

STATE OF MAINE

—
 IN THE YEAR OF OUR LORD
 TWO THOUSAND AND THIRTEEN

—
 S.P. 333 - L.D. 988

An Act To Amend the Tax Laws

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

PART A

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

2-C. Issuance and renewal of resale certificates; contents; presentation to vendor. ~~The~~ On November 1st of each year, the assessor shall ~~periodically~~ review the ~~status of returns filed by each registered retailer registered under this section unless the retailer has a resale certificate expiring after December 31st of that year. On or before the date of expiration of a resale certificate, the assessor shall issue to each registered retailer with gross sales of \$3,000 or more during the 12 months preceding the assessor's review a resale certificate effective for the next 3 calendar years. Any subsequent annual resale certificate issued is effective for the next 5 calendar years. 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 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. A-2. 36 MRSA §4072, as amended by PL 1999, c. 38, §1, is further amended to read:

§4072. Lien for taxes

All property subject to taxes under this chapter, in whatever form of investment it may happen to be, is charged with a lien for all taxes, interest and penalties that are or may become due on that property. The lien does not attach to any property passing by right of survivorship to a surviving joint tenant who was the decedent's spouse on the decedent's date of death. The lien does not attach to any real or personal property after the property has been sold or disposed of for value by the personal representative, trustee or surviving joint tenant. Upon payment of those taxes, interest and penalties due under this chapter, or upon determination that no tax is due, the State Tax Assessor shall upon request execute a discharge of the tax lien for recording in the appropriate registry or registries of deeds.

Any lien that attached to real property prior to September 30, 1989 and after the property was sold or disposed of for value by the personal representative, trustee or surviving joint tenant is released by operation of this section. A lien that attaches under this section is released 10 years after the decedent's date of death.

Sec. A-3. 36 MRSA §4112, as enacted by PL 2011, c. 380, Pt. M, §9, is amended to read:

§4112. Lien for taxes

All property subject to taxes under this chapter, in whatever form of investment it may happen to be, is charged with a lien for all taxes, interest and penalties that are or may become due on that property. The lien does not attach to any property passing by right of survivorship to a surviving joint tenant who was the decedent's spouse on the decedent's date of death. The lien does not attach to any real or personal property after the property has been sold or disposed of for value by the personal representative, trustee or surviving joint tenant. Upon payment of those taxes, interest and penalties due under this chapter or upon determination that no tax is due, the assessor shall upon request execute a discharge of the tax lien for recording in the appropriate registry or registries of deeds.

A lien that attaches under this section is released 10 years after the decedent's date of death.

Sec. A-4. 36 MRSA §5122, sub-§1, ¶Y, as amended by PL 2007, c. 539, Pt. CCC, §3, is further amended to read:

Y. Any amount of allowable deduction claimed for federal purposes in accordance with the election under Section 642(g) of the Code that is also used to determine the taxable estate for purposes of calculating the Maine estate tax under chapter 575 or 577;

Sec. A-5. Application. That section of this Part that amends the Maine Revised Statutes, Title 36, section 5122, subsection 1, paragraph Y applies to tax years beginning on or after January 1, 2013.

Sec. A-6. Retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 36, section 4072 applies retroactively to estates of decedents with dates of death on or before December 31, 2012. That section of this Part that amends Title 36, section 4112 applies retroactively to estates of decedents with dates of death on or after January 1, 2013.

PART B

Sec. B-1. 36 MRSA §151-D, sub-§10, ¶A, as enacted by PL 2011, c. 694, §6, is amended to read:

A. If requested by a petitioner ~~in~~ within 20 days of filing a statement of appeal, the appeals office shall hold an appeals conference to receive additional information and to hear arguments regarding the protested assessment or determination. The board shall set a rate of no more than \$150 as a processing fee for each petition that proceeds to an appeals conference. These fees must be credited to a special revenue account to be used to defray expenses in carrying out this section. Any balance of these fees in the special revenue account does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following years.

Sec. B-2. 36 MRSA §151-D, sub-§10, ¶D, as enacted by PL 2011, c. 694, §6, is amended to read:

D. If a petitioner does not ~~include a timely request for an appeals conference in the statement of appeal,~~ include a timely request for an appeals conference in the statement of appeal, the appeals officer shall determine the matter based on written submissions by the petitioner and the division within the bureau making the original determination.

Sec. B-3. 36 MRSA §191, sub-§2, ¶VV, as amended by PL 2011, c. 644, §6 and repealed by c. 694, §9, is further amended to read:

VV. The disclosure by the assessor to the taxpayer advocate under section 151-C of information related to a petition for reconsideration filed by a taxpayer pursuant to section 151. The taxpayer advocate is prohibited from disclosing information obtained pursuant to this paragraph other than to the particular taxpayer to whom the information pertains; ~~and~~

Sec. B-4. 36 MRSA §191, sub-§2, ¶WW, as enacted by PL 2011, c. 644, §7 and c. 694, §10, is repealed and the following enacted in its place:

WW. The disclosure of information to the Department of Inland Fisheries and Wildlife necessary for the administration of the credit for Maine fishery infrastructure investment under section 5216-D;

Sec. B-5. 36 MRSA §191, sub-§2, ¶¶XX and YY are enacted to read:

XX. The disclosure of information by the assessor to the board, except that such disclosure is limited to information that is pertinent to an appeal or other action or proceeding before the board; and

YY. The inspection and disclosure of information by the board to the extent necessary to conduct appeals procedures pursuant to this Title and issue a decision on an appeal to the parties. The board may make available to the public redacted decisions that do not disclose the identity of a taxpayer or any information made confidential by state or federal statute.

PART C

Sec. C-1. 36 MRSA §111, sub-§1-C, as enacted by PL 2011, c. 694, §2, is amended to read:

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

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

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

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

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

Sec. C-4. 36 MRSA §151-A, sub-§2, as amended by PL 2013, c. 45, §5, is further amended to read:

2. Representative of taxpayer. The taxpayer may bring to any interview ~~or informal conference~~ with the State Tax Assessor or to any proceeding pursuant to section 151-D any attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer. If the taxpayer does not bring anyone to the interview, ~~conference~~ or proceeding but clearly states at any time during the interview, ~~conference~~ or proceeding that the taxpayer wishes to consult with an attorney,

certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer, the State Tax Assessor shall suspend the interview or ~~conference~~ or the board shall suspend the proceeding. The suspension must occur even if the taxpayer has answered one or more questions before that point in the interview; ~~conference~~ or proceeding. The ~~conference~~ interview must be rescheduled to be held within 10 working days.

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

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

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

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

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

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

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

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

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

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

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

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

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

Property, other than automobiles, ~~watercraft~~, snowmobiles, all-terrain vehicles and aircraft, that is required to be registered for use in this State does not qualify for this exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State. If property required to be registered for use in this State was not required to be registered for use outside this State, the owner must be able to document actual use of the property outside this State for more than 12 months prior to its registration in this State. For purposes of this subsection, "use" does not include storage but means actual use of the property for a purpose consistent with its design.

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

§1764. Tax against certain casual sales

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

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

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

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

§2515. Amount of tax

In determining the amount of tax due under ~~section~~ sections 2513 and 2531, each company shall deduct from the full amount of gross direct premiums the amount of all direct return premiums on the gross direct premiums and all dividends paid to policyholders on direct premiums, and the tax must be computed by those companies or

their agents. Except when direct return premiums are returned in the same tax year that the premium was paid, the deduction allowed in this section may be taken only if the tax under this Part has been paid.

Sec. C-12. 36 MRSA §2551, sub-§10, as amended by PL 2007, c. 438, §53, is further amended to read:

10. Private nonmedical institution or personal home care. "Private nonmedical institution or personal home care" means a person licensed by the Department of Health and Human Services to provide private nonmedical institution or personal home care services to 4 or more MaineCare-eligible and other residents in single or multiple facilities under a written agreement with the Department of Health and Human Services. "Private nonmedical institution or personal home care" does not include a health insurance organization, hospital, nursing home or community health care center.

Sec. C-13. 36 MRSA §2551, sub-§11, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is amended to read:

11. Private nonmedical institution or personal home care services. "Private nonmedical institution or personal home care services" means services, including food, shelter and treatment, that are provided by a private nonmedical institution or personal home care.

Sec. C-14. 36 MRSA §2552, sub-§1, ¶G, as amended by PL 2005, c. 386, Pt. S, §4 and affected by §9, is further amended to read:

G. Private nonmedical institution or personal home care services;

Sec. C-15. 36 MRSA §2555, 2nd ¶, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is amended to read:

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

Sec. C-16. 36 MRSA §4075-A, sub-§1, as amended by PL 2011, c. 1, Pt. DD, §2 and affected by §4, is further amended to read:

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

Sec. C-17. 36 MRSA §4102, sub-§1, as enacted by PL 2011, c. 380, Pt. M, §9, is amended to read:

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

Sec. C-18. 36 MRSA §4107, sub-§2, ¶B, as enacted by PL 2011, c. 380, Pt. M, §9, is amended to read:

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

Sec. C-19. 36 MRSA §4115, sub-§1, as enacted by PL 2011, c. 380, Pt. M, §9, is amended to read:

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

Sec. C-20. 36 MRSA §4302, sub-§2, as amended by PL 1997, c. 511, §7, is further amended to read:

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

Sec. C-21. 36 MRSA §4302, sub-§3, as amended by PL 1997, c. 511, §8, is further amended to read:

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

Sec. C-22. 36 MRSA §4302, sub-§5-A is enacted to read:

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

Sec. C-23. 36 MRSA §4303, as amended by PL 2001, c. 147, §1, is further amended to read:

§4303. Rate of tax

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

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

Sec. C-24. 36 MRSA §4303-A, as amended by PL 2001, c. 147, §2, is repealed.

Sec. C-25. 36 MRSA §4304, as amended by PL 1997, c. 511, §13, is repealed.

Sec. C-26. 36 MRSA §4305, sub-§3, ¶A, as enacted by PL 2007, c. 694, §5, is amended to read:

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

Sec. C-27. 36 MRSA §4306, as amended by PL 2001, c. 147, §3, is repealed.

Sec. C-28. 36 MRSA §4307, as amended by PL 2001, c. 147, §4, is further amended to read:

§4307. Records and reports; payment of tax

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

Sec. C-29. 36 MRSA §4311-A, first ¶, as amended by PL 1997, c. 511, §18, is further amended to read:

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

Sec. C-30. 36 MRSA §4311-A, sub-§1-A, as enacted by PL 1997, c. 511, §18, is amended to read:

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

Sec. C-31. 36 MRSA §4402, sub-§5, as enacted by PL 2005, c. 627, §7, is amended to read:

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

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

HH. To the extent included in federal adjusted gross income, annuity payments made to the survivor of a deceased member of the military who died as the result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or reserve component survivor benefit plan pursuant to 10 United States Code, Chapter 73 reduced by any amount claimed as a modification under paragraph M or M-1;

Sec. C-33. 36 MRSA §5122, sub-§2, ¶LL, as enacted by PL 2011, c. 657, Pt. M, §1 and affected by §2, is repealed and the following enacted in its place:

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

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

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

Sec. C-34. 36 MRSA §5203-C, sub-§4, ¶A, as amended by PL 2011, c. 644, §27 and affected by §32, is further amended to read:

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

Sec. C-35. 36 MRSA §5219-N, as amended by PL 2003, c. 673, Pt. JJ, §5 and affected by §6, is repealed.

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

Sec. C-37. 36 MRSA §5219-HH, sub-§1, ¶G, as enacted by PL 2011, c. 548, §33 and affected by §35, is amended to read:

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

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

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

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

Sec. C-38. 36 MRSA §5280, as amended by PL 1993, c. 395, §24 and affected by §32, is further amended to read:

§5280. Refund claim

Every claim for refund must be filed with the assessor in writing and state the specific grounds upon which it is founded. ~~The taxpayer may in writing along with the refund claim request an informal conference regarding the claim for refund, in which case the claim for refund is considered a request for reconsideration of an assessment under section 151 filed as of the date the refund claim is filed and is decided pursuant to section~~

~~151. If the taxpayer has not requested a conference and~~ the assessor denies the refund claim in whole or in part, or the refund claim is deemed denied under section 5282, the taxpayer may request reconsideration of the denial or deemed denial of the refund claim pursuant to section 151.

Sec. C-39. 36 MRSA §5282, as repealed and replaced by PL 1993, c. 395, §25 and affected by §32, is amended to read:

§5282. Refund claim deemed denied

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

Sec. C-40. Application. That section of this Act that amends the Maine Revised Statutes, Title 36, section 4102, subsection 1 applies to estates of decedents dying on or after January 1, 2013. That section of this Act that repeals and replaces Title 36, section 5122, subsection 2, paragraph LL applies to tax years beginning on or after January 1, 2014. That section of this Act that repeals Title 36, section 5219-N applies to tax years beginning on or after January 1, 2013.

Sec. C-41. Retroactivity. Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 111, subsection 1-C; Title 36, section 112, subsection 7-A; Title 36, section 144, subsection 1; Title 36, section 151-A, subsection 2; Title 36, section 175, subsections 2 and 6; Title 36, section 2011; Title 36, section 2555; Title 36, section 4075-A, subsection 1; Title 36, section 4115, subsection 1; Title 36, section 4402, subsection 5; Title 36, section 5280; and Title 36, section 5282 apply retroactively to May 25, 2012. That section of this Act that amends Title 36, section 5203-C, subsection 4, paragraph A applies retroactively to tax years beginning on or after January 1, 2012. Those sections of this Act that repeal Title 36, section 5219-GG, subsection 1, paragraph G and amend Title 36, section 5219-HH, subsection 1, paragraph G apply retroactively to August 30, 2012.