

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 H.P. 1279 - L.D. 1798

An Act To Amend the Maine Tax Laws

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

PART A

Sec. A-1. 36 MRSA §192, sub-§2, as enacted by PL 1981, c. 364, §19, is amended to read:

2. Facsimile signature. A facsimile of the written signature of the State Tax Assessor imprinted by or at his the State Tax Assessor's direction ~~upon any license, registration certificate, notice of assessment or statutory demand notice issued by him under authority of this Title shall have~~ has the same validity as ~~his the State Tax Assessor's~~ the State Tax Assessor's written signature.

Sec. A-2. 36 MRSA §208, as amended by PL 2017, c. 288, Pt. A, §36, is further amended to read:

§208. Equalization

The State Tax Assessor has the duty of equalizing the state and county taxes among the several towns and unorganized territory. The State Tax Assessor shall equalize and adjust the assessment list of each town; by adding to or deducting from it such amount as will make it equal to its just value as of April 1st. Notice of the proposed valuations of municipalities within each county must be sent annually ~~by certified mail~~ to the chair of the board of assessors, and chair of the board of selectmen in municipalities having selectmen, of each municipality within that county on or before the first day of October. The valuation so determined is subject to review by the State Board of Property Tax Review pursuant to subchapter 2-A, but the valuation finally certified to the Secretary of State pursuant to section 381 must be used for all computations required by law to be based upon the state valuation with respect to municipalities.

Sec. A-3. 36 MRSA §209 is enacted to read:

§209. Adjustment for audits; determination of the State Tax Assessor

1. Audits. If the State Tax Assessor determines that value was improperly excluded from any of the 3 most recently certified state valuations, the State Tax Assessor shall recalculate the equalized just value of that municipality to reflect the requirements of section 305.

A municipality that is aggrieved by a determination of the State Tax Assessor under this section may appeal pursuant to section 272-A.

2. Notifications. If an adjustment is made to a municipality's equalized municipal valuation pursuant to this section, the State Tax Assessor, in writing, shall make the following notifications:

A. To the municipality, a decision, which must include the findings of fact upon which the decision is based. This written decision constitutes final agency action;

B. To the joint standing committee of the Legislature having jurisdiction over taxation matters, a copy of the decision from paragraph A; and

C. To the Commissioner of Education prior to December 1st, and to the Treasurer of State, any adjustment to state valuation determined under this section and the time period to which the adjustment applies.

3. Effect of modified state valuation. The following provisions apply to an adjustment to state valuation under this section.

A. The Commissioner of Education shall use the adjusted state valuation amount instead of the valuation certified under section 305 in calculating education funding obligations under Title 20-A, chapter 606-B for the following fiscal year.

B. The Treasurer of State shall use the adjusted state valuation amount instead of the valuation certified under section 305 in calculating distributions of state-municipal revenue sharing under Title 30-A, section 5681 for the following fiscal year.

Sec. A-4. 36 MRSA §271, sub-§2, ¶A, as amended by PL 2007, c. 466, Pt. A, §57, is further amended to read:

A. Hear and determine appeals according to the following provisions of law:

- (1) The tree growth tax law, chapter 105, subchapter 2-A;
- (2) The farm and open space law, chapter 105, subchapter 10;
- (3) As provided in section 843;
- (4) As provided in section 844;
- (5) Section 272;
- (6) Section 2865; ~~and~~
- (7) The current use valuation of certain working waterfront land law, chapter 105, subchapter 10-A; and
- (8) Section 209;

Sec. A-5. 36 MRSA §272, sub-§1, as amended by PL 1989, c. 619 and PL 1997, c. 526, §14, is further amended to read:

1. Filing. Any municipality aggrieved shall file a written notice of appeal ~~within 45 days of its receipt of notification of the decision of~~ by November 15th, or, if November 15th is a Saturday, Sunday or holiday, the next business day after that November 15th, of the year the determination is made by the Bureau of Revenue Services. The appeal to the board ~~shall~~ must be in writing signed by a majority of the municipal officers; and ~~shall~~ must be accompanied by an affidavit stating the grounds for appeal. A copy of the appeal and the affidavit ~~shall~~ must be served on the Bureau of Revenue Services.

Sec. A-6. 36 MRSA §272-A is enacted to read:

§272-A. Appeals of adjusted municipal valuation

The State Board of Property Tax Review shall hear appeals by any municipality aggrieved by the Bureau of Revenue Services' determination of adjusted equalized valuation pursuant to section 209 and render its decision based upon the recorded evidence.

1. Filing. Any municipality aggrieved shall file a written notice of appeal within 45 days of its receipt of notification of the decision of the Bureau of Revenue Services. The appeal to the board must be in writing and signed by a majority of the municipal officers and must be accompanied by an affidavit stating the grounds for appeal. A copy of the appeal and the affidavit must be served on the Bureau of Revenue Services.

2. Hearing. The board shall hear the appeal within a reasonable time of the filing of the appeal by the municipality and shall render its decision no later than November 15th following the date on which the appeal is taken. The board shall order notice of the hearing and give at least 5 days' notice prior to the hearing to the municipality and to the Bureau of Revenue Services.

3. Determination. The Bureau of Revenue Services has the burden of showing that its determination is reasonable and the municipality's claims are unreasonable. The board shall sustain the determination of the Bureau of Revenue Services only upon finding that the bureau's determination is reasonable and the claims of the municipality are unreasonable. If the board does not sustain the bureau's determination, it shall make its own reasonable determination giving due weight to the claims of the municipality and the Bureau of Revenue Services.

4. Powers. The board, after hearing, may raise, lower or sustain the adjusted state valuation as determined by the Bureau of Revenue Services with respect to the municipality that has filed the appeal. The board shall certify its decision to the Bureau of Revenue Services.

5. Procedure following appeal. The valuation determined on appeal must be certified to the Bureau of Revenue Services, which shall, if necessary, incorporate the decision in the valuation used pursuant to section 209. If an appeal to the Superior Court or Supreme Judicial Court results in a lowering of the municipality's state valuation, the

Treasurer of State shall reimburse with funds appropriated from the General Fund an amount equal to money lost by the municipality due to the use by the State of an incorrect state valuation in any statutory formula used to distribute state funds to municipalities.

Sec. A-7. 36 MRSA §555 is amended to read:

§555. Tenants in common and joint tenants

A tenant in common or a joint tenant may be considered sole owner for the purposes of taxation, unless ~~he the tenant notifies the assessors~~ the tenant notifies the assessor on or before April 1st in the year in which a separate assessment is first requested ~~what his the tenant's interest is;~~ but when a tax is assessed on lands owned or claimed to be owned in common, or in severalty, any person may furnish the tax collector and provides an accurate description of his the tenant's interest in the land and pay his proportion of such tax; and thereafter his land or interest shall be free of all lien created by such tax property on a form provided by the State Tax Assessor.

Sec. A-8. 36 MRSA §654-A, sub-§1, as enacted by PL 2013, c. 416, §2, is amended to read:

1. Exemption. The residential real estate up to the just value of \$4,000, having a taxable situs in the place of residence, of inhabitants of the State who are legally blind as determined by a properly licensed Doctor of Medicine, Doctor of Osteopathy or Doctor of Optometry is exempt from taxation.

Sec. A-9. 36 MRSA §654-A, sub-§4, as enacted by PL 2013, c. 416, §2, is repealed.

Sec. A-10. 36 MRSA §943-C, first ¶, as enacted by PL 2017, c. 478, §3, is amended to read:

Notwithstanding any provision of law to the contrary, after the foreclosure process under sections 942 and 943 or sections 1281 and 1282 is completed and the right of redemption has expired, if a municipality chooses to sell to someone other than the immediate former owner or owners property that immediately prior to foreclosure received a property tax exemption as a homestead under subchapter 4-B, the municipal officers or their designee shall notify the immediate former owner or owners of the right to require the municipality to use the sale process under subsection 3 as long as the immediate former owner or owners demonstrate that the property meets the requirements of subsection 1. The notice must be sent by first-class mail to the last known address of the immediate former owner or owners. If the municipality agrees to sell the property back to the immediate former owner or owners, the alternative sale process under this section does not apply. If the sale to the immediate former owner or owners is not completed, the requirements of this section are reinstated.

Sec. A-11. 36 MRSA §1232, as amended by PL 1983, c. 403, §2, is further amended to read:

§1232. Proceedings on delinquency

~~Taxes levied under section 1602 shall be paid to the State Tax Assessor on or before October 1st of each year. A lien is created on all personal property for such taxes levied under section 1602 on the property and expenses incurred in accordance with section 1233, and such the property may be sold for the payment of such the taxes and expenses at any time after October 1st. When the time for the payment of the tax to the State Tax Assessor has expired, and it is unpaid, the State Tax Assessor shall give notice thereof to the delinquent property owner, and unless such that tax shall be is paid within 60 days, the State Tax Assessor may issue his a warrant to the sheriff of the county, requiring him the sheriff to levy by distress and sale upon the personal property of said the property owner, and the sheriff or his the sheriff's deputy shall execute such warrants the warrant. Any balance remaining after deducting taxes and necessary additions made in accordance with this subchapter shall must be returned to the owner or person in possession of such the property or; the State Tax Assessor may certify such the unpaid taxes to the Attorney General, who shall bring a civil action in the name of the State.~~

In addition to the procedure authorized in ~~the preceding paragraph~~ this section, the State Tax Assessor may follow the procedure provided in section 612 and, with regard to that procedure, ~~shall be~~ is subject to the same rights and obligations as a municipality or municipal officers.

Sec. A-12. 36 MRSA §1281, as amended by PL 2017, c. 478, §4, is further amended to read:

§1281. Payment of taxes; delinquent taxes; publication; certificate filed in registry

~~Taxes on real estate mentioned in section 1602, including supplementary taxes assessed under section 1331, are delinquent on the 15th day of January next following the date of assessment. Annually, -on or before February 1st after January 15th but no later than January 31st, the State Tax Assessor shall send by mail to the last known address of each owner of such real estate subject to assessment under section 1602, including supplementary taxes assessed under section 1331, upon which taxes remain unpaid a notice in writing, containing a description of the real estate assessed and the amount of unpaid taxes and interest, and alleging that a lien is claimed on that real estate for payment of those taxes, interests and costs, with a demand that payment be made by the next February 21st. For property that constitutes a homestead for which a property tax exemption is claimed under chapter 105, subchapter 4-B, the State Tax Assessor shall include in the written notice written notice to the owner named on the tax lien mortgage that that owner may be eligible to file an application for tax abatement under section 841, subsection 2, indicating that the State Tax Assessor, upon request, will assist the owner in requesting an abatement and provide information regarding the procedures for making such a request. The notice must also indicate that the owner may seek assistance from the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection regarding options for finding an advisor who can help the owner work with the State Tax Assessor to avoid tax lien foreclosure and provide information regarding ways to contact the bureau. The Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, by July 15th annually, shall provide to a statewide~~

organization representing municipalities and to the State Tax Assessor information regarding assistance in avoiding tax lien foreclosure to assist municipalities and the State Tax Assessor in providing the information required in the notice. If the owners of any such real estate are unknown, instead of sending the notices by mail, the assessor shall cause the information required in this section on that real estate to be advertised in the state paper and in a newspaper, if any, of general circulation in the county in which the real estate lies. Such a statement or advertisement is sufficient legal notice of delinquent taxes. If those taxes and interest to date of payment and costs are not paid by February 21st, the State Tax Assessor shall record by March 15th, in the registry of deeds of the county or registry district where the real estate lies, a certificate signed by the assessor, setting forth the name or names of the owners according to the last state valuation, or the valuation established in accordance with section 1331; the description of the real estate assessed as contained in the last state valuation, or the valuation established in accordance with section 1331; the amount of unpaid taxes and interest; the amount of costs; and a statement that demand for payment of those taxes has been made, and that those taxes, interest and costs remain unpaid. The costs charged by the register of deeds for the filing may not exceed the fees established by Title 33, section 751.

Sec. A-13. 36 MRSA §1481, sub-§1, ¶B, as enacted by PL 1981, c. 275, is repealed.

Sec. A-14. 36 MRSA §1481, sub-§1-A, ¶A, as repealed and replaced by PL 1975, c. 252, §16, is amended to read:

A. A trailer or semitrailer ~~of less than 32 feet in length~~ primarily designed and constructed to provide temporary living quarters for recreational, camping, travel or other use.

Sec. A-15. 36 MRSA §1482, sub-§3, as amended by PL 2011, c. 240, §12, is further amended to read:

3. Tax paid for previous registration year. If an excise tax was paid in accordance with this section for the previous registration year by the same person on the same vehicle, the excise tax for the new registration year must be assessed as if the vehicle was in its next year of model.

Sec. A-16. 36 MRSA §1482, sub-§5, as amended by PL 2015, c. 87, §1, is further amended to read:

5. Credits. An owner or lessee who has paid the excise tax in accordance with this section or the property tax for a vehicle is entitled to a credit up to the maximum amount of the tax previously paid in that registration year for any one vehicle toward the tax for any number of vehicles, regardless of the number of transfers that may be required of the owner or lessee in that registration year. The credit is available only if the vehicle's ownership is transferred, the vehicle is totally lost by fire, theft or accident, the vehicle is totally junked or abandoned, the use of the vehicle is totally discontinued or, in the case of a leased vehicle, the registration is transferred.

A. The credit must be given in any place in which the excise tax is payable.

B. For each transfer made in the same registration year, the owner shall pay \$3 to the place in which the excise tax is payable.

C. During the last 4 months of the registration year, the credit may not exceed 1/2 of the maximum amount of the tax previously paid in that registration year for any one vehicle.

D. If the credit available under this subsection exceeds the amount transferred to another vehicle, a municipality may choose, but is not required to refund the excess amount. If a municipality chooses to refund excess amounts it must do so in all instances where there is an excess amount.

E. For the purposes of this subsection, "owner" includes the surviving spouse of the owner.

G. For the purposes of this subsection, "totally discontinued" means that the owner has permanently discontinued all use of the vehicle except for selling, transferring ownership of, junking or abandoning that vehicle. The owner of the vehicle must provide a signed statement attesting that use of the vehicle from which the credit is being transferred is totally discontinued. If the owner who has totally discontinued use of a vehicle later seeks to register that vehicle, no excise tax credits may be applied with respect to the registration of that vehicle or any subsequent transfer of that vehicle's registration.

Sec. A-17. 36 MRSA §1602, sub-§5 is enacted to read:

5. Due dates; interest. Taxes levied under this section must be paid to the State Tax Assessor on or before October 1st of each year. A person who fails to pay the tax on or before October 1st is liable for interest on the tax pursuant to section 186, except that the rate of interest beginning on October 1, 2019 equals the maximum rate posted on the Treasurer of State's publicly accessible website according to section 505, subsection 4.

Sec. A-18. 36 MRSA §4641, sub-§3, as amended by PL 2001, c. 559, Pt. I, §2 and affected by §15, is further amended to read:

3. Value. "Value" means the amount of the actual consideration for real property, except that in the case of a gift, or a contract or deed with nominal consideration or without stated consideration, or in the case of the transfer of a controlling interest in an entity with a fee interest in real property when the consideration for the real property cannot be determined, "value" is to be based on the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels. For the purposes of this subsection, "nominal" means less than 20% of the property's most recently locally assessed value as adjusted by the municipality's or unorganized territory's certified assessment ratio, unless the taxpayer provides an attestation from the local assessor that the most recent locally assessed value does not reflect current market value.

"Value" does not include the amount of consideration attributable to vacation exchange rights, vacation services or club memberships or the costs associated with those rights, services or memberships. Upon request of a municipal assessor or the State Tax

Assessor, a developer of a time-share estate, as defined in Title 33, section 591, subsection 7, or an association of time-share estate owners shall provide an itemized schedule of fees included in the sales price of a time-share estate.

Sec. A-19. Application. Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 555 and section 654-A, subsection 1 and that repeal Title 36, section 654-A, subsection 4 apply to property tax years beginning on or after April 1, 2020. Those sections of this Part that amend Title 36, section 1481, subsection 1-A, paragraph A and section 1482, subsection 3 and subsection 5 and that repeal Title 36, section 1481, subsection 1, paragraph B apply to registration years beginning on or after January 1, 2019.

PART B

Sec. B-1. 36 MRSA §191, sub-§2, ¶EE, as amended by PL 2007, c. 438, §10, is further amended to read:

EE. The disclosure by the State Tax Assessor of the fact that a person has or has not been issued a certificate of exemption pursuant to section 1760, 2013 or 2557, a ~~provisional~~ resale certificate pursuant to section 1754-B, subsection 2-B or a ~~resale~~ certificate pursuant to section 1754-B, subsection 2-C;

Sec. B-2. 36 MRSA §1752, sub-§7-F is enacted to read:

7-F. Oxygen delivery equipment. "Oxygen delivery equipment" means oxygen concentrators, regulators, compressors, humidifiers, masks and cannulas.

Sec. B-3. 36 MRSA §1752, sub-§10, as repealed and replaced by PL 1997, c. 393, Pt. A, §41, is amended to read:

10. Retailer. "Retailer" means a person who makes retail sales or who is required to register by section ~~1754-A~~ or 1754-B or who is registered under section 1756.

Sec. B-4. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2015, c. 390, §5, is further amended to read:

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate unless the sale is made through a retailer or the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented for a period of less than one year. For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds;
- (4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;

- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;
- (6) The sale, to a person engaged in the business of providing cable or satellite television services or satellite radio services, of associated equipment for rental or lease to subscribers in conjunction with a sale of cable or satellite television services or satellite radio services;
- (7) The sale, to a person engaged in the business of renting furniture or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;
- (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;
- (9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;
- (10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;
- (11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;
- (12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;
- (13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale;
- (14) The sale of repair parts used in the performance of repair services on telecommunications equipment as defined in section 2551, subsection 19 pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the telecommunications equipment for a specific duration;
- (15) The sale of positive airway pressure equipment and supplies for rental for personal use to a person engaged in the business of renting positive airway pressure equipment;
- (16) The sale, to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of motor homes or camper trailers for rental as tangible personal property but not as the rental of living quarters; or
- (17) The sale of truck repair parts used in the performance of repair services on a truck pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the truck for a specific duration.

Sec. B-5. 36 MRSA §1752, sub-§14, ¶A, as amended by PL 2017, c. 375, Pt. A, §2, is further amended to read:

A. "Sale price" includes:

- (1) Any consideration for services that are a part of a retail sale;
- (2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses; ~~and~~
- (3) All consideration received for the rental of living quarters in this State, including any service charge or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the owner, occupant, manager or operator of the living quarters, by a room remarketer, by a person that operates a transient rental platform or by another person on behalf of any of those persons;
- (4) In the case of the lease or rental for a period of less than one year of an automobile or of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles, the value is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee; and
- (5) In the case of the lease or rental of an automobile for one year or more, the value is the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.

Sec. B-6. 36 MRSA §1752, sub-§19-A, as amended by PL 2009, c. 207, §1, is further amended to read:

19-A. Trailer. "Trailer" means a vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks. "Trailer" includes a camper trailer as defined in section 1481, subsection 1-A ~~but without restriction on length.~~

Sec. B-7. 36 MRSA §1752, sub-§22, as enacted by PL 1987, c. 49, §1, is amended to read:

22. Camper trailer. "Camper trailer" has the same meaning as in section 1481, ~~but without any restriction on length~~ subsection 1-A.

Sec. B-8. 36 MRSA §1754-A, as amended by PL 2011, c. 644, §10 and affected by §35, is repealed.

Sec. B-9. 36 MRSA §1754-B, sub-§1, as amended by PL 2017, c. 375, Pt. A, §§4 and 5, is repealed.

Sec. B-10. 36 MRSA §1754-B, sub-§1-A, as amended by PL 2013, c. 546, §10, is further amended to read:

1-A. Persons presumptively required to register. This subsection defines the basis for and obligations associated with the rebuttable presumption created by this subsection that a seller not registered under subsection ~~1~~ **1-B** is engaged in the business of selling tangible personal property or taxable services for use in this State and is required to register as a retailer with the assessor.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Affiliated person" means a person that is a member of the same controlled group of corporations as the seller or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the seller as a corporation that is a member of the same controlled group of corporations. For purposes of this subparagraph, "controlled group of corporations" has the same meaning as in the Code, Section 1563(a).

(2) "Person" means an individual or entity that qualifies as a person under the Code, Section 7701(a)(1).

(3) "Seller" means a person that sells, other than in a casual sale, tangible personal property or taxable services.

B. A seller is presumed to be engaged in the business of selling tangible personal property or taxable services for use in this State if an affiliated person has a substantial physical presence in this State or if any person, other than a person acting in its capacity as a common carrier, that has a substantial physical presence in this State:

(1) Sells a similar line of products as the seller and does so under a business name that is the same as or similar to that of the seller;

(2) Maintains an office, distribution facility, warehouse or storage place or similar place of business in the State to facilitate the delivery of property or services sold by the seller to the seller's customers;

(3) Uses trademarks, service marks or trade names in the State that are the same as or substantially similar to those used by the seller;

(4) Delivers, installs, assembles or performs maintenance services for the seller's customers within the State;

(5) Facilitates the seller's delivery of property to customers in the State by allowing the seller's customers to pick up property sold by the seller at an office,

distribution facility, warehouse, storage place or similar place of business maintained by the person in the State; or

(6) Conducts any activities in the State that are significantly associated with the seller's ability to establish and maintain a market in the State for the seller's sales.

A seller who meets the requirements of this paragraph shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part. A seller may rebut the presumption created in this paragraph by demonstrating that the person's activities in the State are not significantly associated with the seller's ability to establish or maintain a market in this State for the seller's sales.

C. A seller that does not otherwise meet the requirements of paragraph B is presumed to be engaged in the business of selling tangible personal property or taxable services for use in this State if the seller enters into an agreement with a person under which the person, for a commission or other consideration, while within this State:

(1) Directly or indirectly refers potential customers, whether by a link on an Internet website, by telemarketing, by an in-person presentation or otherwise, to the seller; and

(2) The cumulative gross receipts from retail sales by the seller to customers in the State who are referred to the seller by all persons with this type of an agreement with the seller are in excess of \$10,000 during the preceding 12 months.

A seller who meets the requirements of this paragraph shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part.

A seller may rebut the presumption created in this paragraph by submitting proof that the person with whom the seller has an agreement did not engage in any activity within the State that was significantly associated with the seller's ability to establish or maintain the seller's market in the State during the preceding 12 months. Such proof may consist of sworn, written statements from all of the persons within this State with whom the seller has an agreement stating that they did not engage in any solicitation in the State on behalf of the seller during the preceding 12 months; these statements must be provided and obtained in good faith.

A person who enters into an agreement with a seller under this paragraph to refer customers by a link on an Internet website is not required to register or collect taxes under this Part solely because of the existence of the agreement.

Sec. B-11. 36 MRSA §1754-B, sub-§§1-B and 1-C are enacted to read:

1-B. Persons required to register. Except as otherwise provided in this section, the following persons, other than casual sellers, shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part:

A. Every person that has a substantial physical presence in this State and that makes sales of tangible personal property or taxable services in this State, including, but not limited to:

(1) Every person that makes sales of tangible personal property or taxable services, whether or not at retail, and that maintains in this State any office, manufacturing facility, distribution facility, warehouse or storage facility, sales or sample room or other place of business;

(2) Every person that makes sales of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople within this State, for retail sales within this State; and

(3) Every lessor engaged in the leasing of tangible personal property located in this State that does not maintain a place of business in this State but makes retail sales to purchasers from this State;

B. Every person that makes sales of tangible personal property or taxable services for delivery into this State if:

(1) The person's gross sales from delivery of tangible personal property or taxable services into this State in the previous calendar year or current calendar year exceeds \$100,000; or

(2) The person sold tangible personal property or taxable services for delivery into this State in at least 200 separate transactions in the previous calendar year or the current calendar year;

C. Every person that has a substantial physical presence in this State and that makes retail sales in this State of tangible personal property or taxable services on behalf of a principal that is outside of this State if the principal is not the holder of a valid registration certificate;

D. Every agent, representative, salesperson, solicitor or distributor that has a substantial physical presence in this State and that receives compensation by reason of sales of tangible personal property or taxable services made outside this State by a principal for use, storage or other consumption in this State;

E. Every person that manages or operates in the regular course of business or on a casual basis a hotel, rooming house or tourist or trailer camp in this State or that collects or receives rents on behalf of a hotel, rooming house or tourist or trailer camp in this State;

F. Every person that operates a transient rental platform and reserves, arranges for, offers, furnishes or collects or receives consideration for the rental of living quarters in this State;

G. Every room remarketer;

H. Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of the owner of that property or the provider of those services;

I. Every person not otherwise required to be registered that sells tangible personal property to the State and is required to register as a condition of doing business with the State pursuant to Title 5, section 1825-B; and

J. Every person that holds a wine direct shipper license under Title 28-A, section 1403-A.

1-C. Certain activities. For purposes of subsection 1-B, the following activities do not constitute substantial physical presence in this State:

A. Solicitation of business in this State through catalogs, flyers, telephone or electronic media when delivery of ordered goods is effected by the United States mail or by an interstate 3rd-party common carrier;

B. Attending trade shows, seminars or conventions in this State;

C. Holding a meeting of a corporate board of directors or shareholders or holding a company retreat or recreational event in this State;

D. Maintaining a bank account or banking relationship in this State; or

E. Using a vendor in this State for printing.

Sec. B-12. 36 MRS §1754-B, sub-§2-B, as amended by PL 2005, c. 519, Pt. 000, §1, is further amended to read:

2-B. Issuance of resale certificates; new accounts. The assessor shall issue a ~~provisional~~ resale certificate to each applicant for initial registration that states on its application that it expects to make annual gross sales of \$3,000 or more. A ~~provisional~~ resale certificate issued between January 1st and September 30th is effective for the duration of the calendar year in which it is issued and the ~~2~~ 3 subsequent years. A ~~provisional~~ resale certificate issued between October 1st and December 31st is effective until the end of the ~~3rd~~ 4th succeeding calendar year. Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid.

Sec. B-13. 36 MRS §1754-B, sub-§2-C, as amended by PL 2013, c. 588, Pt. A, §45, is further amended to read:

2-C. Renewal of resale certificates; contents; presentation to vendor. On November 1st of each year, the assessor shall review the returns filed by each registered retailer unless the retailer has a resale certificate expiring after December 31st of that year. If the retailer reports \$3,000 or more in gross sales during the 12 months preceding the assessor's review, the assessor shall issue to the registered retailer a resale certificate effective for 5 calendar years. Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid.

A registered retailer that fails to meet the \$3,000 threshold upon the annual review of the assessor is not entitled to renewal of its resale certificate except as provided in this subsection. When any such retailer shows that its gross sales for a more current 12-month period total \$3,000 or more or explains to the satisfaction of the assessor why

temporary extraordinary circumstances caused ~~its~~ that retailer's gross sales for the period used for the assessor's annual review to be less than \$3,000, the assessor shall, upon the written request of the retailer, issue to the retailer a resale certificate effective for the next 5 calendar years.

Sec. B-14. 36 MRSA §1759, as amended by PL 2017, c. 375, Pt. H, §1, is further amended to read:

§1759. Bonds

Either as a condition for issuance or subsequent to the issuance of a registration certificate under section 1754-B, ~~or 1756 or 1951-B~~, the State Tax Assessor may require from a taxpayer a bond written by a surety company qualified to do business in this State, in an amount and upon conditions to be determined by the assessor. In lieu of a bond the assessor may accept a deposit of money or securities in an amount and of a kind acceptable to the assessor. The deposit must be delivered to the Treasurer of State, who shall safely keep it subject to the instructions of the assessor.

Sec. B-15. 36 MRSA §1760, sub-§94, as enacted by PL 2011, c. 655, Pt. PP, §3 and affected by §4, is amended to read:

94. Positive airway pressure and oxygen delivery equipment and supplies. Positive airway pressure equipment and supplies and oxygen delivery equipment sold or leased for personal use.

Sec. B-16. 36 MRSA §1811, as amended by PL 2019, c. 231, Pt. A, §10, is repealed and the following enacted in its place:

§1811. Sales tax

1. Tax imposed; rates. A tax is imposed on the value of all tangible personal property, products transferred electronically and taxable services sold at retail in this State. Value is measured by the sale price.

A. For sales occurring on or after October 1, 2013 and before January 1, 2016, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43;
- (3) Eight percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; and
- (4) Ten percent on the value of rental for a period of less than one year of an automobile, of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles or of a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty.

B. For sales occurring on or after January 1, 2016 and before May 2, 2018, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43;
- (3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; and
- (4) Ten percent on the value of rental for a period of less than one year of an automobile, of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles or of a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty.

C. For sales occurring on or after May 2, 2018 and before October 1, 2019, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43;
- (3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp;
- (4) Ten percent on the value of rental for a period of less than one year of an automobile, of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles or of a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and
- (5) Ten percent on the value of adult use marijuana and adult use marijuana products beginning on the first day of the calendar month in which adult use marijuana and adult use marijuana products may be sold in the State by a marijuana establishment licensed to conduct retail sales pursuant to Title 28-B, chapter 1.

D. For sales occurring on or after October 1, 2019, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43 and liquor sold for on-premises consumption by a licensed brewery, small brewery, winery, small winery, distillery or small distillery pursuant to Title 28-A, section 1355-A, subsection 2, paragraph F;

(3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp;

(4) Ten percent on the value of rental for a period of less than one year of an automobile, of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles or of a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and

(5) Ten percent on the value of adult use marijuana, adult use marijuana products and, if sold by a person to an individual who is not a qualifying patient, marijuana and marijuana products beginning on the first day of the calendar month in which adult use marijuana and adult use marijuana products may be sold in the State by a marijuana establishment licensed to conduct retail sales pursuant to Title 28-B, chapter 1.

2. Public utility sales; tax added to rates. The tax imposed upon the sale and distribution of gas, water or electricity by any public utility, the rates for which sale and distribution are established by the Public Utilities Commission, must be added to the rates so established.

Sec. B-17. 36 MRSA §1811-B, as amended by PL 2005, c. 332, §14 and affected by §30, is further amended to read:

§1811-B. Credit for tax paid on purchases for resale

A retailer registered under section 1754-B or 1756 may claim a credit for sales tax imposed by this Part if the retailer has paid the sales tax on tangible personal property purchased for resale at retail sale. The credit may be claimed only on the return that corresponds to the period in which the tax was paid. The credit may not be claimed if the item has been withdrawn from inventory by the retailer for the retailer's own use prior to its sale. If the retailer purchases an item for resale at retail sale and pays tax to its vendor and if the retailer's sales and use tax liability for the tax period in question is less than the credit being claimed, the retailer is entitled either to carry the credit forward or to receive a refund of the tax paid.

Sec. B-18. 36 MRSA §1819 is enacted to read:

§1819. Sourcing

1. "Receive" and "receipt" defined. For the purposes of this section, "receive" and "receipt" mean:

A. Taking possession of tangible personal property;

B. Making first use of services; or

C. Taking possession or making first use of products transferred electronically, whichever comes first.

"Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

2. Sourcing for sales of tangible personal property and taxable services. The retail sale of tangible personal property or a taxable service is sourced in this State pursuant to this subsection.

A. When the tangible personal property or taxable service is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

B. When the tangible personal property or taxable service is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee occurs, including the location indicated by instructions for delivery to the purchaser or donee known to the seller.

C. For a sale when paragraphs A and B do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

D. For a sale when paragraphs A to C do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

E. When paragraphs A to D do not apply, including the circumstance in which the seller is without sufficient information to apply paragraphs A to D, the location is determined by the address from which tangible personal property was shipped, from which the tangible personal property or taxable service transferred electronically was first available for transmission by the seller or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the tangible personal property or taxable service sold.

Sec. B-19. 36 MRSA §1863, as enacted by PL 1981, c. 503, is repealed.

Sec. B-20. 36 MRSA §1864, as enacted by PL 2001, c. 439, Pt. II, §1 and affected by §2, is amended to read:

§1864. No use tax on donations to exempt organization

A use tax is not imposed on the donation of merchandise by a retailer from inventory, including merchandise that has been returned to the retailer, to an organization if sales to that organization are exempt from sales tax under section 1760 or if that organization is exempt from taxation under the Code, Section 501(c)(3).

Sec. B-21. 36 MRSA §1951-B, as enacted by PL 2017, c. 245, §1 and affected by §2, is repealed.

Sec. B-22. Application. Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 1752, subsection 11, paragraph B; subsection 14, paragraph A; and subsection 17-B; and that enact Title 36, section 1819 apply to sales occurring on or after October 1, 2019. Those sections of this Part that amend Title 36, section 1760,

subsection 94 and that enact Title 36, section 1752, subsection 7-F apply retroactively to sales occurring on or after January 1, 2012.

PART C

Sec. C-1. 12 MRSA c. 903, sub-c. 8, as amended, is repealed.

Sec. C-2. 30-A MRSA §5250-I, sub-§8, as amended by PL 2009, c. 627, §2, is further amended to read:

8. Financial services. "Financial services" means services provided by an insurance company subject to taxation under Title 36, chapter 357; a captive insurance company formed or licensed under Title 24-A, chapter 83; a financial institution subject to taxation under Title 36, chapter 819; or a mutual fund service provider ~~as defined in Title 36, section 5212, subsection 1, paragraph E.~~

Sec. C-3. 30-A MRSA §5250-I, sub-§11-B is enacted to read:

11-B. Mutual fund service provider. "Mutual fund service provider" means a taxpayer, as defined in Title 36, section 111, subsection 7, subject to tax under Title 36, Part 8 other than a financial institution as defined in Title 36, section 5206-D, subsection 8, that derives more than 50% of its gross income from the direct or indirect provision of management, distribution or administration services to or on behalf of a regulated investment company or from trustees, sponsors and participants of employee benefit plans that have accounts in a regulated investment company.

Sec. C-4. 36 MRSA §191, sub-§2, ¶WW, as repealed and replaced by PL 2013, c. 331, Pt. B, §4, is repealed.

Sec. C-5. 36 MRSA §5122, sub-§1, ¶GG, as amended by PL 2015, c. 1, §2, is repealed.

Sec. C-6. 36 MRSA §5142, sub-§3-A, as amended by PL 2007, c. 627, §83, is further amended to read:

3-A. Gain or loss on sale of partnership interest. Notwithstanding subsection 3, the gain or loss on the sale of a partnership interest is sourced to this State in an amount equal to the gain or loss multiplied by the ratio obtained by dividing the original cost of partnership tangible property located in Maine by the original cost of partnership tangible property everywhere, determined at the time of the sale. Tangible property includes property owned or rented and is valued in accordance with section 5211, subsection 10. If more than 50% of the value of the partnership's assets ~~consist~~ consists of intangible property, gain or loss from the sale of the partnership interest is sourced to this State in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold. For purposes of this subsection, the sales factor of a partnership is determined in accordance with section 5211, ~~subsections~~ subsection 14, subsection 15 and subsection 16-A, paragraphs A to E. This subsection does not apply to the sale of a limited partner's interest in an investment partnership where more than 80% of the value of the

partnership's total assets consists of intangible personal property held for investment, except that such property cannot include an interest in a partnership unless that partnership is itself an investment partnership.

If the apportionment provisions of this ~~section~~ subsection do not fairly represent the extent of the partnership's business activity in this State, the taxpayer may petition for, or the State Tax Assessor may require, in respect to all or any part of the partnership's business activity the employment of any other method to effectuate an equitable apportionment to this State of the partner's income from the sale of the partnership interest.

Sec. C-7. 36 MRSA §5147 is enacted to read:

§5147. Installment sale election

Notwithstanding any provision of this Part to the contrary, an individual who transferred, during the taxable year, real or tangible property located in this State under an installment sale agreement may elect to recognize, for purposes of determining the taxable income under this chapter, the total gain or loss from that sale in the taxable year of the transfer, or to recognize any remaining gain or loss in a subsequent tax year to the extent of the gain or loss not reported in a prior tax year. An election under this section is not available to an individual unless that individual is a nonresident of this State at the time of the transfer or at the time the election is made. An election under this section must be made on a timely filed original income tax return, including if filed by any extension granted for filing the return, and, once made, is irrevocable.

Sec. C-8. 36 MRSA §5200-A, sub-§1, ¶Z, as amended by PL 2015, c. 1, §8, is repealed.

Sec. C-9. 36 MRSA §5211, sub-§16-A, ¶F, as enacted by PL 2007, c. 240, Pt. V, §9 and affected by §15, is repealed and the following enacted in its place:

F. Gross receipts on the sale of a partnership interest must be sourced to this State in an amount equal to the gross receipts multiplied by the ratio obtained by dividing the original cost of partnership tangible property located in Maine by the original cost of partnership tangible property everywhere, determined at the time of the sale. Tangible property includes property owned or rented and is valued in accordance with subsection 10. If more than 50% of the value of the partnership's assets consists of intangible property, gross receipts from the sale of the partnership interest must be sourced to this State in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold. For purposes of this paragraph, the sales factor of a partnership is determined in accordance with subsection 14, subsection 15 and subsection 16-A, paragraphs A to E. This paragraph does not apply to the sale of a limited partner's interest in an investment partnership when more than 80% of the value of the partnership's total assets consists of intangible personal property held for investment, except that such property cannot include an interest in a partnership unless that partnership is itself an investment partnership.

Sec. C-10. 36 MRSA §5212, as amended by PL 2007, c. 240, Pt. V, §13, is repealed.

Sec. C-11. 36 MRSA §5216-D, as amended by PL 2011, c. 548, §30 and affected by §36 and as amended by c. 644, §28 and affected by §33, is repealed.

Sec. C-12. 36 MRSA §5217-D, sub-§1, ¶G, as amended by PL 2015, c. 482, §3, is further amended to read:

G. "Qualified individual" means an individual, including the spouse filing a joint return with the individual under section 5221, who is eligible for the credit provided in this section. An individual is eligible for the credit if the individual:

(1) Attended and obtained:

(a) An associate or bachelor's degree from an accredited Maine community college, college or university after December 31, 2007 but before January 1, 2016. The individual need not obtain the degree from the institution in which that individual originally enrolled as long as all course work toward the degree is performed at an accredited Maine community college, college or university, except that an individual who transfers to an accredited Maine community college, college or university after December 31, 2012 but before January 1, 2016 from outside the State and earned no more than 30 credit hours of course work toward the degree at an accredited non-Maine community college, college or university after December 31, 2007 and prior to the transfer is eligible for the credit if all other eligibility criteria are met. Program eligibility for such an individual must be determined as if the commencement of course work at the relevant accredited Maine community college, college or university was the commencement of course work for the degree program as a whole. This division does not apply to tax years beginning after December 31, 2015;

(a-1) For tax years beginning on or after January 1, 2016, an associate or bachelor's degree from an accredited Maine community college, college or university after December 31, 2007 but before January 1, 2016, regardless of whether the individual earned credit hours of course work toward the degree outside the State;

(b) An associate or bachelor's degree from an accredited Maine or non-Maine community college, college or university after December 31, 2015; or

(c) A graduate degree from an accredited Maine college or university after December 31, 2015;

(4) During the taxable year, was a resident individual; and

(5) Worked during the taxable year:

(a) For tax years beginning prior to January 1, 2015, at least part time for an employer located in this State or, for tax years beginning on or after January 1, 2013, was, during the taxable year, deployed for military service in the

United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces;

(b) For tax years beginning on or after January 1, 2015, at least part time in this State for an employer or as a self-employed individual or was, during the taxable year, deployed for military service in the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces; or

(c) For tax years beginning on or after January 1, 2016, at least part time in a position on a vessel at sea.

As used in this subparagraph, "deployed for military service" ~~has the same meaning as in Title 26, section 814, subsection 1, paragraph A~~ means active military duty with the state military forces, as defined in Title 37-B, section 102, or the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces, whether pursuant to orders of the Governor or the President of the United States.

Sec. C-13. 36 MRSA §5219-HH, sub-§6-A is enacted to read:

6-A. Interest inapplicable. Notwithstanding any provision of this Title to the contrary, interest does not accrue during any period of delay as the result of the fiscal year credit limit imposed by Title 10, section 1100-Z, subsection 4 of any payment to a taxpayer pursuant to this section.

Sec. C-14. 36 MRSA §5250, sub-§5 is enacted to read:

5. Fiscal agents. Fiduciaries, agents and other persons designated in accordance with the Code, Section 3504 to perform acts required of employers may, at the discretion of the assessor, be designated to perform acts required of employers for the purposes of complying with the requirements of this section. Designation by the assessor is subject to the terms and conditions the assessor may require. Except as may be otherwise prescribed by rule, all provisions of this Title applicable with respect to an employer, to the extent that such provision has application to the provisions of this section, including the provisions of section 177, are applicable to the designated fiduciary, agent or other person, including, but not limited to, provisions governing assessment of liability and application of interest and penalties. Notwithstanding the immediately preceding sentence, an employer for which a fiduciary, agent or other person acts remains subject to the provisions of this Title applicable with respect to employers.

Sec. C-15. IB 2017, c. 1, Pt. B, §2 is repealed.

Sec. C-16. Application; retroactive application. Those sections of this Part that enact the Maine Revised Statutes, Title 36, section 5147; that amend Title 36, section 5142, subsection 3-A; that repeal Title 12, chapter 903, subchapter 8 and Title 36, section 5122, subsection 1, paragraph GG; section 5200-A, subsection 1, paragraph Z; section 5212; and section 5216-D; and that repeal and replace Title 36, section 5211, subsection 16-A, paragraph F apply to tax years beginning on or after January 1, 2019. That section

of this Part that amends Title 36, section 5217-D, subsection 1, paragraph G applies retroactively to tax years beginning on or after January 1, 2013.

PART D

Sec. D-1. 36 MRSA §5219-QQ, sub-§2, ¶E, as amended by PL 2017, c. 375, Pt. D, §3 and c. 405, §1, is repealed and the following enacted in its place:

E. 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 D 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 if the applicant or transferee ceases operations of the headquarters 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 D. A certified applicant whose certificate of completion is revoked within 5 years after the date issued shall return 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 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. If credit amounts are recaptured after a certificate of approval has been transferred as provided in paragraph D, the transferee is responsible for payment of any credit amounts that must be returned to the State. 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.

Sec. D-2. 36 MRSA §5219-QQ, sub-§3, as amended by PL 2017, c. 375, Pt. D, §4 and c. 405, §1, is repealed and the following enacted in its place:

3. Refundable credit allowed. A certified applicant who has received a certificate of completion is allowed a credit as provided in this subsection.

A. Subject to the limitations under paragraph B, beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2020, whichever is later, and for each of the following 19 tax years, a certified applicant is allowed a credit against the tax due under this Part for the taxable year in an amount equal to 2% of the amount of actual qualified investment specified on the certified applicant's certificate of completion under subsection 2, paragraph F or the amount of qualified investment approved by the commissioner in the certificate of approval under subsection 2, paragraph B, whichever is less. The credit allowed under this paragraph is refundable.

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 10 tax years for which the credit is claimed, there must be a total of at least 80 additional 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 which the credit was claimed multiplied by the number of years for which the credit has been claimed, including the tax year for which the credit is currently being claimed.

(b) For each tax year after the 10th tax year for which the credit is claimed, the taxpayer must employ a total of at least 800 additional 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 which the credit was claimed.

Jobs for additional full-time employees that are counted for determining eligibility for the credit under one certificate of completion may not be counted for determining eligibility for the credit under a separate certificate of completion. For purposes of this paragraph, "additional full-time employees" does not include employees who are shifted to a certified applicant's headquarters 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 paragraph, "affiliated business" has the same meaning as in section 6753, subsection 1-A.

(2) Cumulative credits under this subsection may not exceed \$16,000,000 under any one certificate.

Sec. D-3. 36 MRS §5219-QQ, sub-§4, as amended by PL 2017, c. 375, Pt. D, §4 and c. 405, §1, is repealed and the following enacted in its place:

4. Reporting required. A certified applicant, the commissioner and the State Tax Assessor are required to make reports pursuant to this subsection.

A. On or before March 1st of each year, a certified applicant shall file a report with the commissioner for the tax year ending during the immediately preceding calendar year, referred to in this subsection as "the report year," containing the following information:

(1) The number of all full-time employees based in this State of the certified applicant on the last day of the report year;

(2) The incremental amount of qualified investment made in the report year;

(3) The total number of additional full-time employees added in the State by the certified applicant above the certified applicant's base level of employment since the date a certificate of approval was issued;

(4) The incremental number of additional full-time employees added in the State by the certified applicant above the certified applicant's base level of employment during the report year;

(5) The average and median wages of all additional full-time employees above the certified applicant's base level of employment in the State whose jobs were added since the first day of the first tax year for which the credit was claimed; and

(6) The percentage and number of all additional full-time employees above the certified applicant's base level of employment who have access to retirement benefits and health benefits.

The commissioner may prescribe forms for the annual report described in this paragraph. The commissioner shall provide copies of the report to the State Tax Assessor and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received.

B. By December 31st of each year, the State Tax Assessor shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during the report year as a result of this section for each taxpayer claiming the credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to this section, consisting of the amount of the credit used to reduce the tax liability of the taxpayer and the amount of the credit refunded to the taxpayer, stated separately.

Notwithstanding any other provision of law to the contrary, the reports provided under this subsection are public records as defined in Title 1, section 402, subsection 3.

Sec. D-4. 36 MRSA §5219-QQ, sub-§5, as enacted by PL 2017, c. 375, Pt. D, §5, is reallocated to 36 MRSA §5219-QQ, sub-§6.

PART E

Sec. E-1. 36 MRSA §191, sub-§2, ¶HHH is enacted to read:

HHH. The disclosure of information to an authorized representative of the Public Utilities Commission for use in the commission's administration and oversight of the E-9-1-1 funding under Title 25, section 2927, the state universal service fund under Title 35-A, section 7104 and the telecommunications education access fund under Title 35-A, section 7104-B. The assessor shall apprise the authorized representative of the provisions regarding confidentiality of such information and of the continuing confidential nature of the disclosed information.