

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Taxation*

August 2005

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Sen. Ethan Strimling
Sen. Jonathan T. E. Courtney*

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CARRIED OVER Bill Carried Over to Second Regular Session
CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... Bill held by Governor
VETO SUSTAINED..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Taxation

LD 1546

An Act Concerning Technical Changes to the Tax Laws

PUBLIC 218

<u>Sponsor(s)</u> WOODBURY PERRY J	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-391
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LD 1546 was submitted by the Department of Administrative and Financial Services and proposed to make the following technical changes to the laws governing taxation.

1. Correct the name of the Department of Administrative and Financial Services, Bureau of Revenue Services in a statute relating to state civil service positions.
2. Clarify that the fees established for service of tax warrants by sheriffs and deputy sheriffs apply to warrants for all taxes imposed under the Maine Revised Statutes, Title 36.
3. Provide for the assessment and collection of liabilities arising from failure of a 3rd party to surrender property subject to levy in the same manner as other tax liabilities and clarify that the rate of interest imposed on liabilities arising from failure of a 3rd party to surrender property subject to levy is the general rate applicable to unpaid taxes. The change would establish progressive enforcement procedures for collecting these debts and incorporate appropriate taxpayer protections in the collection process.
4. Relocate the substantive provisions of existing Title 36, sections 1964 and 3240, which relate to priority of tax debts, to the general administrative provisions of Title 36.
5. Extend the due date of the tax incidence report by 3 months from October 1st of each even-numbered year to January 1st of each odd-numbered year to ensure that the report is based on the latest economic and revenue forecasts developed for use in the Governor's biennial budget.
6. Expand the provision for inclusion of untaxed real property of widows and children of deceased veterans in the assessor's inventory to incorporate changes enacted in 2004 that broadened the veterans' exemption to include property of widowers of deceased veterans.
7. Expand the provision for abatement of property taxes for widows and children of deceased veterans to incorporate changes enacted in 2004 that broadened the veterans' exemption to include property of widowers of deceased veterans.
8. Add a specific requirement that a person who sells tangible personal property or taxable services in Maine on behalf of the owner must register as a seller and collect and remit Maine sales tax on those sales consistent with the long-standing interpretation of the statutes by the agency.
9. Clarify that provisions relating to certain sales of products for internal human consumption through vending machines are applicable regardless of the form of payment accepted by the vending machines.
10. Clarify that the sales tax exclusion for sales of furniture, audio media and audio equipment for rental is limited to those circumstances where the subsequent rental is subject to the service provider tax.
11. Clarify that the storage and use subject to the use tax includes storage and use of property purchased by casual sale, if the sale of that property would be subject to tax.

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12. Repeal a sales tax exemption that is not currently being administered because the Office of the Attorney General has advised the Bureau of Revenue Services that it violates the commerce clause of the United States Constitution.
13. Clarify that a corporation or limited liability company cannot be a nonresident for purposes of the immediate removal exemptions in the sales and use tax law if it is organized in Maine or has its principal place of business in Maine consistent with the long-standing interpretation of the exemption statutes by Maine Revenue Services.
14. Update the sales and use tax exemption for snowmobiles and ATVs owned by nonresidents for consistency with other existing statutes and establish a provision to cover registration of property in the State when the owner made actual use of the property outside the State but was not required under the laws of that state to register it for that use.
15. Clarify a statute requiring payment of use tax at the time of registration of property required to be registered for use in this State with the Secretary of State or the Commissioner of Inland Fisheries and Wildlife.
16. Delete unnecessary and ineffective provisions relating to bankruptcy.
17. Repeal a provision relating to priority of taxes that is being relocated to the uniform administrative provisions of Title 36.
18. Amend the sales tax refund statute to provide for a refund in situations where a retailer has erroneously computed and paid the tax but did not collect the tax from the customer and establish a specific statutory basis for current agency practice.
19. Correct a cross-reference to federal regulations in the definition of "mobile telecommunications services" to make it consistent with federal law.
20. Define "nonprofit" for purposes of the service provider tax law.
21. Describe more precisely certain acts designated as crimes under the service provider tax law.
22. Clarify that certain sales of fabrication services for incorporation into real property of an exempt entity are not subject to the service provider tax.
23. Repeal a redundant criminal statute in the motor fuel tax laws.
24. Add special fuel tax, interest and penalties owed by retailers of low-energy fuels to the list of tax debts designated as personal and recoverable by civil action.
25. Repeal a provision relating to priority of taxes that is being relocated to the uniform administrative provisions of Title 36.
26. Repeal a redundant definition of "person" from the estate tax law.
27. Combine the cigarette tax imposed by Title 36, section 4365 and the additional cigarette tax imposed by Title 36, section 4366-D into a single tax that is equal to the sum of the 2 existing taxes.

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28. Simplify the tobacco products tax law by deleting references to tax rates that are no longer in effect.
29. Repeal a redundant statute related to giving notice under the real estate transfer tax law.
30. Clarify that individual income tax modifications related to increased federal expense limitations are based on the expense actually used in the year the asset is placed in service.
31. Clarify that individual income tax modifications related to the federal work opportunity credit and the empowerment zone employment credit cannot be claimed more than once.
32. Clarify that corporate income tax modifications related to increased federal expense limitations are based on the expense actually used in the year the asset is placed in service.
33. Clarify that corporate income tax modifications related to the federal work opportunity credit and the empowerment zone employment credit cannot be claimed more than once.
34. Clarify the amount of corporate income tax adjustments relating to federal net operating loss carry-backs.
35. Clarify the statute of limitations regarding income tax claims for credit or refund to explicitly state that a claim attributable to a net operating loss carry-back must relate to a period for which net operating loss carry-backs are allowed.
36. Replace a requirement that the Bureau of Revenue Services provide a telefile application under the Maine Residents Property Tax Program with a more general requirement for an electronic filing option.
37. Consolidate 2 overlapping but inconsistent provisions enacted in 2004 that exclude gambling equipment from reimbursement under the BETR program.
38. Correct the name of the Bureau of Revenue Services in a statute providing for representation on the Multistate Tax Commission.
39. Eliminate a requirement that the cost of outreach activities intended to encourage participation in the Maine Residents Property Tax Program must be paid from the amounts appropriated for the program because there is no longer a specific appropriation for the Maine Residents Property Tax Program.
40. Clarify the definition of "nonprofit" in the sales tax law.
41. Correct a typographical error in the estate tax law.
42. Clarify the formula for proration of the state credit amount for purposes of calculation of estate tax on nonresident estates.
43. Clarify that a Maine estate tax return is required to be filed whenever the federal gross estate, increased by the amount of adjusted taxable gifts, exceeds the exclusion amount in effect prior to enactment of the federal Economic Growth Tax Relief Reconciliation Act of 2001.
44. Clarify the pension exclusion in the State's individual income tax law.

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45. Amend the definition of "year for which relief is requested" under the Maine Residents Property Tax Program to incorporate changes made in the application period in Public Law 2005, chapter 2.
46. Shorten the allowable extension period under the Maine Residents Property Tax Program from 6 months to 2 months to reflect the expansion of the application period under Public L w 2005, chapter 2.

Committee Amendment "A" (H-39) proposed to correct provisions in the bill, add new technical changes identified after the bill was printed and remove provisions considered unnecessary or not technical in nature.

Enacted law summary

Public Law 2005, chapter 218 makes the following changes to the laws governing taxation.

1. It corrects the name of the Department of Administrative and Financial Services, Bureau of Revenue Services in a statute relating to state civil service positions.
2. It clarifies that the fees established for service of tax warrants by sheriffs and deputy sheriffs apply to warrants for all taxes imposed under the Maine Revised Statutes, Title 36.
3. It provides for the assessment and collection of liabilities arising from failure of a 3rd party to surrender property subject to levy in the same manner as other tax liabilities and clarifies that the rate of interest imposed on liabilities arising from failure of a 3rd party to surrender property subject to levy is the general rate applicable to unpaid taxes. The change establishes progressive enforcement procedures for collecting these debts and incorporates taxpayer protections in the collection process.
4. It relocates the substantive provisions of existing Title 36, sections 1964 and 3240, which relate to priority of tax debts, to the general administrative provisions of Title 36.
5. It extends the due date of the tax incidence report by 3 months from October 1st of each even-numbered year to January 1st of each odd-numbered year. Extending the deadline will ensure that the report is based on the latest economic and revenue forecasts developed for use in the Governor's biennial budget.
6. It expands the provision for inclusion of untaxed real property of widows and children of deceased veterans in the assessor's inventory to include untaxed real property of widowers of deceased veterans. This makes the requirement consistent with changes enacted in 2004 that broadened the veterans' exemption to include property of widowers of deceased veterans.
7. It expands the provision for abatement of property taxes for widows and children of deceased veterans to include widowers of deceased veterans. This makes the abatement provision consistent with changes enacted in 2004 that broadened the veterans' exemption to include property of widowers of deceased veterans.
8. It adds a specific requirement that a person who sells tangible personal property or taxable services in Maine on behalf of the owner must register as a seller and collect and remit Maine sales tax on those sales. This requirement is consistent with the long-standing interpretation of the statutes by the bureau of Maine Revenue Services.
9. It clarifies that provisions relating to certain sales of products for internal human consumption through vending machines are applicable regardless of the form of payment accepted by the vending machines.

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10. It clarifies that the sales tax exclusion for sales of furniture, audio media and audio equipment for rental is limited to those circumstances where the subsequent rental is subject to the service provider tax.
11. It clarifies that the storage and use subject to the use tax includes storage and use of property purchased at casual sales, if the sale of that property would be subject to tax.
12. It clarifies that the sales tax exclusion on casual sales of living quarters for less than 15 days does not apply if the seller offers more than one property for rent.
13. It clarifies that a corporation or limited liability company cannot be a nonresident for purposes of the immediate removal exemptions in the sales and use tax law if it is organized in Maine or has its principal place of business in Maine. This is consistent with the long-standing interpretation of the exemption statutes by Maine Revenue Services.
14. It updates the sales and use tax exemption for snowmobiles and ATVs owned by nonresidents for consistency with other existing statutes and establishes a provision to cover registration of property in the State when the owner made actual use of the property outside the State but was not required under the laws of that state to register it for that use.
15. It clarifies a statute requiring payment of use tax at the time of registration on property required to be registered for use in this State with the Secretary of State or the Commissioner of Inland Fisheries and Wildlife.
16. It deletes unnecessary and ineffective provisions relating to bankruptcy.
17. It repeals a provision relating to priority of taxes that is being relocated to the uniform administrative provisions of Title 36. This provision is inappropriately located in the sales and use tax law since it applies to any tax.
18. It amends the sales tax refund statute to provide for a refund in situations where a retailer has erroneously computed and paid the tax but did not collect the tax from the customer. The change establishes a specific statutory basis for current agency practice. The section also eliminates gender-specific language and makes other grammatical changes.
19. It amends a cross-reference to federal regulations in the definition of "mobile telecommunications services" to make it consistent with federal law.
20. It defines "nonprofit" for purposes of the service provider tax law.
21. It describes more precisely certain acts designated as crimes under the service provider tax law.
22. It clarifies that certain sales of fabrication services for incorporation into real property of an exempt entity are not subject to the service provider tax.
23. It repeals a redundant criminal statute in the motor fuel tax laws.
24. It adds special fuel tax, interest and penalties owed by retailers of low-energy fuels to the list of tax debts designated as personal and recoverable by civil action.

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25. It repeals a provision relating to priority of taxes that is being relocated to the uniform administrative provisions of Title 36. This provision is inappropriately located in the motor fuel tax laws since it applies to any tax.
26. It repeals a redundant definition of "person" from the estate tax law. A similar definition exists in the uniform administrative provisions that apply to all taxes.
27. It combines the cigarette tax imposed by Title 36, section 4365 and the additional cigarette tax imposed by Title 36, section 4366-D into a single tax that is equal to the sum of the 2 existing taxes.
28. It simplifies the tobacco products tax law by deleting references to tax rates that are no longer in effect.
29. It repeals a redundant statute related to giving notice under the real estate transfer tax law. The uniform administrative provisions include a similar provision that is applicable to all taxes.
30. It clarifies that individual and corporate income tax modifications related to increased federal expense limitations are based on the expense actually used in the year the asset is placed in service.
31. It clarifies that individual and corporate income tax modifications related to the federal work opportunity credit and the empowerment zone employment credit cannot be claimed more than once.
32. It clarifies the amount of corporate income tax adjustments relating to federal net operating loss carry-backs.
33. It clarifies the statute of limitations regarding income tax claims for credit or refund to explicitly state that a claim attributable to a net operating loss carry-back must relate to a period for which net operating loss carry-backs are allowed.
34. It replaces a requirement that the Bureau of Revenue Services provide a telefile application under the Maine Residents Property Tax Program with a more general requirement for an electronic filing option. The section also makes various grammatical changes.
35. It consolidates 2 overlapping but inconsistent provisions enacted in 2004 that exclude gambling equipment from reimbursement under the BETR program.
36. It eliminates a requirement that the cost of outreach activities intended to encourage participation in the Maine Residents Property Tax Program must be paid from the amounts appropriated for the program.
37. It clarifies calculation of the estate tax on nonresident estates.
38. It clarifies that a Maine estate tax return is required to be filed whenever the federal gross estate, increased by the amount of adjusted taxable gifts, exceeds the exclusion amount in effect prior to enactment of that federal law.
39. It clarifies the pension exclusion in the State's individual income tax law.
40. It amends the definition for "year for which relief is requested" and calculation of the extension period under the Maine Residents Property Tax Law to reflect changes in the application period enacted in 2004.