

MAINE STATE LEGISLATURE

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H.P. 1222

House of Representatives, March 26, 2007

An Act Concerning Technical Changes to the Tax Laws

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative PIOTTI of Unity.
Cosponsored by Senator PERRY of Penobscot.

1 **Sec. 12. 36 MRSA §574-B, first ¶**, as enacted by PL 1989, c. 555, §16, is
2 amended to read:

3 An owner of a parcel containing forest land may apply at the landowner's election by
4 filing with the assessor the schedule provided for in section 579~~;~~, except that this
5 subchapter ~~shall~~ does not apply to any parcel containing less than 10 acres of forest land.
6 For purposes of this subchapter, a parcel is deemed to include a unit of real estate,
7 notwithstanding that it is divided by a road, way, railroad or pipeline, or by a municipal
8 or county line. The election to apply ~~shall require~~ requires the ~~unanimous~~ written consent
9 of all owners of an interest in a parcel; except for the State, ~~which is not subject to~~
10 ~~taxation hereunder.~~

11 **Sec. 13. 36 MRSA §577, sub-§1**, as amended by PL 1973, c. 308, §6, is repealed.

12 **Sec. 14. 36 MRSA §577, sub-§2**, as amended by PL 1973, c. 308, §6, is further
13 amended to read:

14 **2. Destruction by natural disaster.** In the case of forest land areas upon which, ~~at~~
15 ~~any time after January 1, 1972~~ the trees are destroyed by fire, disease, insect, infestation
16 or other natural disaster, so that the area contains not more than 3 cords per acre of wood
17 ~~which that~~ is merchantable for forest products, the valuation of that specific land area
18 ~~shall~~ must be reduced by 75% for the first 10 property tax years following the loss.

19 **Sec. 15. 36 MRSA §577, sub-§3**, as amended by PL 1973, c. 308, §6, is further
20 amended to read:

21 **3. Procedure to obtain reduced valuation.** In order to obtain a reduced valuation,
22 the landowner ~~shall make~~ must submit a written request to the assessor on or before
23 January 1st the preceding tax year, presenting facts in affidavit form ~~which that~~ meet
24 ~~either of the foregoing~~ requirements of subsection 2. The assessor may investigate the
25 facts, utilizing the procedures set forth in section 579, and shall then determine whether
26 the requirements ~~for reduced valuation of subsection 2~~ are met. If the requirements are
27 met, ~~such the~~ forest land areas ~~shall~~ must be assessed ~~on the reduced basis herein~~ valued
28 as provided in subsection 2.

29 **Sec. 16. 36 MRSA §578, sub-§1**, as amended by PL 2005, c. 457, Pt. CCC, §1, is
30 further amended to read:

31 **1. Organized areas.** The municipal assessors or chief assessor of a primary
32 assessing area shall adjust the State Tax Assessor's 100% valuation per acre for each
33 forest type of their county by whatever ratio, or percentage of current just value, is
34 applied to other property within the municipality to obtain the assessed values. Forest
35 land in the organized areas, subject to taxation under this subchapter, must be taxed at the
36 property tax rate applicable to other property in the municipality.

37 The State Tax Assessor shall determine annually the amount of acreage in each
38 municipality that is classified and taxed in accordance with this subchapter. Each ~~such~~
39 municipality is entitled to annual payments from money appropriated by the Legislature if
40 it submits an annual return in accordance with section 383 and if it achieves the

1 appropriate minimum assessment ratio ~~described~~ established in section 327. The State
2 Tax Assessor shall pay any municipal claim found to be in satisfactory form by August
3 1st of the year following the submission of the annual return. The per acre
4 reimbursement is 90% of the per acre tax revenue lost as a result of this subchapter. For
5 purposes of this section, the tax lost is the tax that would have been assessed, but for this
6 subchapter, on the classified forest lands if they were assessed according to the
7 undeveloped acreage valuations used in the state valuation then in effect, or according to
8 the current local valuation on undeveloped acreage, whichever is less, minus the tax that
9 was actually assessed on the same lands in accordance with this subchapter. A
10 municipality that fails to achieve the minimum assessment ratio established in section 327
11 loses 10% of the reimbursement provided by this section for each one percentage point
12 the minimum assessment ratio falls below the ratio established in section 327.

13 ~~No~~ A municipality may not receive a reimbursement payment under this section that
14 would exceed an amount determined by calculating the tree growth tax loss less the
15 municipal savings in educational costs attributable to reduced state valuation. The State
16 Tax Assessor shall adopt rules necessary to implement the provisions of this section.
17 Rules adopted pursuant to this subsection are routine technical rules for the purposes of
18 Title 5, chapter 375, subchapter 2-A.

19 ~~A. The tree growth tax loss is the adjusted tax that would have been assessed, but for~~
20 ~~this subchapter, on the classified forest lands if they were assessed according to the~~
21 ~~undeveloped acreage valuations used in the state valuation then in effect minus the~~
22 ~~tax that was actually assessed on the same lands in accordance with this subchapter.~~

23 ~~In determining the adjusted tax that would have been assessed, the tax rate to be used~~
24 ~~is computed by adding the additional school support required by the modified state~~
25 ~~valuation attributable to the increased valuation of forest land to the original tax~~
26 ~~committed and dividing this sum by the modified total municipal valuation. The~~
27 ~~adjusted tax rate is then applied to the valuation of forest land based on the~~
28 ~~undeveloped acreage valuations, adjusted by the certified ratio, to determine the~~
29 ~~adjusted tax.~~

30 ~~B. The municipal savings in educational costs is determined by multiplying the~~
31 ~~school subsidy index by the change in state valuation attributable to the use of the~~
32 ~~valuations determined in accordance with this subchapter on classified forest lands~~
33 ~~rather than their valuation using the undeveloped acreage valuations used in the state~~
34 ~~valuation then in effect.~~

35 **Sec. 17. 36 MRSA §579, 2nd ¶**, as enacted by PL 1981, c. 625, §3, is repealed.

36 **Sec. 18. 36 MRSA §581**, as amended by PL 1993, c. 452, §5, is repealed and the
37 following enacted in its place:

38 **§581. Withdrawal**

39 **1. Assessor determination; owner request.** If the assessor determines that land
40 subject to this subchapter no longer meets the requirements of this subchapter, the
41 assessor must withdraw the land from taxation under this subchapter. An owner of land
42 subject to this subchapter may at any time request withdrawal of that land from taxation

1 under this subchapter by certifying in writing to the assessor that the land is no longer to
2 be classified under this subchapter.

3 **2. Withdrawal of portion.** In the case of withdrawal of a portion of a parcel, the
4 owner, as a condition of withdrawal, shall file with the assessor a plan showing the area
5 withdrawn and the area remaining subject to taxation under this subchapter. In the case
6 of withdrawal of a portion of a parcel, the resulting portions must be treated after the
7 withdrawal as separate parcels under section 708.

8 **3. Penalty.** If the land is withdrawn from taxation under this subchapter, the
9 assessor shall impose a penalty upon the owner. The penalty is the greater of:

10 A. An amount equal to the taxes that would have been assessed on the first day of
11 April for the 5 tax years, or any lesser number of tax years starting with the year in
12 which the land was first classified, preceding the withdrawal had that land been
13 assessed in each of those years at its just value on the date of withdrawal. That
14 amount must be reduced by all taxes paid on that land over the preceding 5 years, or
15 any lesser number of tax years starting with the year in which the land was first
16 classified, and increased by interest at the prevailing municipal rate from the date or
17 dates on which those amounts would have been payable; and

18 B. An amount computed by multiplying the amount, if any, by which the just value
19 of the land on the date of withdrawal exceeds the 100% valuation of the land pursuant
20 to this subchapter on the preceding April 1st by the following rates:

21 (1) If the land was subject to valuation under this subchapter for 10 years or less
22 prior to the date of withdrawal, the rate is 30%; and

23 (2) If the land was subject to valuation under this subchapter for more than 10
24 years prior to the date of withdrawal, the rate is that percentage obtained by
25 subtracting 1% from 30% for each full year beyond 10 years that the land was
26 subject to valuation under this subchapter prior to the date of withdrawal, except
27 that the minimum rate is 20%.

28 For purposes of this subsection, just value at the time of withdrawal is the assessed just
29 value of comparable property in the municipality adjusted by the municipality's certified
30 assessment ratio.

31 **4. Assessment and collection of penalties.** The penalties for withdrawal must be
32 paid upon withdrawal to the tax collector as additional property taxes. Penalties may be
33 assessed and collected as supplemental assessments in accordance with section 713-B.

34 **5. Eminent domain.** A penalty may not be assessed under this section for a
35 withdrawal occasioned by a transfer to an entity holding the power of eminent domain if
36 the transfer results from the exercise or threatened exercise of that power.

37 **6. Relief from requirements.** Upon withdrawal, the land is relieved of the
38 requirements of this subchapter immediately and is returned to taxation under the statutes
39 relating to the taxation of real property beginning the following April 1st.

1 **7. Reclassification as farmland or open space land.** A penalty may not be
2 assessed upon the withdrawal of land from taxation under this subchapter if the owner
3 applies for classification of that land as farmland or open space land under subchapter 10
4 and that application is accepted. If a penalty is later assessed under section 1112, the
5 period of time that the land was taxed as forest land under this subchapter is included for
6 purposes of establishing the amount of the penalty.

7 **8. Report of penalty.** A municipality that receives a penalty for the withdrawal of
8 land from taxation under this subchapter must report the total amount received in that
9 reporting year to the State Tax Assessor on the municipal valuation return form described
10 in section 383.

11 **Sec. 19. 36 MRSA §652, sub-§1, ¶A,** as amended by PL 2001, c. 596, Pt. B, §23
12 and affected by §25 and PL 2003, c. 689, Pt. B, §§6 and 7, is further amended to read:

13 A. The real estate and personal property owned and occupied or used solely for their
14 own purposes by benevolent and charitable institutions incorporated by this State.
15 Such an institution may not be deprived of the right of exemption by reason of the
16 source from which its funds are derived or by reason of limitation in the classes of
17 persons for whose benefit ~~such~~ the funds are applied.

18 For the purposes of this paragraph, "benevolent and charitable institutions" ~~include~~
19 includes, but ~~are~~ is not limited to, nonprofit nursing homes ~~and~~ licensed by the
20 Department of Health and Human Services pursuant to Title 22, chapter 405,
21 nonprofit ~~boarding homes and boarding~~ residential care facilities licensed by the
22 Department of Health and Human Services pursuant to Title 22, chapter ~~1664 or its~~
23 successor 1663, nonprofit community mental health service facilities licensed by the
24 Commissioner of Health and Human Services pursuant to Title 34-B, chapter 3 and
25 nonprofit child care centers incorporated by this State as benevolent and charitable
26 institutions. For the purposes of this paragraph, "nonprofit" ~~means a facility~~ refers to
27 an institution that has been determined by the United States Internal Revenue Service
28 to be exempt from taxation under Section 501(c)(3) of the Code;

29 **Sec. 20. 36 MRSA §656, sub-§1, ¶E,** as amended by PL 1989, c. 890, Pt. A, §9
30 and affected by §40, is further amended to read:

31 E. Pollution control facilities.

32 (1) Water pollution control facilities having a capacity to handle at least 4,000
33 gallons of waste per day, certified as such by the Commissioner of
34 Environmental Protection, and all parts and accessories thereof.

35 As used in this paragraph, unless the context otherwise indicates, the following
36 terms have the following meanings.

37 (a) "Facility" means any disposal system or any treatment works, appliance,
38 equipment, machinery, installation or structures installed, acquired or placed
39 in operation primarily for the purpose of reducing, controlling or eliminating
40 water pollution caused by industrial, commercial or domestic waste.

41 (b) "Disposal system" means any system used primarily for disposing of or
42 isolating industrial, commercial or domestic waste and includes thickeners,

1	General Fund	2003-04	2004-05
2	Positions - Legislative Count	(11,000)	(11,000)
3	Personal Services	765,194	619,583
4	All Other	1,102,625	65,021
5			
6	General Fund Total	<u>1,867,819</u>	<u>684,604</u>

7 **SUMMARY**

8 This bill makes the following changes to the laws governing taxation.

9 1. It repeals a provision that authorizes the State Tax Assessor to subtract from
10 revenues credit card fees associated with income tax returns filed by telephone. Maine's
11 income tax Telefile system has been discontinued.

12 2. It replaces the imprecise term "report" with the defined term "return" throughout
13 the tax laws.

14 3. It authorizes a 120-day extension of the time allowed for filing a return after the
15 taxpayer has received a formal demand for filing. The Department of Administrative and
16 Financial Services, Bureau of Revenue Services has been administratively granting such
17 extensions.

18 4. It provides clear statutory authority for the State Tax Assessor to disclose the fact
19 that a person has or has not been issued a certificate of exemption under the sales tax law
20 or the service provider tax law. The bureau has administratively interpreted existing law
21 to authorize these disclosures.

22 5. It replaces an obsolete reference to the Bureau of Property Taxation, which was
23 merged into the Bureau of Taxation, now the Bureau of Revenue Services, a number of
24 years ago.

25 6. It clarifies that all owners of property proposed for tree growth classification must
26 consent to the application in writing.

27 7. It repeals an obsolete provision that related to valuation of tree growth property
28 for taxable years prior to April 1, 1983.

29 8. It repeals obsolete language relating to the computation of tree growth
30 reimbursements and authorizes the State Tax Assessor to adopt rules governing the
31 assessment of tree growth land and the computation of reimbursements.

32 9. It repeals obsolete provisions relating to the administration of changes to the
33 Maine Tree Growth Tax Law that were enacted in 1981 and corrects an erroneous
34 reference.

- 1 10. It replaces obsolete terminology, corrects cross-references and clarifies the
2 definition of "nonprofit."
- 3 11. It clarifies certain deadlines relating to the certification of pollution control
4 facilities for property tax exemption.
- 5 12. It clarifies the deadline for filing an application for a homestead property tax
6 exemption and repeals an obsolete provision that governed program applications for the
7 1998 tax year.
- 8 13. It makes technical changes to the business equipment tax exemption law enacted
9 in 2006.
- 10 14. It clarifies that all owners of property proposed for farm and open space
11 classification must consent to the application in writing and repeals obsolete language.
- 12 15. It clarifies the deadlines for notifying the landowner of the status of an
13 application for classification of land under the farm and open space law and for reporting
14 income from farmland under the farm and open space law, corrects a cross-reference and
15 reallocates a paragraph into the subsection to which the paragraph's subject matter relates.
- 16 16. It repeals an obsolete statute that provided for transfers to the Unorganized
17 Territory Education and Services Fund in fiscal years 1985 to 1990.
- 18 17. It replaces the word "primary" with "elementary" in the definition of "school" to
19 match the term that is defined and used in other Maine statutes pertaining to schools.
- 20 18. It repeals a superfluous provision relating to determinations of residency under
21 the sales and use tax law.
- 22 19. It eliminates redundant language.
- 23 20. It clarifies exemptions for certain sales of residential fuel and electricity.
- 24 21. It repeals an obsolete provision relating to the administration of changes that
25 were enacted in 1989 in the sales tax exemption for continuous residence in a hotel,
26 rooming house, tourist camp or trailer camp.
- 27 22. It simplifies and clarifies existing law providing that certain sales tax exemptions
28 for vehicles purchased by nonresidents are not limited to natural persons.
- 29 23. It clarifies existing law providing that certain sales tax exemptions for items
30 purchased by nonresidents are limited to natural persons.
- 31 24. It clarifies the sales and use tax exemption for water and air pollution control
32 facilities by including chemicals and supplies for certified facilities within the scope of
33 the exemption. The bureau currently treats these items as exempt based on a 1994 court
34 decision.
- 35 25. It clarifies the exemption for sales of residential water.

- 1 26. It clarifies an existing sales tax exemption for property used in production.
- 2 27. It relocates an existing sales and use tax exemption for certain sales of electricity
3 or water to the section that provides for exemptions.
- 4 28. It repeals a statute that imposes criminal penalties for violation of unspecified
5 laws.
- 6 29. It repeals the solid waste reduction investment tax credit in the insurance
7 premium tax law. The credit is no longer available.
- 8 30. It corrects the name of the state agency that licenses private nonmedical
9 institutions to reflect legislation effective July 1, 2004 that combined and reorganized the
10 former Department of Human Services and the former Department of Behavioral and
11 Developmental Services.
- 12 31. It clarifies that certain separately stated transportation charges are excluded from
13 the sale price under the service provider tax law on the same basis as under the sales and
14 use tax law.
- 15 32. It adds a specific exemption for purchases of fabrication services to print
16 advertising or promotional materials for the purpose of subsequently transporting those
17 materials outside the State for use by the purchaser thereafter solely outside the State.
18 This is the administrative position taken by the bureau.
- 19 33. It clarifies that the basis of reporting for purposes of the gasoline tax is actual
20 measured gallonage, without any adjustment for temperature or barometric pressure
21 variations.
- 22 34. It adds a definition of "retail dealer" to the gasoline tax law in order to clarify the
23 type of transaction that qualifies for a retail shrinkage refund under the Maine Revised
24 Statutes, Title 36, section 2906, subsection 4.
- 25 35. It clarifies that when gasoline is placed in a retail tank it is deemed to have been
26 sold for purposes of the gasoline tax law. This is longstanding administrative policy of
27 the bureau.
- 28 36. It clarifies that gasoline tax refunds to a retail dealer based on shrinkage or loss
29 by evaporation are based on purchases of gasoline delivered to the dealer's tanks and
30 actually sold from those tanks, rather than on the total gross purchases made during the
31 year.
- 32 37. It eliminates a reference to a "monthly" refund claim for fuel used in commercial
33 uses since there is no requirement that the claims be filed monthly.
- 34 38. It repeals the requirement that original invoices must be submitted with refund
35 claims for gasoline tax paid on fuel used in locally encouraged vehicles. This requirement
36 has not been enforced for several years. It also eliminates the requirement that refund
37 claims must be filed quarterly. By administrative policy they may be filed for any open
38 period.

1 39. It adds a specific provision to clarify that gasoline tax refunds for fuel used in
2 aircraft are reduced by the amount of Maine use tax due on the fuel. This is consistent
3 with longstanding administrative practice of the bureau.

4 40. It eliminates an obsolete cross-reference to the affidavit prescribed for registered
5 sellers in Title 36, section 3205. Title 36, section 3205 no longer contains any reference
6 to an affidavit.

7 41. It repeals statutes that formerly governed taxation of fuel consumed by interstate
8 buses. This tax is now reported under the International Fuel Tax Agreement.

9 42. It clarifies that distillates delivered to a consumer or a retail outlet, whether or
10 not "on consignment," are deemed to have been sold for purposes of the special fuel tax.
11 This is longstanding administrative policy of the bureau.

12 43. It clarifies that propane shrinkage allowances must be calculated on an annual
13 basis. This is current administrative policy of the bureau.

14 44. It limits the exemption for sales of special fuel to the State and its political
15 subdivisions to bulk sales. Because of the way the tax is imposed it is not practical to
16 make exempt sales at the pump. Governmental entities may apply for a refund of the tax
17 paid on those sales.

18 45. It removes obsolete and redundant language relating to refund applications by
19 special fuel users.

20 46. It eliminates the requirement that original invoices must be submitted with
21 refund claims for special fuel tax paid by political subdivisions. This requirement has not
22 been enforced for several years. It also repeals an obsolete provision that governed
23 refunds of tax paid before April of 1986.

24 47. It clarifies the administration of the special fuel tax.

25 48. It eliminates the requirement that original invoices must be submitted with
26 refund claims for special fuel tax paid on fuel used in locally encouraged vehicles. This
27 requirement has not been enforced for several years. It also eliminates the requirement
28 that refund claims must be filed quarterly. By administrative policy they may be filed for
29 any open period.

30 49. It eliminates the requirement that original invoices must be submitted with
31 refund claims for special fuel tax paid on fuel used off-highway. This requirement has not
32 been enforced for several years. It also eliminates a reference to a "monthly" refund claim
33 since there is no requirement that the claims be filed monthly.

34 50. It repeals the definition of "dealer" from the cigarette tax law. There is no longer
35 any distinction between dealers and distributors.

36 51. It clarifies the cigarette tax law by replacing references to "license holder" with
37 the defined term "distributor."

- 1 52. It repeals superfluous criminal provisions and clarifies an ambiguous statute
2 prohibiting sale and reuse of cigarette stamps.
- 3 53. It repeals obsolete provisions setting discount rates for cigarette stamps that are
4 no longer in effect.
- 5 54. It prohibits the return of partial rolls of cigarette stamps for credit unless the
6 person is ceasing business as a distributor. This is longstanding bureau policy. It also
7 repeals unnecessary language regarding the payment of refunds.
- 8 55. It deletes the obsolete term "dealer" from the cigarette tax law and clarifies
9 certain record-keeping requirements.
- 10 56. It clarifies that the personal use exception applies to importation of tobacco
11 products other than cigars and that any quantity of untaxed tobacco products imported
12 into the State is subject to tax.
- 13 57. It repeals the law requiring certain fiduciaries to notify the State Tax Assessor of
14 their appointment. This requirement has not been enforced for many years.
- 15 58. It clarifies that a taxpayer's estimated tax liability includes all taxes due under the
16 income tax law except withholding tax.
- 17 59. It clarifies that a person who fails to withhold tax as required is not relieved from
18 liability for penalties for failure to file returns and pay withholding tax. This is the
19 bureau's longstanding position.
- 20 60. It consolidates 2 closely related provisions relating to overpayments of
21 withholding tax by employers and pass-through entities into a single subsection and
22 eliminates a superfluous authorization for rulemaking that has never been implemented.
- 23 61. It clarifies the determination of the period during which a claimant under the
24 Circuitbreaker Program must have been domiciled in Maine.
- 25 62. It clarifies the definition of "elderly household" for purposes of the
26 Circuitbreaker Program. The new language is consistent with the way the statute has been
27 administratively interpreted by the bureau.
- 28 63. It restructures for clarity the definition of "income" in the Circuitbreaker Program
29 law, but does not change the way in which income is determined for purposes of the
30 program.
- 31 64. It makes technical changes to the business equipment tax reimbursement law. It
32 also corrects a conflict created by Public Law 2005, chapters 618 and 623, which affected
33 the same provision of law, by incorporating changes made by both laws.
- 34 65. It eliminates the requirement for an annual revenue enhancement and amnesty
35 report to the Legislature by the bureau.

1 The bill also corrects several grammatical errors and replaces archaic, redundant and
2 gender-specific language.