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TAXATION

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STATE OF MAINE

SENATE

126TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT “ ” to S.P. 618, L.D. 1627, Bill, “An Act To Amend the Reporting Requirements for the Business Equipment Tax Exemption”

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

Sec. 1. 36 MRSA §693, sub-§1, as amended by PL 2013, c. 368, Pt. O, §7 and affected by §12 and c. 385, §§2 and 3, is further 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. ~~When the valuation of all property assessed to the taxpayer exceeds 2% of the total taxable valuation of the municipality for the prior tax year, the report must also include sufficient information, including income and expense information as necessary, to allow the assessor to determine the just value of the property owned by the taxpayer that is claiming the exemption as well as the property exempted under this subchapter.~~ 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. If the report is not filed by April 1st, the filing deadline is automatically extended to May 1st without the need for the taxpayer to request or the assessor to grant that extension. Upon written request, the assessor may at any time grant further extensions of time to file the report. If a taxpayer fails to file the report in a timely manner, including any extensions of time, the taxpayer may not obtain an exemption for that property 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

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1 the inquiry and the assessor may at any time grant additional extensions upon written
2 request. The answer to any such inquiry is not binding on the assessor.

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

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

11 ~~If the taxpayer fails to provide sufficient information as may be required under this~~
12 ~~subsection, the taxpayer may not obtain an exemption under this subchapter for that tax~~
13 ~~year.~~

14 **Sec. 2. 36 MRSA §693, sub-§4**, as enacted by PL 2013, c. 368, Pt. O, §8 and
15 affected by §12 and c. 385, §§2 and 3, is repealed.

16 **Sec. 3. 36 MRSA §694, sub-§1**, as amended by PL 2013, c. 368, Pt. O, §9 and
17 affected by §12 and c. 385, §§2 and 3, is further amended to read:

18 **1. Examination and identification.** The assessor shall examine each report
19 pursuant to section 693 that is timely filed, determine whether the property identified in
20 the report is entitled to an exemption under this subchapter and determine the just value
21 of the property. ~~The assessor also shall certify to the State Tax Assessor that the taxpayer~~
22 ~~has provided sufficient information necessary for the proper valuation of the property and~~
23 ~~that the assessor has considered that information in the valuation and exemption~~
24 ~~determinations. Failure to provide this certification to the State Tax Assessor disqualifies~~
25 ~~the municipality from reimbursement pursuant to subsection 2, paragraphs B and C.~~

26 **Sec. 4. 36 MRSA §694, sub-§2, ¶B**, as amended by PL 2013, c. 368, Pt. O, §10
27 and affected by §12 and c. 385, §§2 and 3, is further amended to read:

28 B. In the case of a municipality that chooses reimbursement under this paragraph in
29 which the personal property factor exceeds 5%, the applicable percentage for exempt
30 business equipment is 50% plus an amount equal to 1/2 of the personal property
31 factor. For purposes of this paragraph, "personal property factor" means the
32 percentage derived from a fraction, the numerator of which is the value of business
33 personal property in the municipality, whether taxable or exempt, and the
34 denominator of which is the value of all taxable property in the municipality plus the
35 value of exempt business equipment. For purposes of this paragraph, the taxable
36 value of exempt business equipment is the value that would have been assessed on
37 that equipment if it were taxable. ~~In order to obtain the reimbursement under this~~
38 ~~paragraph on or after April 1, 2014, the municipality must provide to the State Tax~~
39 ~~Assessor a report providing an appraisal of the exempt business equipment of all~~
40 ~~taxpayers whose equalized municipal valuation makes up at least 2% of the overall~~
41 ~~equalized valuation of the municipality. The appraisal report must include a summary~~
42 ~~of the appraiser's consideration of the cost, income capitalization and sales~~
43 ~~comparison approaches to the valuation of property. The appraisal must determine a~~
44 ~~value for the property within the 5 years prior to the date of the claim and must be~~

1 ~~prepared by a qualified professional appraiser, as defined in section 208-A. This~~
2 ~~appraisal must be the basis on which the property is assessed for municipal property~~
3 ~~tax purposes.~~

4 **Sec. 5. 36 MRSA §706**, as amended by PL 1981, c. 30, §§1 and 2, is further
5 amended to read:

6 **§706. Taxpayers to list property, notice, penalty, verification**

7 Before making an assessment, the assessor or assessors, the chief assessor of a
8 primary assessing area or the State Tax Assessor in the case of the unorganized territory
9 may give reasonable notice in writing to all persons liable to taxation or qualifying for
10 exemption pursuant to subchapter 4-C in the municipality, primary assessing area or the
11 unorganized territory to furnish to the assessor or assessors, chief assessor or State Tax
12 Assessor true and perfect lists of all their estates, ~~not by law exempt from taxation~~, of
13 which they were possessed on the first day of April of the same year.

14 The notice to owners may be by mail directed to the last known address of the
15 taxpayer or by any other method that provides reasonable notice to the taxpayer.

16 If notice is given by mail and the taxpayer does not furnish the list, he the taxpayer is
17 barred of ~~his~~ the right to make application to the assessor or assessors, chief assessor or
18 State Tax Assessor or any appeal ~~therefrom~~ from an application for any abatement of ~~his~~
19 those taxes, unless ~~he~~ the taxpayer furnishes the list with ~~his~~ the application and satisfies
20 ~~them~~ the assessing authority or authority to whom an appeal is made that ~~he~~ the taxpayer
21 was unable to furnish ~~it~~ the list at the time appointed.

22 The assessor or assessors, chief assessor or State Tax Assessor may require the
23 person furnishing the list to make oath to its truth, which oath any of them may
24 administer, ~~and may require him to answer in writing all proper inquiries as to the nature,~~
25 ~~situation and value of his property liable to be taxed in the State; and a refusal or neglect~~
26 ~~to answer such inquiries and subscribe the same bars an appeal, but such list and answers~~
27 ~~shall not be conclusive upon the assessor or assessors, chief assessor or the State Tax~~
28 ~~Assessor.~~

29 The assessor or assessors, chief assessor or State Tax Assessor may require the
30 taxpayer to answer in writing all proper inquiries as to the nature, situation and value of
31 the taxpayer's property liable to be taxed in the State or subject to exemption pursuant to
32 subchapter 4-C. As may be reasonably necessary to ascertain the value of property
33 according to the income approach to value pursuant to the requirements of section 208-A
34 or generally accepted assessing practices, these inquiries may seek information about
35 income and expenses, manufacturing or operational efficiencies, manufactured or
36 generated sales price trends or other related information. A taxpayer has 30 days from
37 receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-
38 day extension to respond to the inquiry and the assessor may at any time grant additional
39 extensions upon written request. Information provided by the taxpayer in response to an
40 inquiry that is proprietary information, and clearly labeled by the taxpayer as proprietary
41 and confidential information, is confidential and is exempt from the provisions of Title 1,
42 chapter 13. An assessor of the taxing jurisdiction may not allow the inspection of or
43 otherwise release such proprietary information to anyone other than the State Tax
44 Assessor, who shall treat such proprietary information as subject to section 191,

1 subsection 1, except that the exemption provided in section 191, subsection 2, paragraph I
2 does not apply to such proprietary information. As used in this subsection, "proprietary
3 information" means information that is a trade secret or production, commercial or
4 financial information the disclosure of which would impair the competitive position of
5 the person submitting the information and would make available information not
6 otherwise publicly available and information protected from disclosure by federal or state
7 law or regulations. A person who knowingly violates the confidentiality provisions of
8 this paragraph commits a Class E crime.

9 A taxpayer's refusal or neglect to answer inquiries bars an appeal, but the answers are
10 not conclusive upon the assessor or assessors, chief assessor or State Tax Assessor.

11 If the assessor or assessors, chief assessor or ~~the~~ State Tax Assessor fail to give notice
12 by mail, the taxpayer is not barred of ~~his~~ the right to make application for abatement
13 ~~provided that; however,~~ upon demand the taxpayer shall answer in writing all proper
14 inquiries as to the nature, situation and value of ~~his~~ the taxpayer's property liable to be
15 taxed in the State; ~~and a.~~ A taxpayer's refusal or neglect to answer the inquiries and
16 subscribe the same bars an appeal, but the list and answers ~~shall~~ are not ~~be~~ conclusive
17 upon the assessor or assessors, chief assessor or the State Tax Assessor.

18 **Sec. 6. PL 2013, c. 368, Pt. O, §11**, as repealed and replaced by PL 2013, c. 385,
19 §1 and affected by §3, is repealed.

20 **Sec. 7. Application.** This Act applies to property tax years beginning on or after
21 April 1, 2014.'

22 SUMMARY

23 This amendment replaces the bill and removes changes to the business equipment tax
24 exemption enacted by Public Law 2013, chapter 368, Part O. This amendment also
25 specifies the information that an assessor or the State Tax Assessor may request pursuant
26 to the Maine Revised Statutes, Title 36, section 706 regarding property subject to taxation
27 and adds confidentiality provisions applicable to proprietary information provided
28 pursuant to that section.

29 FISCAL NOTE REQUIRED

30 (See attached)