

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out all of sections 6 and 7 (page 3, lines 8 to 39 and page 4, lines 1 to 4 in L.D.) and inserting the following:

‘**Sec. 6. 36 MRSA §193**, as repealed and replaced by PL 2005, c. 332, §10 and affected by §30, is amended to read:

**§ 193. Returns; declaration covering perjury; submission of returns and funds by electronic means**

**1. Declaration required.** Any return, report or other document required to be filed pursuant to this Title must contain a declaration, in a form prescribed by the State Tax Assessor, that the statements contained in the return, report or other document are true and are made under the penalties of perjury. When a tax return is filed electronically by a taxpayer or with the taxpayer's permission, the filing of that return constitutes a sworn statement by the taxpayer, made under the penalties of perjury, that the tax liability shown on the return is correct.

**2. Electronic filing.** ~~The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services may allow or, as provided in this subsection, require~~adopt a rule ~~allowing or requiring~~ the filing of a return or document by electronic data submission ~~or by telephone. The rule must establish thresholds or phase-in periods to assist taxpayers and preparers in complying with any electronic data submission requirement.~~

A. ~~In~~Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of an employer that submits returns in accordance with section 5253 with respect to 100 or more employees, whether the returns are submitted directly by the employer or by a 3rd party on behalf of the employer, the assessor may require that the returns be filed by electronic data submission.

B. ~~In~~Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222 that submits returns pursuant to section 5253 or Title 26, chapter 13, subchapter 7 for 100 or more employers, the assessor may require that the returns be filed by electronic data submission.

**3. Payment by electronic funds transfer.** ~~The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services, may allow or, as provided in this subsection, require~~adopt a rule allowing or requiring the payment of a tax or the refund of a tax by electronic funds transfer. An electronic funds transfer allowed or required by the assessor pursuant to this subsection in payment of a tax obligation to the State is considered a return. For the purposes of this subsection, "tax" includes unemployment insurance contributions required to be paid to the State pursuant to Title 26.

A. ~~In~~Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a person that is liable for \$200,000 or more per year pursuant to section 5253 or for \$400,000 or more per year in payments of any other single tax type, the assessor may require payment or refund of that tax by electronic funds transfer.

B. ~~In~~Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222, the assessor may require payment or refund of taxes pursuant to section 5253 and unemployment insurance contributions pursuant to Title 26, chapter 13, subchapter 7 by electronic funds transfer.

**4. Adoption of rules.** ~~The State Tax Assessor may adopt rules to establish procedures necessary to implement the provisions of this section and shall adopt rules in the event that payment of taxes by electronic funds transfer is mandated. Rules adopted pursuant to this subsection~~are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

Amend the bill by striking out all of sections 10 to 12 (page 6, lines 1 to 43 and page 7, lines 1 to 13 in L.D.) and inserting the following:

**‘Sec. 10. 36 MRSA §693, sub-§1,** as enacted by PL 2005, c. 623, §1, is amended to read:

**1. Reporting.** On or before May 1st of each year, a taxpayer claiming an exemption under this section shall file a report with the assessor of the taxing jurisdiction in which the property would otherwise be subject to taxation on April 1st of that year. The report must identify the property for which exemption is claimed that would otherwise be subject to taxation on April 1st of that year and must be made on a form prescribed by the State Tax Assessor or substitute form approved by the State Tax Assessor. The State Tax Assessor shall furnish copies of the form to each municipality in the State and the form must be made available to taxpayers prior to April 1st annually. The assessor of the taxing jurisdiction may require the taxpayer to sign the form and make oath to its truth. Upon written request, the assessor may at any time grant extensions of time to file the report. ~~Failure~~If a taxpayer fails to file the report in a timely manner, including any extensions of time, disqualifies the taxpayer may not obtain an exemption for that property involved from exemption under this subchapter for that tax year. The assessor of the taxing jurisdiction may require in writing that a taxpayer answer in writing all reasonable inquiries as to the property for which exemption is requested. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. The answer to any such inquiry is not binding on the assessor.

All notices and requests provided pursuant to this subsection must be made by personal delivery or certified mail and must conspicuously state the consequences of the taxpayer's failure to respond to the notice or request in a timely manner.

If an exemption has already been accepted and the State Tax Assessor subsequently determines that the property is not entitled to exemption, a supplemental assessment must be made within 3 years of the original assessment date with respect to the property in compliance with section 713, without regard to the limitations contained in that section regarding the justification necessary for a supplemental assessment.

**Sec. 11. 36 MRSA §1752, sub-§11, ¶A**, as amended by PL 2005, c. 218, §14, is further amended to read:

A. "Retail sale" includes:

(1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later; and

(2) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. The tax must be paid by the retailer to the State;

(3) A sale in the ordinary course of business by a retailer to a purchaser who is not engaged in selling that kind of tangible personal property or taxable service in the ordinary course of repeated and successive transactions of like character; and

(4) The sale or liquidation of a business or the sale of substantially all of the assets of a business, to the extent that the seller purchased the assets of the business for resale, lease or rental in the ordinary course of business, except when:

(a) The sale is to an affiliated entity and the transferee, or ultimate transferee in a series of transactions among affiliated entities, purchases the assets for resale, lease or rental in the ordinary course of business; or

(b) The sale is to a person that purchases the assets for transfer to an affiliate, directly or through a series of transactions among affiliated entities, for resale, lease or rental in the ordinary course of business.

For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct and indirect affiliates.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## SUMMARY

This amendment expands the authority of the State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services, to adopt a rule requiring the filing of returns

or other documents and the payment of tax obligations, by electronic data submission. The phrase "or by telephone" is deleted as that term is included within the meaning of the phrase "electronic data submission."

This amendment provides additional clarification regarding the timeliness of requests for exemption under the business equipment tax exemption laws.

This amendment also provides additional clarification regarding the sales tax treatment of the sale of assets of a business in connection with the sale or liquidation of the business.