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No. 1524

H.P. 1128

House of Representatives, April 19, 2021

An Act To Amend the Maine Exclusion Amount in the Estate Tax

Received by the Clerk of the House on April 15, 2021. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative COLLINGS of Portland.
Cosponsored by Senator CHIPMAN of Cumberland and
Representatives: DUNPHY of Old Town, GRAMLICH of Old Orchard Beach, TALBOT
ROSS of Portland, ZAGER of Portland, Senator: LIBBY of Androscoggin.

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

2 **Sec. 1. 36 MRSA §4102, sub-§5**, as amended by PL 2017, c. 474, Pt. G, §1, is
3 repealed and the following enacted in its place:

4 **5. Maine exclusion amount.** "Maine exclusion amount" means:

5 A. For estates of decedents dying on or after January 1, 2013 but before January 1,
6 2016, \$2,000,000;

7 B. For estates of decedents dying on or after January 1, 2016 but before January 1,
8 2018, the basic exclusion amount determined for the calendar year in accordance with
9 the Code, Section 2010(c)(3);

10 C. For estates of decedents dying on or after January 1, 2018 but before January 1,
11 2022, \$5,600,000; and

12 D. For estates of decedents dying on or after January 1, 2022, \$2,000,000 plus any
13 additional exclusion amount allowed under section 4120.

14 **Sec. 2. 36 MRSA §4119**, as amended by PL 2019, c. 607, Pt. D, §5, is further
15 amended to read:

16 **§4119. Annual adjustments for inflation**

17 Beginning in 2018 and ~~each year thereafter ending in 2021~~, annually, on or about
18 September 15th, for the estates of decedents who die during the succeeding calendar year,
19 the assessor shall multiply the cost-of-living adjustment by the dollar amount contained in
20 section 4102, subsection 5, ~~paragraph C~~ applicable to estates of decedents dying ~~on or after~~
21 ~~January 1, 2018~~ before January 1, 2022. Beginning in 2023 and each year thereafter, on or
22 about September 15th, for the estates of decedents who die during the succeeding calendar
23 year, the assessor shall multiply the cost-of-living adjustment by the dollar amount
24 contained in section 4102, subsection 5, paragraph D and section 4120 applicable to estates
25 of decedents dying on or after January 1, 2022. For the purposes of this section, the "cost-
26 of-living adjustment" is the Chained Consumer Price Index for the 12-month period ending
27 June 30th of the preceding calendar year divided by the Chained Consumer Price Index for
28 the 12-month period ending June 30, 2017. If the dollar amount, adjusted by the application
29 of the cost-of-living adjustment, is not a multiple of \$10,000, any increase must be rounded
30 to the nearest multiple of \$10,000.

31 **Sec. 3. 36 MRSA §4120** is enacted to read:

32 **§4120. Additional exclusion amount for family farms, aquaculture, fishing and wood**
33 **harvesting businesses**

34 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
35 following terms have the following meanings.

36 A. "Commercial agricultural production" means commercial production of crops,
37 maple syrup, honey, plants, trees, compost and livestock.

38 B. "Commercial aquacultural production" means the commercial production of
39 cultured fish, shellfish, seaweed or other marine plants for human and animal
40 consumption, including:

1 (1) All cultivating activities occurring at hatcheries or nurseries, from the egg,
2 larval or spore stage to the transfer of the product to a growing site; and

3 (2) All cultivating activities occurring on water, from the receipt of fish, shellfish,
4 seaweed or other marine plants from onshore facilities to the delivery of harvested
5 products to onshore facilities for processing.

6 C. "Commercial fishing" means attempting to catch fish or any other marine animals
7 or organisms with the intent of disposing of them for profit or trade in commercial
8 channels and does not include subsistence fishing for personal use, sport fishing or
9 charter boat fishing in which the vessel is used for carrying sport anglers to available
10 fishing grounds.

11 D. "Commercial wood harvesting" means the commercial severance and yarding of
12 trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud wood,
13 poles, pilings, biomass or fuel wood or other products commonly known as forest
14 products.

15 E. "Depreciable machinery and equipment" means, except as otherwise provided by
16 this paragraph, that part of the following machinery and equipment for which
17 depreciation is allowable under the Code and repair parts for that machinery and
18 equipment:

19 (1) New or used machinery and equipment used directly and primarily in
20 commercial agricultural production, including self-propelled vehicles; attachments
21 and equipment for the production of field and orchard crops; new or used
22 machinery and equipment for use directly and primarily in production of milk,
23 maple syrup or honey, animal husbandry and production of livestock, including
24 poultry; new or used machinery and equipment used in the removal and storage of
25 manure; and new or used machinery and equipment not used directly and primarily
26 in commercial agricultural production but used to transport potatoes from a truck
27 into a storage location;

28 (2) New or used watercraft, nets, traps, cables, tackle and related equipment
29 necessary to and used directly and primarily in commercial fishing;

30 (3) New or used watercraft, machinery or equipment used directly and primarily
31 for commercial aquacultural production, including, but not limited to: nets; ropes;
32 cables; anchors and anchor weights; shackles and other hardware; buoys; fish
33 tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating
34 systems; boilers and related pumping systems; diving equipment; feeders and
35 related equipment; power-generating equipment; tank water-level sensors;
36 aboveground piping; water-oxygenating systems; fish-grading equipment; safety
37 equipment; and sea cage systems, including walkways and frames, lights, netting,
38 buoys, shackles, ropes, cables, anchors and anchor weights; and

39 (4) New or used machinery and equipment used directly and primarily in
40 commercial wood harvesting, including, but not limited to, chain saws, skidders,
41 delimbers, forwarders, slashers, feller bunchers and wood chippers.

42 "Depreciable machinery and equipment" does not include a motor vehicle as defined
43 in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

1 F. "Family member" means, whether by blood or legal adoption, the decedent's:
2 brother or sister or the spouse of a brother or sister; parent or grandparent or the spouse
3 of a parent or grandparent; ancestor; or lineal descendant.

4 G. "Farmland" means land that is or could be classified as farmland under chapter 105,
5 subchapter 10 and includes personal property that is exempt from property tax under
6 section 655, subsection 1, paragraph C, D, M or O.

7 **2. Additional exclusion amount.** Notwithstanding any provision of law to the
8 contrary, an additional exclusion amount from the estate tax under this chapter of up to
9 \$3,800,000 is allowed for farmland or depreciable machinery and equipment that is part of
10 an estate of a decedent dying on or after January 1, 2022 that is transferred to a family
11 member of the decedent.

12 **3. Requirements for additional exclusion; report.** In order to qualify for the
13 additional exclusion from the estate tax pursuant to this section:

14 A. The farmland or depreciable machinery and equipment must be transferred to a
15 family member;

16 B. For at least 5 years following the transfer, the farmland or depreciable machinery
17 and equipment must remain the property of the family member to whom the farmland
18 or depreciable machinery and equipment was transferred or, in the event of the death
19 of that transferee, a family member of that transferee; and

20 C. During the 5 years under paragraph B following the transfer:

21 (1) The land transferred must continue to meet the requirements for classification
22 as farmland under chapter 105, subchapter 10, except that the gross income
23 requirements of section 1102, subsection 4 must be met for every year of the 5
24 years following transfer; and

25 (2) The depreciable machinery and equipment transferred must continue to be used
26 for commercial agricultural production, commercial aquacultural production,
27 commercial fishing or commercial wood harvesting for every year of the 5 years
28 following transfer.

29 A family member to whom farmland or depreciable machinery and equipment is
30 transferred who wishes to claim the additional exclusion under this section shall file a report
31 annually for the 5 years following the transfer with the assessor certifying that the farmland
32 or depreciable machinery and equipment continues to qualify for the additional exclusion.

33 **4. Failure to maintain requirements for additional exclusion.** If at any time during
34 the 5 years following the decedent's death the farmland or depreciable machinery and
35 equipment transferred does not meet the requirements of subsection 3, the owner of the
36 farmland or depreciable machinery and equipment is subject to the applicable tax specified
37 in this chapter based on the fair market value of the farmland or depreciable machinery and
38 equipment as of the date of the decedent's death.

39 **5. Rules.** The assessor shall adopt routine technical rules pursuant to Title 5, chapter
40 375, subchapter 2-A to implement this section, including determining the method of
41 providing certification of qualification for the additional exclusion provided by this section.

1 **SUMMARY**

2 This bill returns the exclusion amount, below which the Maine estate tax does not
3 apply, to \$2,000,000 from the \$5,600,000 in current law for estates of decedents dying on
4 or after January 1, 2022. This bill also creates an additional exclusion amount from the
5 estate tax for family farms and aquaculture, fishing and wood harvesting businesses of up
6 to \$3,800,000. This additional exclusion applies to farmland or depreciable machinery and
7 equipment used in agriculture, aquaculture, fishing or wood harvesting that is inherited by
8 a family member and remains in commercial use for 5 years following transfer.

9 Both the \$2,000,000 exclusion amount and the \$3,800,000 additional exclusion amount
10 are annually adjusted for inflation beginning in 2024.