

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

An Act To Improve the Business Equipment Tax Exemption

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

Sec. 1. 36 MRSA §691, sub-§1, ¶A, as enacted by PL 2005, c. 623, §1, is amended to read:

A. "Eligible business equipment" means qualified property that, in the absence of this subchapter, would first be subject to assessment to the owner under this Part on or after April 1, 2008. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became subject to assessment to the owner under this Part before April 1, 2008 if the part, addition, equipment, accession or accessory would, in the absence of this subchapter, first be subject to assessment to the owner under this Part on or after April 1, 2008. "Eligible business equipment" also includes inventory parts.

"Eligible business equipment" does not include:

- (1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;
- (2) Lamps and lighting fixtures used primarily for the purpose of providing general purpose office or worker lighting;
- (3) Property owned or used by an excluded person;
- (4) Telecommunications personal property subject to the tax imposed by section 457;
- (5) Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:
 - (a) Associated equipment as defined in Title 8, section 1001, subsection 2;
 - (b) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;

(c) An electronic video machine as defined in Title 17, section 330, subsection 1-A;

(d) Equipment used in the playing phases of lottery schemes; and

(e) Repair and replacement parts of a gambling machine or device; or

(6) Property located at a retail sales facility and used primarily in a retail sales activity unless the property is owned by a business that operates a retail sales facility in the State exceeding 100,000 square feet of interior customer selling space that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue on a calendar year basis from sales that are made at a retail sales facility located in the State. For purposes of this subparagraph, the following terms have the following meanings:

(a) "Primarily" means more than 50% of the time;

(b) "Retail sales activity" means an activity associated with the selection and purchase of goods or services or the rental of tangible personal property. "Retail sales activity" does not include production as defined in section 1752, subsection 9-B; and

(c) "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods or services at retail or for renting tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility; or

(7) Used property acquired by the owner on or after April 1, 2008 when the primary purpose of the acquisition was to make the property eligible for an exemption under this subchapter.

Sec. 2. 36 MRSA §693, sub-§2, as enacted by PL 2005, c. 623, §1, is amended to read:

2. False filing. An individual who knowingly gives false information for the purpose of claiming an exemption under this subchapter or who claims an exemption under this subchapter for used equipment when the primary purpose of the acquisition was to make the property eligible for an exemption under this subchapter commits a Class E crime.

SUMMARY

This bill provides eligibility under the business equipment tax exemption for used property previously subject to property tax in the State as long as the primary purpose of the acquisition of the property was not to obtain eligibility for the exemption. The bill also makes it a Class E crime to claim an exemption when the primary purpose for the acquisition was to obtain eligibility.