



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 988

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S.P. 333

In Senate, March 12, 2013

### 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 black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator HASKELL of Cumberland.  
Cosponsored 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 §111, sub-§1-C**, as enacted by PL 2011, c. 694, §2, is amended  
3 to read:

4 **1-C. Board.** ~~"Board"~~ For purposes of sections 151 and 151-D and section 191,  
5 subsection 2, paragraphs C and WW, "board" means the Maine Board of Tax Appeals as  
6 established in Title 5, section 12004-B, subsection 10.

7 **Sec. 2. 36 MRSA §112, sub-§7-A**, as amended by PL 2001, c. 396, §2, is further  
8 amended to read:

9 **7-A. Taxpayer Bill of Rights.** The assessor shall prepare a statement describing in  
10 simple and nontechnical terms the rights of a taxpayer and the obligations of the bureau  
11 during an audit. The statement must also explain the procedures by which a taxpayer  
12 may appeal any adverse decision of the assessor, including ~~the informal conference~~  
13 reconsideration under section 151, appeals to the Maine Board of Tax Appeals and  
14 judicial appeals. This statement must be distributed by the bureau to any taxpayer  
15 contacted with respect to the determination or collection of any tax, excluding the normal  
16 mailing of tax forms. This paragraph does not apply to criminal tax investigations  
17 conducted by the assessor or by the Attorney General.

18 **Sec. 3. 36 MRSA §144, sub-§1**, as amended by PL 2011, c. 1, Pt. DD, §1 and  
19 affected by §4, is further amended to read:

20 **1. Generally.** A taxpayer may request a credit or refund of any tax that is imposed  
21 by this Title or administered by the State Tax Assessor within 3 years from the date the  
22 return was filed or 3 years from the date the tax was paid, whichever period expires later.  
23 Every claim for refund must be submitted to the assessor in writing and must state the  
24 specific grounds upon which the claim is founded and the tax period for which the refund  
25 is claimed. ~~If the taxpayer requests in writing an informal conference regarding the claim~~  
26 ~~for refund, the~~ A claim for refund is deemed to be a request for reconsideration of an  
27 assessment under section 151.

28 **Sec. 4. 36 MRSA §151-A, sub-§2**, as enacted by PL 1989, c. 848, §4, is amended  
29 to read:

30 **2. Representative of taxpayer.** The taxpayer may bring to any interview ~~or~~  
31 ~~informal conference~~ any attorney, certified public accountant, enrolled agent, enrolled  
32 actuary or any other person permitted to represent the taxpayer. If the taxpayer does not  
33 bring anyone to the ~~conference~~ interview but clearly states at any time during the  
34 ~~informal conference~~ interview that the taxpayer wishes to consult with an attorney,  
35 certified public accountant, enrolled agent, enrolled actuary or any other person permitted  
36 to represent the taxpayer, the State Tax Assessor shall suspend the interview. The  
37 suspension must occur even if the taxpayer has answered one or more questions before  
38 that point in the interview. The ~~conference~~ interview must be rescheduled to be held  
39 within 10 working days.

1           **Sec. 5. 36 MRSA §175, sub-§2**, as amended by PL 2011, c. 380, Pt. J, §8, is  
2 further amended to read:

3           **2. Failure to file or pay taxes; determination to prevent renewal, reissuance or**  
4 **other extension of license or certificate.** If the assessor determines that a person who  
5 holds a license or certificate of authority issued by this State to conduct a profession,  
6 trade or business has failed to file a return at the time required under this Title or to pay a  
7 tax liability due under this Title that has been demanded, other than taxes due pursuant to  
8 Part 2, and the person continues to fail to file or pay after at least 2 specific written  
9 notices, each giving 30 days to respond, have been sent by first-class mail, then the  
10 assessor shall notify the person by certified mail or personal service that continued failure  
11 to file the required tax return or to pay the overdue tax liability may result in loss of the  
12 person's license or certificate of authority. If the person continues for a period in excess  
13 of 30 days from notice of possible denial of renewal or reissuance of a license or  
14 certificate of authority to fail to file or show reason why the person is not required to file  
15 or if the person continues not to pay, the assessor shall notify the person by certified mail  
16 or personal service of the assessor's determination to prevent renewal, reissuance or  
17 extension of the license or certificate of authority by the issuing agency. A review of this  
18 determination is available by requesting reconsideration ~~under section 151, subject to~~  
19 ~~appeal to the Superior Court~~ as provided in section 151. Either by failure to proceed to  
20 the next step of appeal or by exhaustion of the steps of appeal, the determination to  
21 prevent renewal or reissuance of the license or certificate of authority becomes final  
22 unless otherwise determined on appeal. In any event, the license or certificate of  
23 authority remains in effect until all appeals have been taken to their final conclusion.

24           **Sec. 6. 36 MRSA §175, sub-§6**, as amended by PL 2009, c. 496, §5, is further  
25 amended to read:

26           **6. Certificate of good standing.** The assessor must issue a certificate of good  
27 standing to the person conditioned upon the person's agreement to complete obligations  
28 under this Title. If the person fails to complete obligations under this Title in accordance  
29 with that agreement, the assessor may notify the person and the issuing agency of the  
30 assessor's determination to revoke the license or certificate of authority. A review of this  
31 determination is available by requesting reconsideration ~~under section 151, subject to~~  
32 ~~appeal to the Superior Court~~ as provided in section 151. Either by failure to proceed to  
33 the next step of appeal or by exhaustion of the steps of appeal, the determination to  
34 revoke the license or certificate of authority becomes final unless otherwise determined  
35 on appeal. The issuing agency, on receipt of notice that the determination to revoke the  
36 license or certificate of authority has become final, shall revoke the license or certificate  
37 of authority within 30 days. The assessor and the licensee may agree to nonbinding  
38 mediation for an agreement to complete obligations under this Title.

39           **Sec. 7. 36 MRSA §187-B, sub-§6**, as amended by PL 2007, c. 693, §6, is further  
40 amended to read:

41           **6. Penalties not exclusive.** Each penalty provided under this section is in addition to  
42 any interest and other penalties provided under this section and other law, except as  
43 otherwise provided in this section. Interest may not accrue on the penalty. This section

1 does not apply to any filing or payment responsibility pursuant to Part 2 except that this  
2 section does apply to a filing or payment responsibility pursuant to the state ~~tax on~~  
3 telecommunications ~~personal property excise tax~~ imposed under section 457. The  
4 penalties imposed under subsections 1 and 2 accrue automatically, without being assessed  
5 by the State Tax Assessor. Each penalty imposed under this section is recoverable by the  
6 assessor in the same manner as if it were a tax assessed under this Title.

7 **Sec. 8. 36 MRSA §1760, sub-§45**, as corrected by RR 2011, c. 2, §40, is  
8 amended to read:

9 **45. Certain property purchased outside State.** Sales of property purchased and  
10 used by the present owner outside the State:

11 A. If the property is an automobile, as defined in Title 29-A, section 101, subsection  
12 7, and if the owner is an individual who was, at the time of purchase, a resident of the  
13 other state;

14 A-2. If the property is a snowmobile or all-terrain vehicle as defined in Title 12,  
15 section 13001 and the purchaser is an individual who is not a resident of the State;

16 A-3. If the property is an aircraft not exempted under subsection 88 or 88-A and the  
17 owner at the time of purchase was a resident of another state or tax jurisdiction and  
18 the aircraft is present in this State not more than 20 days during the 12 months  
19 following its purchase, exclusive of days during which the aircraft is in this State for  
20 the purpose of undergoing "major alterations," "major repairs" or "preventive  
21 maintenance" as those terms are described in 14 Code of Federal Regulations,  
22 Appendix A to Part 43, as in effect on January 1, 2005. For the purposes of this  
23 paragraph, the location of an aircraft on the ground in the State at any time during a  
24 day is considered presence in the State for that entire day, and a day must be  
25 disregarded if at any time during that day the aircraft is used to provide free  
26 emergency or compassionate air transportation arranged by an incorporated nonprofit  
27 organization providing free air transportation in private aircraft by volunteer pilots so  
28 children and adults may access life-saving medical care;

29 A-4. If the property is brought into this State solely to conduct activities directly  
30 related to a declared state disaster or emergency, at the request of the State, a county,  
31 city, town or political subdivision of the State or a registered business, the property is  
32 owned by a person not otherwise required to register as a seller under section 1754-B  
33 and the property is present in this State only during a disaster period. As used in this  
34 paragraph, "declared state disaster or emergency" has the same meaning as in Title  
35 10, section 9902, subsection 1 and "disaster period" means the period of 60 days that  
36 begins with the date of the Governor's proclamation of a state of emergency or the  
37 declaration by the President of the United States of a major disaster or major  
38 emergency, whichever occurs first; or

39 B. For more than 12 months in all other cases.

40 Property, other than automobiles, ~~watercraft~~, snowmobiles, all-terrain vehicles and  
41 aircraft, that is required to be registered for use in this State does not qualify for this  
42 exemption unless it was registered by its present owner outside this State more than 12  
43 months prior to its registration in this State. If property required to be registered for use

1 in this State was not required to be registered for use outside this State, the owner must be  
2 able to document actual use of the property outside this State for more than 12 months  
3 prior to its registration in this State. For purposes of this subsection, "use" does not  
4 include storage but means actual use of the property for a purpose consistent with its  
5 design.

6 **Sec. 9. 36 MRSA §1764**, as amended by PL 2011, c. 548, §17, is further amended  
7 to read:

8 **§1764. Tax against certain casual sales**

9 The tax imposed by this Part must be levied upon all casual rentals of living quarters  
10 in a hotel, rooming house, tourist camp or trailer camp and upon all casual sales involving  
11 the sale of trailers, truck campers, motor vehicles, special mobile equipment, watercraft  
12 or aircraft unless the property is sold for resale at retail sale or to a corporation,  
13 partnership, limited liability company or limited liability partnership when the seller is  
14 the owner of ~~a majority~~ 50% or more of the common stock of the corporation or of the  
15 ownership interests in the partnership, limited liability company or limited liability  
16 partnership. This section does not apply to the rental of living quarters rented for a total  
17 of fewer than 15 days in the calendar year, except that a person who owns and offers for  
18 rental more than one property in the State during the calendar year is liable for collecting  
19 sales tax with respect to the rental of each unit regardless of the number of days for which  
20 it is rented. For purposes of this section, "special mobile equipment" does not include  
21 farm tractors and lumber harvesting vehicles or loaders.

22 **Sec. 10. 36 MRSA §2011, 2nd ¶**, as amended by PL 2005, c. 218, §29, is further  
23 amended to read:

24 A taxpayer dissatisfied with the decision of the assessor, upon a written request for  
25 refund filed under this section may request reconsideration and appeal from the  
26 reconsideration ~~to the Superior Court~~ in the same manner and under the same conditions  
27 as in the case of assessments made under chapter 7. The decision of the assessor upon a  
28 written request for refund becomes final as to law and fact in the same manner and under  
29 the same conditions as in the case of assessments made under chapter 7.

30 **Sec. 11. 36 MRSA §2515**, as amended by PL 2007, c. 240, Pt. KKKK, §3 and  
31 affected by §7, is further amended to read:

32 **§2515. Amount of tax**

33 In determining the amount of tax due under ~~section~~ sections 2513 and 2531, each  
34 company shall deduct from the full amount of gross direct premiums the amount of all  
35 direct return premiums on the gross direct premiums and all dividends paid to  
36 policyholders on direct premiums, and the tax must be computed by those companies or  
37 their agents. Except when direct return premiums are returned in the same tax year that  
38 the premium was paid, the deduction allowed in this section may be taken only if the tax  
39 under this Part has been paid.

1           **Sec. 12. 36 MRSA §2555, 2nd ¶**, as enacted by PL 2003, c. 673, Pt. V, §25 and  
2 affected by §29, is amended to read:

3           A taxpayer dissatisfied with the decision of the assessor, upon a written request for  
4 refund filed under this section, may request reconsideration and appeal from the  
5 reconsideration ~~to the Superior Court~~ in the same manner and under the same conditions  
6 as in the case of assessments made under chapter 7. The decision of the assessor upon  
7 such written request for refund becomes final as to law and fact in the same manner and  
8 under the same conditions as in the case of assessments made under chapter 7.

9           **Sec. 13. 36 MRSA §4075-A, sub-§1**, as amended by PL 2011, c. 1, Pt. DD, §2  
10 and affected by §4, is further amended to read:

11           **1. Refund.** A personal representative or responsible party otherwise liable for the  
12 tax imposed by this chapter may request a refund of any tax imposed by this chapter  
13 within 3 years from the date the return was filed or 3 years from the date the tax was paid,  
14 whichever period expires later. Every claim for refund must be submitted to the State  
15 Tax Assessor in writing and must state the specific grounds upon which the claim is  
16 founded. The claimant may in writing request ~~an informal conference~~ reconsideration  
17 regarding the denial of the claim for refund pursuant to section 151.

18           **Sec. 14. 36 MRSA §4102, sub-§1**, as enacted by PL 2011, c. 380, Pt. M, §9, is  
19 amended to read:

20           **1. Adjusted federal gross estate.** "Adjusted federal gross estate" means a  
21 decedent's federal gross estate as modified by ~~Maine qualified terminable interest~~  
22 ~~property~~, Maine elective property and the value of all taxable gifts as defined under the  
23 Code, Section 2503 made by the decedent during the one-year period ending on the date  
24 of the decedent's death.

25           **Sec. 15. 36 MRSA §4107, sub-§2, ¶B**, as enacted by PL 2011, c. 380, Pt. M, §9,  
26 is amended to read:

27           B. The federal gross estate, increased by the ~~amount~~ value of ~~adjusted~~ all taxable  
28 gifts as defined under the Code, Section 2503 made by the decedent ~~after December~~  
29 ~~31, 1976~~ and by the aggregate amount of any specific gift tax exemption under  
30 ~~former Code, Section 2521~~ used by the decedent ~~after September 8, 1976~~ exceed  
31 during the one-year period ending on the date of the decedent's death and the value of  
32 Maine elective property, exceeds the Maine exclusion amount.

33           **Sec. 16. 36 MRSA §4115, sub-§1**, as enacted by PL 2011, c. 380, Pt. M, §9, is  
34 amended to read:

35           **1. Refund.** A personal representative or responsible party otherwise liable for the  
36 tax imposed by this chapter may request a refund of any tax imposed by this chapter  
37 within 3 years from the date the Maine estate tax return was filed or 3 years from the date  
38 the tax was paid, whichever period expires later. A claim for refund must be submitted to  
39 the assessor in writing and must state the specific grounds upon which the claim is

1 founded. The claimant may in writing request ~~an informal conference~~ reconsideration  
2 regarding the denial of the claim for refund pursuant to section 151.

3 **Sec. 17. 36 MRSA §4302, sub-§2**, as amended by PL 1997, c. 511, §7, is further  
4 amended to read:

5 **2. Processor.** "Processor" means a person, firm, partnership, association or  
6 corporation first engaged in the fresh packing, canning, freezing, pressing, grinding,  
7 juicing or dehydrating of wild blueberries whether as owner, agent or otherwise.

8 **Sec. 18. 36 MRSA §4302, sub-§3**, as amended by PL 1997, c. 511, §8, is further  
9 amended to read:

10 **3. Seller.** "Seller" means a person, firm, partnership, association or corporation  
11 offering ~~fresh~~ unprocessed wild blueberries for sale, either to themselves or to others.

12 **Sec. 19. 36 MRSA §4302, sub-§5-A** is enacted to read:

13 **5-A. Unprocessed wild blueberries.** "Unprocessed wild blueberries" means wild  
14 blueberries that have not been fresh packed, canned, frozen, pressed, ground, juiced or  
15 dehydrated.

16 **Sec. 20. 36 MRSA §4303**, as amended by PL 2001, c. 147, §1, is further amended  
17 to read:

18 **§4303. Rate of tax**

19 There is levied and imposed a tax at the rate of ~~3/4¢~~ 1 1/2¢ per pound of ~~fresh fruit~~ on  
20 all ~~fresh~~ wild blueberries ~~grown, purchased, sold, handled or~~ processed in this State and  
21 on all unprocessed wild blueberries shipped to a destination outside this State. The tax is  
22 computed on a ~~fresh fruit~~ basis, ~~regardless of how~~ the gross weight of the wild blueberries  
23 are processed as delivered prior to any processing or shipping. The processor that first  
24 receives unprocessed wild blueberries in the State, or the shipper that transports  
25 unprocessed wild blueberries to a destination outside the State, is responsible for  
26 reporting and paying the tax.

27 A processor or shipper responsible for reporting and paying the tax imposed by this  
28 section shall charge and collect 1/2 of the tax levied under this section.

29 **Sec. 21. 36 MRSA §4303-A**, as amended by PL 2001, c. 147, §2, is repealed.

30 **Sec. 22. 36 MRSA §4304**, as amended by PL 1997, c. 511, §13, is repealed.

31 **Sec. 23. 36 MRSA §4305, sub-§3, ¶A**, as enacted by PL 2007, c. 694, §5, is  
32 amended to read:

33 A. Failure to pay the tax imposed by section 4303 ~~or 4303-A~~;

34 **Sec. 24. 36 MRSA §4306**, as amended by PL 2001, c. 147, §3, is repealed.

1           **Sec. 25. 36 MRSA §4307**, as amended by PL 2001, c. 147, §4, is further amended  
2 to read:

3           **§4307. Records and reports; payment of tax**

4           Every processor or shipper responsible for reporting and paying the tax imposed by  
5 section 4303 shall, on or before November 1st of each year, report to the State Tax  
6 Assessor the quantity of wild blueberries ~~grown, purchased or sold by that processor or~~  
7 ~~shipper~~ processed in this State or shipped to a destination outside the State during the  
8 current season, on forms furnished by the State Tax Assessor. The report must contain  
9 the information pertinent to ~~the purchase or sale~~ collection of tax under this chapter as the  
10 State Tax Assessor prescribes. With the report, each processor or shipper shall forward  
11 payment of the ~~tax at the rate of full~~ 1 1/2¢ per pound tax upon all wild blueberries  
12 reported ~~as grown, sold or purchased~~.

13           **Sec. 26. 36 MRSA §4311-A, first ¶**, as amended by PL 1997, c. 511, §18, is  
14 further amended to read:

15           Money received from the tax levied by ~~sections~~ section 4303 ~~and 4303-A~~ must be  
16 appropriated for the following purposes:

17           **Sec. 27. 36 MRSA §4311-A, sub-§1-A**, as enacted by PL 1997, c. 511, §18, is  
18 amended to read:

19           **1-A. Transfer, allocation and appropriation.** Money received by the Treasurer of  
20 State under this chapter, including all receipts of taxes levied under ~~sections~~ section 4303  
21 ~~and 4303-A~~, must be transferred to the Wild Blueberry Commission of Maine in its  
22 capacity as an independent agency on a monthly basis by the 15th of the month following  
23 collection and be used for all activities of the commission authorized under this chapter.  
24 All money received by the Treasurer of State under this chapter, including all receipts of  
25 taxes levied under ~~sections~~ section 4303 ~~and 4303-A~~, must be allocated or appropriated to  
26 the commission by the Legislature. Money received by the commission does not lapse  
27 and may be invested until expended for activities authorized under this chapter;

28           **Sec. 28. 36 MRSA §4402, sub-§5**, as enacted by PL 2005, c. 627, §7, is amended  
29 to read:

30           **5. Revocation or suspension.** The assessor may revoke or suspend the license of  
31 any distributor for failure to comply with any provision of this chapter or if the person no  
32 longer imports or sells tobacco products. A person aggrieved by a revocation or  
33 suspension may ~~petition the assessor for a hearing~~ request reconsideration as provided in  
34 section 151.

35           **Sec. 29. 36 MRSA §5122, sub-§2, ¶HH**, as amended by PL 2011, c. 644, §16  
36 and affected by §32, is further amended to read:

37           HH. To the extent included in federal adjusted gross income, annuity payments made  
38 to the survivor of a deceased member of the military who died as the result of service  
39 in active or reserve components of the United States Army, Navy, Air Force, Marines



1 or Coast Guard under a survivor benefit plan or reserve component survivor benefit  
2 plan pursuant to 10 United States Code, Chapter 73 reduced by any amount claimed  
3 as a modification under paragraph M or M-1;

4 **Sec. 30. 36 MRSA §5122, sub-§2, ¶LL**, as enacted by PL 2011, c. 657, Pt. M,  
5 §1 and affected by §2, is repealed and the following enacted in its place:

6 LL. To the extent included in federal adjusted gross income and to the extent  
7 otherwise subject to Maine income tax, an amount equal to military compensation  
8 earned during the taxable year for service performed outside of this State pursuant to  
9 written military orders:

10 (1) For active duty service in the active components of the United States Army,  
11 Navy, Air Force, Marines or Coast Guard by a service member whose permanent  
12 duty station during such service is located outside of this State; and

13 (2) For active duty service in the active or reserve components of the United  
14 States Army, Navy, Air Force, Marines or Coast Guard or in the Maine National  
15 Guard by a service member in support of a federal operational mission or a  
16 declared state or federal disaster response when the orders are either at federal  
17 direction or at the direction of the Governor of this State.

18 **Sec. 31. 36 MRSA §5203-C, sub-§4, ¶A**, as amended by PL 2011, c. 644, §27  
19 and affected by §32, is further amended to read:

20 A. A minimum tax credit is allowed against the liability arising under this Part for  
21 any taxable year other than withholding tax liability. The minimum tax credit equals  
22 the excess, if any, of the adjusted alternative minimum tax, reduced by the credit for  
23 tax paid to other jurisdictions determined under subsection 3, ~~the seed capital~~  
24 ~~investment tax credit provided by section 5216-B, and the Pine Tree Development~~  
25 ~~Zone tax credit provided by section 5219-W, the credit for rehabilitation of historic~~  
26 ~~properties after 2007 provided by section 5219-BB and the income tax credit under~~  
27 ~~the Maine New Markets Capital Investment Program under Title 10, section 1100-Z~~  
28 that was imposed for all prior taxable years beginning after 2003 over the amount  
29 allowable as a credit under this subsection for those prior taxable years, plus unused  
30 minimum tax credits from years beginning after 1990.

31 **Sec. 32. 36 MRSA §5219-N**, as amended by PL 2003, c. 673, Pt. JJ, §5 and  
32 affected by §6, is repealed.

33 **Sec. 33. 36 MRSA §5219-GG, sub-§1, ¶G**, as repealed by PL 2011, c. 548, §32  
34 and affected by §36 and amended by c. 563, §13, is repealed.

35 **Sec. 34. 36 MRSA §5219-HH, sub-§1, ¶G**, as enacted by PL 2011, c. 548, §33  
36 and affected by §35, is amended to read:

37 G. "Qualified active low-income community business" has the same meaning as in  
38 the Code, Section 45D: and includes any entity making an investment under this  
39 section if, for the most recent calendar year ending prior to the date of the investment:

1                   (1) At least 50% of the total gross income of the entity was derived from the  
2                   active conduct of business activity of the entity within any municipality where  
3                   the average annual unemployment rate for that year was higher than the state  
4                   average unemployment rate;

5                   (2) A substantial portion of the use of the tangible property of the entity was  
6                   within any location of the State where the average annual unemployment rate for  
7                   that year was higher than the state average unemployment rate; or

8                   (3) A substantial portion of the services performed by the entity by its employees  
9                   was performed in a municipality where the average annual unemployment rate  
10                   for that year was higher than the state average unemployment rate.

11                   **Sec. 35. 36 MRSA §5280**, as amended by PL 1993, c. 395, §24 and affected by  
12                   §32, is further amended to read:

13                   **§5280. Refund claim**

14                   Every claim for refund must be filed with the assessor in writing and state the specific  
15                   grounds upon which it is founded. ~~The taxpayer may in writing along with the refund~~  
16                   ~~claim request an informal conference regarding the claim for refund, in which case the~~  
17                   ~~claim for refund is considered a request for reconsideration of an assessment under~~  
18                   ~~section 151 filed as of the date the refund claim is filed and is decided pursuant to section~~  
19                   ~~151. If the taxpayer has not requested a conference and the assessor denies the refund~~  
20                   claim in whole or in part, or the refund claim is deemed denied under section 5282, the  
21                   taxpayer may request reconsideration of the denial or deemed denial of the refund claim  
22                   pursuant to section 151.

23                   **Sec. 36. 36 MRSA §5282**, as repealed and replaced by PL 1993, c. 395, §25 and  
24                   affected by §32, is amended to read:

25                   **§5282. Refund claim deemed denied**

26                   If the assessor fails to mail to the taxpayer, within 6 months after the filing of a  
27                   refund claim ~~with respect to which no conference has been requested pursuant to section~~  
28                   ~~5280~~, a decision on that refund claim, the taxpayer may elect but is not obligated, prior to  
29                   receipt by the taxpayer of the assessor's decision on the refund claim, to deem the claim  
30                   denied. The taxpayer deems the refund claim denied by requesting reconsideration of the  
31                   deemed denial pursuant to section 151.

32                   **Sec. 37. Application.** That section of this Act that amends the Maine Revised  
33                   Statutes, Title 36, section 4102, subsection 1 applies to estates of decedents dying on or  
34                   after January 1, 2013. That section of this Act that repeals and replaces Title 36, section  
35                   5122, subsection 2, paragraph LL applies to tax years beginning on or after January 1,  
36                   2014. That section of this Act that repeals Title 36, section 5219-N applies to tax years  
37                   beginning on or after January 1, 2013.

38                   **Sec. 38. Retroactivity.** Those sections of this Act that amend the Maine Revised  
39                   Statutes, Title 36, section 111, subsection 1-C; Title 36, section 112, subsection 7-A; Title  
40                   36, section 144, subsection 1; Title 36, section 151-A, subsection 2; Title 36, section 175,

1 subsections 2 and 6; Title 36, section 2011; Title 36, section 2555; Title 36, section  
2 4075-A, subsection 1; Title 36, section 4115, subsection 1; Title 36, section 4402,  
3 subsection 5; Title 36, section 5280; and Title 36, section 5282 apply retroactively to May  
4 25, 2012. That section of this Act that amends Title 36, section 5203-C, subsection 4,  
5 paragraph A applies retroactively to tax years beginning on or after January 1, 2012.  
6 Those sections of this Act that repeal Title 36, section 5219-GG, subsection 1, paragraph  
7 G and amend Title 36, section 5219-HH, subsection 1, paragraph G apply retroactively to  
8 August 30, 2012.

## 9 **SUMMARY**

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

11 1. It clarifies that in the Maine Revised Statutes, Title 36 "board" refers to the Maine  
12 Board of Tax Appeals only in certain provisions.

13 2. It clarifies language regarding a taxpayer's appeal rights by eliminating references  
14 to an informal conference. It also clarifies that a taxpayer is not limited to filing an  
15 appeal with the Superior Court when appealing a reconsideration decision. It makes  
16 those changes retroactive.

17 3. It corrects a reference to the state telecommunications excise tax under Title 36,  
18 section 187-B.

19 4. It deletes an obsolete reference to watercraft under Title 36, section 1760,  
20 subsection 45.

21 5. It amends the law applying the sales and use tax to casual sales of certain items,  
22 including automobiles, so that the tax does not apply when the purchaser is a corporation  
23 or other business entity and the seller owns 50% or more of the stock or other ownership  
24 interests of the purchaser.

25 6. It adds to the law governing the method of computing the amount of tax imposed  
26 on the gross direct premiums from insurance contracts a cross-reference to a recently  
27 enacted provision of law regarding taxation of nonadmitted insurance coverage.

28 7. It removes the requirement to modify the federal gross estate by the Maine  
29 qualified terminable interest property in order to avoid skewing the ratio that is applied to  
30 determine the Maine estate tax.

31 8. It amends the Maine estate tax law related to estates of decedents dying after 2012  
32 pertaining to the filing requirement for the Maine estate tax to include Maine elective  
33 property and only gifts made within one year before death.

34 9. It simplifies and clarifies the statutory provisions that impose the Maine blueberry  
35 tax and associated reporting requirements.

36 10. It amends the provision regarding the income subtraction modification of  
37 military survivor benefit payments to clarify that the modification is limited to benefits

1 paid on a death resulting from military service. It also adds a cross-reference to the  
2 individual income tax pension deduction law that applies to tax years beginning after  
3 2013.

4 11. It repeals and replaces the provision regarding the income subtraction  
5 modification for non-Maine active duty military pay in order to clarify under what  
6 conditions the military pay is eligible for the modification.

7 12. It repeals the definition of a term relevant to the new markets capital investment  
8 credit that was erroneously included in the section of law governing the Maine capital  
9 investment credit and inserts that definition into the relevant provision. These changes  
10 are made retroactive to the effective date of the law enacting the new markets capital  
11 investment credit.

12 13. It deletes changes to the minimum tax credit made in Public Law 2011, chapter  
13 644, section 27 that require the credit to be reduced by certain other refundable tax credits  
14 claimed by the taxpayer.