



# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1749

H.P. 1290

House of Representatives, January 9, 2012

### An Act To Amend the Tax Laws

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

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative KNIGHT of Livermore Falls.

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

2 **Sec. 1. 36 MRSA §187-B, sub-§1, ¶A**, as amended by PL 1999, c. 521, Pt. A,  
3 §2, is further amended to read:

4 A. If the return is filed before or within ~~30~~ 60 days after the taxpayer receives from  
5 the assessor a formal demand that the return be filed, or if the return is not filed but  
6 the tax due is assessed by the assessor before the taxpayer receives from the assessor  
7 a formal demand that the return be filed, the penalty is \$25 or 10% of the tax due,  
8 whichever is greater.

9 **Sec. 2. 36 MRSA §187-B, sub-§1, ¶B**, as amended by PL 2011, c. 380, Pt. K, §1  
10 and affected by §2, is further amended to read:

11 B. If the return is not filed within ~~30~~ 60 days after the taxpayer receives from the  
12 assessor a formal demand that the return be filed, the penalty is \$25 or 25% of the tax  
13 due, whichever is greater. The period provided by this paragraph must be extended  
14 for up to ~~120~~ 90 days if the taxpayer requests an extension in writing prior to the  
15 expiration of the original ~~30-day~~ 60-day period.

16 **Sec. 3. 36 MRSA §187-B, sub-§1-A**, as enacted by PL 2007, c. 437, §3 and  
17 affected by §22, is amended to read:

18 **1-A. Failure to file information return.** ~~Any~~ A partnership or S corporation that  
19 fails to make and file an information return required by section 5241 and that has  
20 received from the assessor a formal demand that the return be filed is liable for one of the  
21 following penalties:

22 A. If the return is filed within ~~30~~ 60 days after the partnership or S corporation  
23 receives from the assessor a formal demand that the return be filed, the penalty is  
24 \$100. The ~~30-day~~ period provided by this paragraph is must be extended for up to  
25 ~~120~~ 90 days if the partnership or S corporation requests an extension in writing prior  
26 to the expiration of the ~~30-day~~ 60-day period; or

27 B. Except as provided in paragraph A, if the return is not filed within ~~30~~ 60 days  
28 after the partnership or S corporation receives from the assessor a formal demand that  
29 the return be filed, the penalty is \$500.

30 **Sec. 4. 36 MRSA §1752, sub-§1-B**, as amended by PL 2011, c. 296, §1, is  
31 further amended to read:

32 **1-B. Automobile.** "Automobile" means a self-propelled 4-wheel motor vehicle  
33 designed primarily to carry passengers and not designed to run on tracks. "Automobile"  
34 includes a pickup truck or van with a ~~registered~~ gross vehicle weight rating of 10,000  
35 pounds or less.

36 **Sec. 5. 36 MRSA §1754-A**, as amended by PL 2003, c. 390, §9, is further  
37 amended to read:

1           **§1754-A. Registration of owners of space temporarily rented as retail space**

2           A person who rents or leases space to more than 4 persons at one location for less  
3 than a 12-month period for the purpose of making retail sales shall register with the State  
4 Tax Assessor. The form for application for registration and the registration certificates  
5 must be prescribed and furnished free of charge by the assessor. For each location where  
6 more than 4 persons rent or lease space for less than 12 months from the same person, the  
7 assessor shall issue a registration certificate, which must be conspicuously displayed at  
8 that location. ~~By the 15th of each month following any month in which rental or lease~~  
9 ~~activity has occurred, the person shall provide to the assessor the names, addresses and~~  
10 ~~sales tax registration certificate numbers of those persons who have rented space during~~  
11 ~~the previous month. Information returns must be prescribed and furnished free of charge~~  
12 ~~by the assessor. Returns required under this section must be treated as returns filed under~~  
13 ~~this Title and are subject to section 187-B. A registration certificate issued pursuant to~~  
14 ~~this section is nontransferable and is not a license within the meaning of that term in the~~  
15 ~~Maine Administrative Procedure Act.~~

16           A person required to register with the assessor under this section may not rent or  
17 lease space to a person for the purpose of making retail sales without verifying that the  
18 person is the holder of a valid registration certificate issued by the assessor under section  
19 1754-B. Each person required to register with the assessor under this section shall  
20 maintain a list subject to the requirements of section 135, subsection 1 that includes the  
21 names, addresses and sales tax registration certificate numbers of those persons who have  
22 rented or leased space at that location for the purpose of making retail sales and the dates  
23 on which those rentals or leases occurred.

24           **Sec. 6. 36 MRSA §5122, sub-§2, ¶HH**, as corrected by RR 2011, c. 1, §54, is  
25 amended to read:

26           HH. To the extent included in federal adjusted gross income, annuity payments made  
27 to the survivor of a deceased member of the military as the result of service in active  
28 or reserve components of the United States Army, Navy, Air Force, Marines or Coast  
29 Guard under a survivor benefit plan or reserve component survivor benefit plan  
30 pursuant to 10 United States Code, Chapter 73 reduced by any amount claimed as a  
31 modification under paragraph M;

32           **Sec. 7. 36 MRSA §5122, sub-§2, ¶II**, as corrected by RR 2011, c. 1, §56, is  
33 amended to read:

34           II. For taxable years beginning on or after January 1, 2012, an amount equal to the  
35 net increase in the depreciation deduction allowable under the Code, Sections 167  
36 and 168 that would have been applicable to that property had the depreciation  
37 deduction under the Code, Section 168(k) not been claimed with respect to such  
38 property placed in service during the taxable year beginning in 2011 or 2012 for  
39 which an addition was required under subsection 1, paragraph FF, subparagraph (2)  
40 for the taxable year beginning in 2011 or 2012.

41           Upon the taxable disposition of property to which this paragraph applies, the amount  
42 of any gain or loss includable in federal adjusted gross income must be adjusted for  
43 Maine income tax purposes by an amount equal to the difference between the

1 addition modification for such property under subsection 1, paragraph FF,  
2 subparagraph (2) related to property placed in service outside the State and the  
3 subtraction modifications allowed pursuant to this paragraph.

4 The total amount of subtraction claimed for property placed in service outside the  
5 State under this paragraph for all tax years may not exceed the addition modification  
6 under subsection 1, paragraph FF, subparagraph (2) for the same property; ~~and~~

7 **Sec. 8. 36 MRSA §5122, sub-§2, ¶JJ**, as reallocated by RR 2011, c. 1, §55, is  
8 amended to read:

9 JJ. To the extent included in federal adjusted gross income, an amount equal to the  
10 distribution from a private venture capital fund of the refundable portion of the credit  
11 allowed under section 5216-B; and

12 **Sec. 9. 36 MRSA §5122, sub-§2, ¶KK** is enacted to read:

13 KK. To the extent included in federal adjusted gross income, an amount equal to the  
14 refundable portion of the new markets capital investment credit.

15 **Sec. 10. 36 MRSA §5200-A, sub-§2, ¶U**, as amended by PL 2011, c. 380, Pt. O,  
16 §15 and c. 454, §12, is further amended to read:

17 U. An amount equal to the gross income from discharge of indebtedness previously  
18 deferred under the Code, Section 108(i) and included in federal taxable income. The  
19 total subtraction for all years under this paragraph may not exceed the amount of the  
20 addition modification under subsection 1, paragraph W for the same indebtedness;  
21 ~~and~~

22 **Sec. 11. 36 MRSA §5200-A, sub-§2, ¶V**, as corrected by RR 2011, c. 1, §57, is  
23 amended to read:

24 V. For taxable years beginning on or after January 1, 2012, an amount equal to the  
25 net increase in the depreciation deduction allowable under the Code, Sections 167  
26 and 168 that would have been applicable to that property had the depreciation  
27 deduction under the Code, Section 168(k) not been claimed with respect to such  
28 property placed in service during the taxable year beginning in 2011 or 2012 for  
29 which an addition was required under subsection 1, paragraph Y, subparagraph (2)  
30 for the taxable year beginning in 2011 or 2012.

31 Upon the taxable disposition of property to which this paragraph applies, the amount  
32 of any gain or loss includable in federal adjusted gross income must be adjusted for  
33 Maine income tax purposes by an amount equal to the difference between the  
34 addition modification for such property under subsection 1, paragraph Y,  
35 subparagraph (2) related to property placed in service outside the State and the  
36 subtraction modifications allowed pursuant to this paragraph.

37 The total amount of subtraction claimed for property placed in service outside the  
38 State under this paragraph for all tax years may not exceed the addition modification  
39 under subsection 1, paragraph Y, subparagraph (2) for the same property; ~~and~~

1           **Sec. 12. 36 MRSA §5200-A, sub-§2, ¶W**, as reallocated by RR 2011, c. 1, §58,  
2 is amended to read:

3           W. To the extent included in federal taxable income, an amount equal to the  
4 refundable portion of the credit allowed under section 5216-B and an amount equal to  
5 the distribution from a private venture capital fund of the refundable portion of the  
6 credit allowed under section 5216-B; and

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

8           X. To the extent included in federal taxable income, an amount equal to the  
9 refundable portion of the new markets capital investment credit.

10           **Sec. 14. 36 MRSA §5203-C, sub-§4, ¶A**, as amended by PL 2005, c. 618, §8  
11 and affected by §22, is further amended to read:

12           A. A minimum tax credit is allowed against the liability arising under this Part for  
13 any taxable year other than withholding tax liability. The minimum tax credit equals  
14 the excess, if any, of the adjusted alternative minimum tax, reduced by the credit for  
15 tax paid to other jurisdictions determined under subsection 3 ~~and~~, the seed capital  
16 investment tax credit provided by section 5216-B, the Pine Tree Development Zone  
17 tax credit provided by section 5219-W, the credit for rehabilitation of historic  
18 properties after 2007 provided by section 5219-BB and the new markets capital  
19 investment credit that was imposed for all prior taxable years beginning after 2003  
20 over the amount allowable as a credit under this subsection for ~~such~~ those prior  
21 taxable years, plus unused minimum tax credits from years beginning after 1990.

22           **Sec. 15. 36 MRSA §5219-H, sub-§1**, as amended by PL 2011, c. 240, §36, is  
23 further amended to read:

24           **1. Meaning of tax.** Whenever a credit provision in this chapter, other than section  
25 5216-B, section 5219-W, section 5219-BB and the new markets capital investment credit,  
26 allows for a credit "against the tax otherwise due under this Part," "against the tax  
27 imposed by this Part" or similar language, "tax" means all taxes imposed under this Part,  
28 except the minimum tax imposed by section 5203-C and the taxes imposed by chapter  
29 827.

30           **Sec. 16. Application.** Those sections of this Act that amend the Maine Revised  
31 Statutes, Title 36, section 5122, subsection 2, paragraph HH, Title 36, section 5203-C,  
32 subsection 4, paragraph A and Title 36, section 5219-H, subsection 1 and that enact Title  
33 36, section 5122, subsection 2, paragraph KK and Title 36, section 5200-A, subsection 2,  
34 paragraph X apply to tax years beginning on or after January 1, 2012.

35           **Sec. 17. Retroactivity.** Those sections of this Act that amend the Maine Revised  
36 Statutes, Title 36, section 187-B, subsections 1 and 1-A apply retroactively to July 1,  
37 2011. That section of this Act that amends Title 36, section 1752, subsection 1-B applies  
38 retroactively to September 28, 2011.

39           **Sec. 18. Effective date.** That section of this Act that amends the Maine Revised  
40 Statutes, Title 36, section 1754-A takes effect August 1, 2012.

1 **SUMMARY**

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

3 It extends from 30 days to 60 days the period during which a person who has  
4 received a demand to file a delinquent tax return must either file the return or request an  
5 extension in order to avoid an enhanced penalty.

6 It provides that the weight limitation for a pickup truck or van included in the  
7 definition of "automobile" in the sales and use tax law applies to the gross vehicle weight  
8 rating of the vehicle.

9 It removes the requirement that persons who rent or lease temporary retail space must  
10 file monthly returns reporting those rentals and replaces it with a tax registration  
11 certificate and record-keeping requirement. Additionally, the characteristics of the  
12 registration certificates are clarified.

13 It provides that an amount claimed as an income modification for military survivor  
14 benefits may not include an amount representing employee retirement benefits for which  
15 an income modification is claimed.

16 It provides that any income recognized on a taxpayer's federal tax return from the  
17 new markets capital investment credit is subtracted from federal adjusted gross income  
18 for state income tax purposes.

19 It provides that certain refundable tax credits are included for purposes of calculating  
20 the taxpayer's alternative minimum tax credit.

21 It provides that certain refundable tax credits may be applied to reduce the taxpayer's  
22 alternative minimum tax liability.