor agency seeking setoff in a hearing pursuant to subsection 2 constitutes final agency action appealable under the Maine Administrative Procedure Act.

6. Accounting. The creditor agency shall credit the account of a person whose refund has been set off with the full amount transferred to the agency by the assessor pursuant to this section.

7. Priority. If claims under this section from more than one agency are received by the assessor with respect to one person, the assessor shall set off against the refund due that person as many claims of the agencies as possible in the following order of priority:

A. Liquidated child support debts owed to the Department of Health and Human Services;

B. Court-ordered restitution obligations;

C. Fines and fees owed to any of the courts; and

D. All other claims in the order of their receipt by the assessor.

8. Disclosure of information. In any civil or criminal action in which a fine, order to pay or money judgment is entered in favor of the State or any agency or department of the State, or in any action in which counsel is assigned for an indigent party, the court may require the person so indebted to the State, agency or department, or the party for whom counsel has been assigned, to provide financial information under oath and on such forms as may be prepared by the Judicial Department, together with any other information reasonably related to fulfilling the purposes of this section. In the case of an individual debtor, the required information may include the individual's social security number. The Judicial Department may disclose social security numbers and financial information obtained in accordance with this subsection to agencies or departments of the State and to private collection agencies working under contract for the State for the purpose of collection of the amounts owed. A person who has access to or receives social security numbers or other financial information under this subsection shall maintain the confidentiality of the information and use it only for the purposes for which it was disclosed.

Sec. D-7. 36 MRSA §191, sub-§2, ¶J, as amended by PL 1987, c. 19, §1 and c. 210, §1, is further amended to read:

J. The disclosure to a state agency seeking setoff of a liquidated debt against a tax refund pursuant to section ~~5276-A~~ 185-A of information necessary to effectuate the intent of that section;

Sec. D-8. 36 MRSA §5276, sub-§1, as amended by PL 2009, c. 361, §30, is further amended to read:

1. General rule. The State Tax Assessor, within the applicable period of limitations, may credit an overpayment of income tax, including an overpayment reported on a joint return, and interest on the overpayment against any liability arising from a redetermination pursuant to section 6211 or any liability in respect of any tax imposed under this Title owed by the taxpayer, or by the taxpayer's spouse in the case of a joint return. The balance, after any setoff pursuant to section ~~5276-A~~ 185-A or pursuant to an agreement entered into under section 112, subsection 13, must be refunded by the Treasurer of State. For purposes of this subsection, "any tax imposed under this Title" includes monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a violation of this Title or Title 17-A.

Sec. D-9. 36 MRSA §5276-A, as amended by PL 2019, c. 113, Pt. C, §112, is repealed.

Sec. D-10. 36 MRSA §5279, sub-§4, as amended by PL 2011, c. 1, Pt. EE, §3 and affected by §4, is further amended to read:

4. Exceptions. Notwithstanding subsection 1, interest may not be paid by the assessor on an overpayment of the tax imposed by this Part that is refunded within 60 days after the last date prescribed, or permitted by extension of time, for filing the return of that tax or within 60 days after the date the return requesting a refund of the overpayment was filed, whichever is later. In addition, interest may not be paid with respect to a period during which a refund is delayed pending resolution of a proposed setoff under section ~~5276-A~~ 185-A.

PART E

Sec. E-1. 5 MRSA §13083-S-1, sub-§4, as enacted by PL 2009, c. 641, §9, is amended to read:

4. Certification by authority. By February 15th of each year, beginning in 2011, the authority shall provide a report identifying each employer located at the base area to the commissioner. ~~The commissioner shall certify annually to the assessor on or before June 30th of each year, beginning in 2011, the following information:~~ By April 15th of each year, beginning in 2021, each employer located at the base area shall report to the commissioner the number of employees employed at the base area during the immediately preceding calendar year, the state income taxes withheld for each of those employees and any further information the commissioner may reasonably require.

The commissioner shall certify annually to the assessor on or before June 1st of each year the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment;

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the job tax increment and establish the appropriate payment to the fund;

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location;

D. A listing of all affiliated businesses, data regarding current employment, payroll and Maine income tax withholding for each affiliated business within the base area; and

E. Any information required by the assessor to determine the job tax increment pursuant to this section and the employment tax increment revenues pursuant to Title 36, chapter 917.

Sec. E-2. 5 MRSA §13083-S-1, sub-§5, as enacted by PL 2009, c. 641, §9, is amended to read:

5. Procedure for payment of revenue to the fund. On or before July 15th of each year, the assessor shall review the information required by subsection 4 and calculate the job tax increment for the preceding calendar year. The assessor shall also calculate the employment tax increment in the base area for reimbursement to qualified ~~businesses and qualified Pine Tree Development Zone~~ Maine Employment Tax Increment Financing Program businesses pursuant to Title 36, chapter 917. ~~On or before~~ Between July 1st and July 15th of each year, the assessor shall certify to the State Controller the total remaining job tax increment after reimbursements have been made to qualified ~~businesses and qualified Pine Tree Development Zone~~ Maine Employment Tax Increment Financing Program businesses pursuant to Title 36, chapter 917. On or before July 31st of each year, the State Controller shall transfer 50% of the remaining job tax increment to the state job tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the State Controller shall deposit this revenue into the fund and distribute the payments pursuant to subsection 3.

Sec. E-3. 30-A MRSA §5250-P, sub-§1, as enacted by PL 2017, c. 440, §5, is amended to read:

1. Annual reports. A qualified Pine Tree Development Zone business~~, the State Tax Assessor~~ and the commissioner each shall report annually in accordance with this subsection.

A. On or before ~~April 15th annually, beginning in 2019~~ March 15th of each year, a qualified Pine Tree Development Zone business shall file a report with the commissioner for the immediately preceding calendar year, referred to in this subsection as "the report year," that contains the following information with such additional information and on forms as the commissioner may require:

(1) The total number of Maine employees and total salary and wages for those employees for the report year;

(2) The total number of qualified Pine Tree Development Zone employees and total salary and wages for those employees for the report year;

(3) The number of qualified Pine Tree Development Zone employees hired within the report year;

(4) The amount of investments made during the report year at the qualified Pine Tree Development Zone business location or directly related to the qualified business activity; and

(5) In aggregate, the estimated or total value of Pine Tree Development Zone benefits received or claimed in the report year.

~~B. On or before October 1st annually, beginning in 2019, the State Tax Assessor shall report to the~~

~~commissioner and to the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters the aggregate revenue loss to the State for the most recently completed state fiscal year resulting from Pine Tree Development Zone benefits under section 5250-I, subsection 14, paragraphs B, C and D.~~

C. On or before June 1st annually, beginning in 2019, the commissioner shall report to the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters information on qualified Pine Tree Development Zone businesses, including, but not limited to:

(1) The names of qualified Pine Tree Development Zone businesses for the report year;

(2) The estimated or total aggregate amount of Pine Tree Development Zone benefits received by qualified Pine Tree Development Zone businesses in the report year; and

(3) Aggregate information for each of the most recent 3 report years on:

(a) Employment levels for all Maine employees and for qualified Pine Tree Development Zone employees and associated salary and wages for both groups of employees;

(b) Average annual salary and wages and access to health insurance and retirement benefits for all Maine employees and for qualified Pine Tree Development Zone employees; and

(c) Amount of investment associated with the qualified Pine Tree Development Zone business locations or directly related to the qualified business activities.

Sec. E-4. 36 MRSA §6758, as amended by PL 2013, c. 67, §3, is further amended to read:

§6758. Procedure for reimbursement

1. Reporting by qualified businesses. On or before ~~April~~ March 15th of each year, each qualified business approved by the commissioner pursuant to this chapter shall report the number of employees~~, the state income taxes withheld~~ for the immediately preceding calendar year, compensation and state income tax withholding information with respect to each of those employees and any further information the commissioner or State Tax Assessor may reasonably require.

1-A. Reporting by commissioner. The commissioner shall report annually to the assessor on or before May 15th of each year any information reasonably required by the assessor to determine the employment tax increment for each qualified business and the reimbursement amount allowed pursuant to this chapter.

2. Determination by assessor. On or before June 30th of each year, the assessor shall determine the employment tax increment of each qualified business for the preceding calendar year. A qualified business may receive up to 80% of the employment tax increment generated by that business as determined by the assessor, subject to the further limitations in section 6754, subsection 2. That amount is referred to as "retained employment tax increment revenues."

3. Deposit and payment of revenue. ~~On or before~~ Between July 1st and July 15th of each year, the assessor shall certify to the State Controller the total retained employment tax increment revenues for the preceding calendar year for approved employment tax increment financing programs to be transferred to the state employment tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the assessor shall pay to each approved qualified business an amount equal to the retained employment tax increment revenues of that qualified business for the preceding calendar year.

4. Assignment of payments. A qualified business may assign its right to payments under this chapter to secure a loan from the Finance Authority of Maine, and such an assignment, notwithstanding any contrary provision of law, is a legally valid assignment binding upon the qualified business and its successors in interest. Upon notice of such an assignment given to the assessor by the Finance Authority of Maine and written confirmation of such an assignment signed by the qualified business, the assessor shall pay to the Finance Authority of Maine any payments due to the qualified business pursuant to this chapter and assigned to the Finance Authority of Maine until the Finance Authority of Maine notifies the assessor that the assignment has been released.

PART F

Sec. F-1. 28-A MRSA §707, sub-§1, ¶B, as amended by PL 1997, c. 373, §68, is further amended to read:

B. To the State for any tax, other than property tax, assessed and considered final under Title 36 that the State Tax Assessor certifies, in accordance with Title 36, section 172, as remaining unpaid in an amount exceeding $1,000 for a period greater than ~~60~~ 15 days after the applicant or licensee has received notice of the finality of that tax; or

Sec. F-2. 36 MRSA §172, first ¶, as amended by PL 2011, c. 380, Pt. J, §7, is further amended to read:

If any tax liability imposed under this Title that has become final, other than a liability for a tax imposed under Part 2, remains unpaid in an amount exceeding $1,000 for a period greater than ~~60~~ 15 days after the taxpayer has received notice of that finality by personal

service or certified mail, and the taxpayer fails to cooperate with the bureau in establishing and remaining in compliance with a reasonable plan for liquidating that liability, the State Tax Assessor shall certify the liability and lack of cooperation:

PART G

Sec. G-1. 36 MRSA §141, sub-§1, as amended by PL 2011, c. 380, Pt. J, §2, is further amended to read:

1. General provisions. Except as otherwise provided by this Title, an amount of tax that a person declares on a return filed with the State Tax Assessor to be due to the State is deemed to be assessed at the time the return is filed and is payable on or before the date prescribed for filing the return~~, determined without regard to an extension of time granted for filing the return~~. When a return is filed, the assessor shall examine it and may conduct audits or investigations to determine the correct tax liability. If the assessor determines that the amount of tax shown on the return is less than the correct amount, the assessor shall assess the tax due the State and provide notice to the taxpayer of the assessment. Except as provided in subsection 2, an assessment may not be made after 3 years from the date the return was filed or 3 years from the date prescribed for filing the return ~~was required to be filed~~, whichever is later. The assessor may make a supplemental assessment within the assessment period prescribed by this section for the same period, periods or partial periods previously assessed if the assessor determines that a previous assessment understates the tax due or otherwise is imperfect or incomplete in any material respect. For purposes of this subsection, the date prescribed for filing the return is determined without regard to any extension of time.

Sec. G-2. 36 MRSA §5231, sub-§1-A, as amended by PL 2017, c. 211, Pt. D, §11, is further amended to read:

1-A. Federal extension. When an individual, estate or trust is granted an extension of time within which to file a federal income tax return for any taxable year, ~~the due date for filing~~ an extension to file the taxpayer's income tax return with respect to the tax imposed by this Part is automatically ~~extended~~ granted for an equivalent period from the date prescribed for filing the return. When a taxable corporation or a financial institution subject to the tax imposed by chapter 819 is granted an extension of time within which to file its federal income tax return for any taxable year, ~~the due date for filing~~ an extension to file the taxpayer's income tax or franchise tax return with respect to the tax imposed by this Part is automatically ~~extended~~ granted for an equivalent period from the date prescribed for filing the return.

Sec. G-3. 36 MRSA §5278, sub-§1, as amended by PL 2011, c. 1, Pt. DD, §3 and affected by §4, is further amended to read:

1. General. A claim for credit or refund of an overpayment of any tax imposed by this Part must be filed by the taxpayer within 3 years from the date the return was filed, whether or not the return was timely filed, or 3 years from the date the tax was paid, whichever period expires later. A credit or refund may not be allowed after the expiration of the period prescribed in this subsection unless a claim for credit or refund is filed by the taxpayer within that period. For purposes of this subsection, a return filed before the last day prescribed for the filing of a return is deemed to be filed on that last day, determined without regard to any extension of time granted the taxpayer.

Sec. G-4. 36 MRSA §5278, sub-§5, ¶A, as amended by PL 2011, c. 1, Pt. DD, §3 and affected by §4, is further amended to read:

A. If the claim for credit or refund relates to an overpayment of tax on account of the deductibility by the taxpayer of a debt as a debt that became worthless or a loss from worthlessness of a security or the effect that the deductibility of a debt or of a loss has on the application to the taxpayer of a carry-over, the claim may be made within 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made, determined without regard to any extension of time granted the taxpayer; and

Sec. G-5. Retroactivity. This Part applies retroactively to tax years beginning on or after January 1, 2017.

PART H

Sec. H-1. 36 MRSA §5219-VV, sub-§1, ¶F, as enacted by PL 2019, c. 386, §2, is amended to read:

F. "Facility" means a food processing and manufacturing facility, plant or mill, including one or more structures and including the equipment, machinery, fixtures and personal property located in, on, over, under and adjacent to those structures, by which the applicant, as determined by the commissioner ~~at the time of application~~, processes, produces and manufactures food from agricultural products primarily grown and harvested in the State.

Sec. H-2. 36 MRSA §5219-VV, sub-§1, ¶K, as enacted by PL 2019, c. 386, §2, is amended to read:

K. "Qualified investment" means an ~~investment~~ expenditure of at least $35,000,000 to design, permit, construct, modify, equip or expand the applicant's facility in the State. The ~~investments and activities~~ expenditures of a qualified applicant and other entities ~~that are members of the qualified applicant's unitary business may~~, whether or not incorporated, that are part of a single business enterprise must be aggregated to determine whether a qualified investment has been made. A qualified

investment does not include an ~~investment~~ expenditure made prior to April 1, 2019 or after December 31, 2024.

Sec. H-3. 36 MRSA §5219-VV, sub-§2, ¶D, as enacted by PL 2019, c. 386, §2, is amended to read:

D. The commissioner shall revoke a certificate of approval if the certified applicant or a person to whom a certificate of approval has been transferred pursuant to paragraph C fails to make a qualified investment within 5 years of the date of the certificate of approval. The commissioner shall revoke a certificate of approval or a certificate of completion under paragraph E if the applicant or transferee ceases operations of the facility in the State or the certificate of approval or certificate of completion is transferred to another person without approval from the commissioner pursuant to paragraph C. A certified applicant whose certificate of completion is revoked within 5 years after the date issued shall return ~~within 60 days following revocation of the certificate~~ to the State an amount equal to the total credits claimed for all tax years under this section. A certified applicant whose certificate of completion is revoked during the period from 6 years after through 10 years after the date the certificate was issued shall return ~~within 60 days following revocation of the certificate~~ to the State an amount equal to the total credits claimed under this section for the period from 6 years after through 10 years after the date the certificate was issued. The amount to be returned to the State under this paragraph is, for purposes of this Title, a tax subject to the collection and enforcement provisions contained in Part 1, including the application of applicable interest and penalties. The amount to be returned to the State must be added to the tax imposed on the taxpayer under this Part for the taxable year during which the certificate is revoked. An applicant whose certificate of approval or certificate of completion has been revoked pursuant to this paragraph is not eligible for the tax credit under this section for the tax year in which the certificate is revoked and any year after that.

Sec. H-4. 36 MRSA §5219-VV, sub-§2, ¶E, as enacted by PL 2019, c. 386, §2, is amended to read:

E. A certified applicant shall submit an application to the commissioner for a certificate of completion. If the commissioner determines that the certified applicant has made a qualified investment and ~~satisfied the facility and employment~~ determines that, at the time the application for a certificate of completion is submitted, the certified applicant is itself, or is the parent or subsidiary of, an entity that satisfies all of the criteria in subsection 1, paragraph J, subparagraphs (1) and (5), the commissioner shall issue a certificate of completion to the certified applicant as soon as is practical. The certificate of completion must state the amount of qualified investment made by the certified applicant.

Sec. H-5. 36 MRSA §5219-VV, sub-§3, ¶B, as enacted by PL 2019, c. 386, §2, is amended to read:

B. The credit under this subsection is limited as follows.

(1) A credit is not allowed for any tax year during which the taxpayer does not meet or exceed the following employment targets as measured on the last day of the tax year.

(a) For each of the first 3 tax years for which the credit is claimed, there must be a total of at least 40 full-time employees based in the State above the certified applicant's base level of employment whose jobs were added since the first day of the ~~first tax~~ year ~~for~~ in which the ~~credit was claimed~~ certificate of approval was issued.

(b) For each tax year after the 3rd tax year for which the credit is claimed, the taxpayer must employ a total of at least 60 full-time employees based in the State above the certified applicant's base level of employment whose jobs were added since the first day of the ~~first tax~~ year ~~for~~ in which the ~~credit was claimed~~ certificate of approval was issued.

Jobs for additional full-time employees that are counted for determining eligibility for the credit under one certificate of completion under subsection 2, paragraph E may not be counted for determining eligibility for the credit under a separate certificate of completion. For purposes of this subparagraph, "additional full-time employees" does not include employees who are shifted to a certified applicant's facility in the State from an affiliated business in the State. The commissioner shall determine whether a shifting of employees has occurred. For purposes of this subparagraph, "affiliated business" has the same meaning as in section 6753, subsection 1-A.

(2) A credit is not allowed for any tax year following 2 consecutive tax years during which the certified applicant did not have between $5,500,000 and $12,000,000 in ordinary business income.

(3) Cumulative credits under this subsection may not exceed ~~$34,000,000~~ $30,600,000 under any one certificate.

(4) A credit is not allowed for any tax year during which the certified applicant does not satisfy all of the following criteria:

(a) The certified applicant's headquarters are located in the State;

(b) The certified applicant has a facility in the State; and

(c) The annual income derived from employment with the certified applicant of at least 75% of the certified applicant's employees exceeds the most recent annual per capita personal income in the county in which the facility is located.

For purposes of this subparagraph, "certified applicant" includes the parent or subsidiary of the certified applicant.

Sec. H-6. 36 MRSA §5219-VV, sub-§5, ¶A, as enacted by PL 2019, c. 386, §2, is amended by amending subparagraph (1) to read:

(1) The number of full-time employees based in the State of the certified applicant on the last day of the ~~tax year ending during the calendar year immediately preceding the~~ report year; and

PART I

Sec. I-1. 36 MRSA §5122, sub-§2, ¶OO, as amended by PL 2019, c. 527, Pt. A, §1, is further amended to read:

OO. For taxable years beginning on or after January 1, 2016 ~~and before January 1, 2020~~, 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~~ any taxable year beginning on or after January 1, 2015 but before January 1, 2020 for which an addition was required under subsection 1, paragraph KK, subparagraph (2) for the taxable 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 KK, 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 KK, subparagraph (2) for the same property.

Sec. I-2. 36 MRSA §5200-A, sub-§2, ¶AA, as amended by PL 2019, c. 527, Pt. A, §3, is further amended to read:

AA. For taxable years beginning on or after January 1, 2016 ~~and before January 1, 2020~~, 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~~ any taxable year beginning on or after January 1, 2015 but before January 1, 2020 for which an addition was required under subsection 1, paragraph CC, subparagraph (2) for the taxable year.

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 CC, 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 CC, subparagraph (2) for the same property.

PART J

Sec. J-1. 30-A MRSA §4722, sub-§1, ¶DD, as corrected by RR 2017, c. 1, §24, is amended by amending subparagraph (4) to read:

(4) Annually by every August 1st until and including August 1, ~~2023~~ 2025, the Maine State Housing Authority shall review the report issued pursuant to Title 27, section 511, subsection 5, paragraph A to determine the percentage of the total aggregate square feet of completed projects that constitutes new affordable housing, rehabilitated and developed using:

(a) Either of the income tax credits under Title 36, section 5219-BB, subsection 2; and

(b) The income tax credit increase under Title 36, section 5219-BB, subsection 3.

If the total aggregate square feet of new affordable housing does not equal or exceed 30% of the total aggregate square feet of rehabilitated and developed completed projects eligible for a credit under Title 36, section 5219-BB, the Maine State Housing Authority and Maine Historic Preservation Commission shall notify the State Tax Assessor of this fact;

Sec. J-2. 36 MRSA §5219-BB, sub-§1, ¶C, as amended by PL 2011, c. 453, §7, is further amended to read:

C. "Certified qualified rehabilitation expenditure" means a qualified rehabilitation expenditure, as defined by the Code, Section 47(c)(2), made ~~between~~ on or after January 1, 2008 ~~and December 31, 2023. For purposes of subsection 2, paragraph B, qualified rehabilitation expenditures incurred in the certified rehabilitation of a certified historic structure located in the State do not include a requirement that the certified historic structure be substantially rehabilitated.~~ with respect to a certified historic structure, if:

(1) For credits claimed under subsection 2, paragraph A, the United States Department of the Interior, National Park Service issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior's standards for rehabilitation, with or without conditions; or

(2) For credits claimed under subsection 2, paragraph B, the Maine Historic Preservation Commission issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior's standards for rehabilitation, with or without conditions.

For purposes of subsection 2, paragraph B, qualified rehabilitation expenditures incurred in the certified rehabilitation of a certified historic structure located in the State do not include a requirement that the certified historic structure be substantially rehabilitated.

Sec. J-3. 36 MRSA §5219-BB, sub-§2, as amended by PL 2011, c. 240, §38 and c. 453, §8, is further amended to read:

2. Credit allowed. A taxpayer is allowed a credit against the tax imposed under this Part:

A. Equal to 25% of the taxpayer's certified qualified rehabilitation expenditures for which a tax credit is claimed under Section 47 of the Code for a certified historic structure located in the State; or

B. Equal to 25% of the certified qualified rehabilitation expenditures of a taxpayer who incurs not less than $50,000 and up to $250,000 in certified qualified rehabilitation expenditures in the rehabilitation of a certified historic structure located in the State and who does not claim a credit under the Code, Section 47 with regard to those expenditures. If the certified historic structure is a condominium, as defined in Title 33, section 1601-103, subsection 7, the dollar limitations of this paragraph apply to the total aggregate amount of certified qualified rehabilitation expenditures incurred by the unit owners' association and all of the unit owners in the rehabilitation of that certified historic structure. The credit may be claimed for the taxable year in which the certified historic structure is placed in service.

A taxpayer is allowed a credit under paragraph A or B but not both. A credit may not be claimed for expenditures incurred before January 1, 2008 ~~or after December 31, 2023~~.

See title page for effective date.

CHAPTER 660

S.P. 726 - L.D. 2053

An Act To Remove the Application of the Maine Background Check Center Act to Facilities That Provide Services to Children

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

Sec. 1. 22 MRSA §9053, sub-§7, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 2. 22 MRSA §9053, sub-§8, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 3. 22 MRSA §9053, sub-§9, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 4. 22 MRSA §9053, sub-§18, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 5. 22 MRSA §9053, sub-§25, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 6. 22 MRSA §9053, sub-§29, as enacted by PL 2015, c. 299, §25, is amended to read:

29. Provider. "Provider" means a licensed, certified or registered entity that employs direct care workers to provide long-term care~~, child care~~ and in-home and community-based services under this chapter.

Sec. 7. 22 MRSA §9054, sub-§7, ¶A, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 8. 22 MRSA §9054, sub-§7, ¶B, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 9. 22 MRSA §9054, sub-§7, ¶C, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 10. 22 MRSA §9054, sub-§7, ¶D, as enacted by PL 2015, c. 299, §25, is repealed.

Sec. 11. 22 MRSA §9054, sub-§7, ¶E, as enacted by PL 2015, c. 299, §25, is repealed.

See title page for effective date.