

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON TAXATION

August 2019

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STATE OF MAINE

129TH LEGISLATURE
FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 129th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER..... carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE..... emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT..... legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY..... ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 129th Legislature is Thursday, September 19, 2019. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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LD 1798 **An Act To Amend the Maine Tax Laws**

PUBLIC 401

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TIPPING R	OTP-AM	H-596 H-598 TIPPING R

This bill makes the following changes to the tax laws.

Part A expands the allowed use of a facsimile signature of the State Tax Assessor to any use by the assessor or at the assessor's direction. In addition, in order to make changes to the property tax law of Maine, Part A:

1. Aligns the delinquent property tax interest rate in the unorganized territory with that of municipalities;
2. Simplifies the notice and appeals processes for municipal valuations;
3. Allows the adjustment of prior years' state valuations for purposes of calculating current and ongoing state education payments to a municipality. Municipalities may appeal adverse decisions to the State Board of Property Tax Review;
4. Requires that the municipal assessor be notified prior to the commitment of taxes for an owner of a partial interest in property to be assessed on the partial interest only;
5. Removes the requirement for benevolent and charitable institutions to be incorporated in Maine in order to qualify for property tax exemption;
6. Clarifies when the alternative municipal tax lien foreclosure sales process is required;
7. Removes the provision allowing the \$4,000 exemption for the legally blind to be apportioned among multiple jurisdictions. Instead, the exemption may be claimed only in the taxpayer's place of residence;
8. Eliminates photocopiers and postage machines from property eligible for tax exemption under the business equipment tax exemption;
9. Removes the provision limiting the aggregate total acres that may be classified in the farm and open space tax program to 15,000 for a single person;
10. Aligns the definition of delinquent taxes in the unorganized territory with that of municipalities where taxes are delinquent if not paid by the due date;
11. Clarifies the definitions of "mobile home" and "camper trailer" to align the definitions with those used in property tax and sales tax law;
12. Clarifies that the credit for excise tax previously paid and the model year adjustment for certain vehicles is limited to instances when the previously paid excise tax is the Maine excise tax; and
13. Defines nominal value as less than 20% of the assessed value for determining when the market value for a property should be used for the purposes of calculating the real estate transfer tax.

Part B, in order to make changes to the sales tax law in the Maine Revised Statutes:

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1. Specifies that camper trailers and motor homes must be rented as tangible personal property and not as living quarters for the purposes of the exclusion from the definition of retail sale;
2. Aligns the tax treatment of box trucks purchased for short-term rental with that of automobiles, pickup trucks and vans when the trucks are under 26,000 pounds gross vehicle weight by taxing box trucks rental at the same 10% rate and excluding their purchase from sales tax when they are purchased for rental;
3. Provides equity among sales through vending machines by repealing the inclusion of sales by a person primarily engaged in the resale of products through vending machines and also repealing the exemption for sales made through a vending machine;
4. Adds oxygen delivery equipment to the sales tax exemption for positive airway pressure equipment;
5. Reorganizes Title 36, section 1811, which imposes the Maine sales tax, for clarity, moves the provisions regarding the valuation of automobile rentals to the definition of sale price and moves the provision regarding the sourcing of products transferred electronically to a new sourcing provision;
6. Repeals the registration requirement for a person who rents or leases space to more than four persons at one location for less than a 12-month period for the purpose of making retail sales;
7. Consolidates the sales tax registration provisions by repealing Title 36, section 1951-B and including the remote seller registration requirements in section 1754-B, except for the expedited route to challenge the remote seller registration requirements due to the United States Supreme Court decision in *South Dakota v. Wayfair, Inc.*;
8. Removes the "provisional" resale certificate status for initial resale certificates and makes all resale certificates valid for a more similar time period;
9. Clarifies that beer and liquor prepared by a manufacturer and sold for on-premises consumption is taxed at the same 8% rate as beer and liquor sold for on-premises consumption by other establishments;
10. Adds retailers registered voluntarily under Title 36, section 1756 to the list of registered retailers able to claim a credit of tax paid on purchases for resale;
11. Enacts a new provision for the sourcing of the sale of tangible personal property, products transferred electronically and services. The new provision aligns Maine's practice with that of the Streamlined Sales and Use Tax Agreement and codifies Maine's existing delivery rule;
12. Consolidates and aligns two similar use tax exemptions for the donation of merchandise to tax-exempt organizations; and
13. Terminates and repeals the rental vehicle excise tax reimbursement for excise tax paid after June 30, 2019.

In order to make changes to the income tax laws of Maine, Part C:

1. Repeals the underutilized Maine fishery infrastructure investment tax credit program;
2. Limits calculation of the prior year's sales factor, for purposes of apportioning to the State the gain or loss on the sale of a partnership interest, to those items that represent the partnership's business activity in the State and corrects a reference;
3. Allows nonresident taxpayers to elect to recognize the entire gain or loss from an installment sale of real or tangible property in the taxable year of the transfer or in a subsequent year to simplify the filing process for nonresident individuals;

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4. Clarifies the corporate income tax calculation for apportionment to the State with respect to the sale of a partnership interest by replacing references to "gains or losses" with references to "gross receipts." This change creates internal consistency with the calculation of the corporate apportionment factor that is based on the gross receipts of the taxpayer;
5. Removes the apportionment calculation for mutual fund service providers due to lack of use;
6. Clarifies that active duty service members who are domiciled in Maine remain eligible for the educational opportunity tax credit if assigned to active military duty outside Maine, as long as they otherwise qualify;
7. Prohibits the payment of interest on refunds issued relative to the new markets capital investment tax credit when they are delayed due to the fiscal year spending cap on the credit;
8. Allows, at the discretion of the State Tax Assessor, fiduciaries, agents and other persons who act as fiscal agents for federal income tax purposes on behalf of employers to act in similar fashion for Maine income tax withholding purposes. Those fiduciaries, agents and persons are subject to the same requirements and liabilities as imposed on client employers;
9. Replaces provisions subjecting the lowest individual income tax brackets and the highest individual income tax brackets to different annual cost-of-living adjustments with a provision that uses the same cost-of-living adjustment calculation for both brackets; and
10. Repeals a Department of Administrative and Financial Services, Maine Revenue Services reporting requirement enacted by "An Act To Enhance Access to Affordable Health Care" and a transfer to the MaineCare Stabilization Fund based on the report.

Part D merges the changes made to the income tax credit for major business headquarters expansions made by two different laws enacted in the 128th Legislature, Second Regular Session, Public Law 2017, chapter 405, "An Act To Improve the Effectiveness of the Major Business Headquarters Expansion Tax Credit" and Public Law 2017, chapter 375, "An Act To Amend the Maine Tax Laws."

Part E allows the disclosure of confidential tax information to an authorized representative of the Public Utilities Commission for use in the administration and oversight of the E-9-1-1 funding, the state universal service fund and the telecommunications education access fund.

Committee Amendment "A" (H-596)

This amendment makes the following changes to the bill.

1. It requires an owner of a partial interest in property requesting a separate assessment to notify the assessor by April 1st of the year in which the separate assessment is requested.
2. It strikes from the bill a provision removing the 15,000-acre limitation on the amount of land that a single taxpayer may have classified under the farm and open space tax program.
3. It strikes from the bill a provision that would remove the requirement that benevolent and charitable organizations be incorporated in Maine to qualify for a property tax exemption.
4. It removes from the bill provisions that would change the sales tax treatment of box trucks purchased for short-term rental.
5. It strikes from the bill a provision terminating and repealing the rental vehicle excise tax reimbursement.

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6. It makes technical changes to clarify several provisions in the bill.

House Amendment "A" (H-598)

This amendment removes from the bill the provisions that:

1. Eliminate photocopiers and postage machines from property eligible for tax exemption under the business equipment tax exemption;
2. Remove from the definition of "retail sale" the sale of products for internal human consumption to certain persons for resale through vending machines;
3. Repeal the exemption from sales and use tax of products sold through vending machines by certain persons; and
4. Replace provisions subjecting the lowest individual income tax brackets and the highest individual income tax brackets to different annual cost-of-living adjustments with a provision that uses the same cost-of-living adjustment calculation for both brackets.

This amendment also changes the application sections for Parts A and B of the bill to reflect the removal of sections pursuant to this amendment.

Enacted Law Summary

Public Law 2019, chapter 401 makes the following changes to the tax laws.

Part A expands the allowed use of a facsimile signature of the State Tax Assessor to any use by the assessor or at the assessor's direction. In addition, in order to make changes to the property tax law of Maine, Part A:

1. Aligns the delinquent property tax interest rate in the unorganized territory with that of municipalities;
2. Simplifies the notice and appeals processes for municipal valuations;
3. Allows the adjustment of prior years' state valuations for purposes of calculating current and ongoing state education payments to a municipality. Municipalities may appeal adverse decisions to the State Board of Property Tax Review;
4. Requires that the municipal assessor be notified prior to the commitment of taxes for an owner of a partial interest in property to be assessed on the partial interest only;
5. Removes the requirement for benevolent and charitable institutions to be incorporated in Maine in order to qualify for property tax exemption;
6. Clarifies when the alternative municipal tax lien foreclosure sales process is required;
7. Removes the provision allowing the \$4,000 exemption for the legally blind to be apportioned among multiple jurisdictions. Instead, the exemption may be claimed only in the taxpayer's place of residence;
8. Aligns the definition of delinquent taxes in the unorganized territory with that of municipalities where taxes are delinquent if not paid by the due date;
9. Clarifies the definitions of "mobile home" and "camper trailer" to align the definitions with those used in property tax and sales tax law;

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10. Clarifies that the credit for excise tax previously paid and the model year adjustment for certain vehicles is limited to instances when the previously paid excise tax is the Maine excise tax; and

11. Defines nominal value as less than 20% of the assessed value for determining when the market value for a property should be used for the purposes of calculating the real estate transfer tax.

Part B, in order to make changes to the sales tax law in the Maine Revised Statutes:

1. Specifies that camper trailers and motor homes must be rented as tangible personal property and not as living quarters for the purposes of the exclusion from the definition of retail sale;
2. Adds oxygen delivery equipment to the sales tax exemption for positive airway pressure equipment;
3. Reorganizes Title 36, section 1811, which imposes the Maine sales tax, for clarity, moves the provisions regarding the valuation of automobile rentals to the definition of sale price and moves the provision regarding the sourcing of products transferred electronically to a new sourcing provision;
4. Repeals the registration requirement for a person who rents or leases space to more than four sons at one location for less than a 12-month period for the purpose of making retail sales;
5. Consolidates the sales tax registration provisions by repealing Title 36, section 1951-B and including the remote seller registration requirements in section 1754-B, except for the expedited route to challenge the remote seller registration requirements due to the United States Supreme Court decision in *South Dakota v. Wayfair, Inc*
6. Removes the "provisional" resale certificate status for initial resale certificates and makes all resale certificates valid for a more similar time period;
7. Clarifies that beer and liquor prepared by a manufacturer and sold for on-premises consumption is taxed at the same 8% rate as beer and liquor sold for on-premises consumption by other establishments;
8. Adds retailers registered voluntarily under Title 36, section 1756 to the list of registered retailers able to claim a credit of tax paid on purchases for resale;
9. Enacts a new provision for the sourcing of the sale of tangible personal property, products transferred electronically and services. The new provision aligns Maine's practice with that of the Streamlined Sales and Use Tax Agreement and codifies Maine's existing delivery rule; and
10. Consolidates and aligns two similar use tax exemptions for the donation of merchandise to tax-exempt organizations.

In order to make changes to the income tax laws of Maine, Part C:

1. Repeals the underutilized Maine fishery infrastructure investment tax credit program;
2. Limits calculation of the prior year's sales factor, for purposes of apportioning to the State the gain or loss on the sale of a partnership interest, to those items that represent the partnership's business activity in the State and corrects a reference;
3. Allows nonresident taxpayers to elect to recognize the entire gain or loss from an installment sale of real or tangible property in the taxable year of the transfer or in a subsequent year to simplify the filing process for nonresident individuals;
4. Clarifies the corporate income tax calculation for apportionment to the State with respect to the sale of a

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partnership interest by replacing references to "gains or losses" with references to "gross receipts." This change creates internal consistency with the calculation of the corporate apportionment factor that is based on the gross receipts of the taxpayer;

5. Removes the apportionment calculation for mutual fund service providers due to lack of use;
6. Clarifies that active duty service members who are domiciled in Maine remain eligible for the educational opportunity tax credit if assigned to active military duty outside Maine, as long as they otherwise qualify;
7. Prohibits the payment of interest on refunds issued relative to the new markets capital investment tax credit when they are delayed due to the fiscal year spending cap on the credit;
8. Allows, at the discretion of the State Tax Assessor, fiduciaries, agents and other persons who act as fiscal agents for federal income tax purposes on behalf of employers to act in similar fashion for Maine income tax withholding purposes. Those fiduciaries, agents and persons are subject to the same requirements and liabilities as imposed on client employers;
9. Replaces provisions subjecting the lowest individual income tax brackets and the highest individual income tax brackets to different annual cost-of-living adjustments with a provision that uses the same cost-of-living adjustment calculation for both brackets; and
10. Repeals a Department of Administrative and Financial Services, Maine Revenue Services reporting requirement enacted by "An Act To Enhance Access to Affordable Health Care" and a transfer to the MaineCare Stabilization Fund based on the report.

Part D merges the changes made to the income tax credit for major business headquarters expansions made by two different laws enacted in the 128th Legislature, Second Regular Session, Public Law 2017, chapter 405, "An Act To Improve the Effectiveness of the Major Business Headquarters Expansion Tax Credit" and Public Law 2017, chapter 375, "An Act To Amend the Maine Tax Laws."

Part E allows the disclosure of confidential tax information to an authorized representative of the Public Utilities Commission for use in the administration and oversight of the E-9-1-1 funding, the state universal service fund and the telecommunications education access fund.

**LD 1808 An Act To Provide a Sales Tax Exemption for Certain Nonprofit
Charitable Organizations**

**HELD BY
GOVERNOR**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEWART T JACKSON T	OTP-AM	H-599

This bill provides a sales tax exemption for sales made to a nonprofit community-based worldwide charitable organization that provides, using private funding, financial support to other nonprofit charitable organizations at the community level.

Committee Amendment "A" (H-599)

This amendment adds an appropriations and allocations section.