

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 Recouple Maine Estate Tax with the Federal Estate Tax**

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

**Sec. 1. 36 MRSA §4062, sub-§1-A, ¶A,** as repealed and replaced by PL 2005, c. 12, Pt. N, §1 and affected by §4, is amended to read:

A. For the estates of decedents dying after December 31, 2002 and before January 1, 2009, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The federal taxable estate is to be determined using the applicable Code as of the date of the decedent's death, except that:

- (1) The state death tax deduction contained in the Code, Section 2058 is to be disregarded;
- (2) The unified credit is to be determined under the Code, Section 2010 as of December 31, 2000;
- (3) For the estates of decedents dying after December 31, 2004, but before January 1, 2009, the federal taxable estate must be decreased by an amount equal to the value of Maine qualified terminable interest property in the estate of the decedent; and
- (4) For the estates of decedents dying after December 31, 2004, the federal taxable estate must be increased by an amount equal to the value of Maine elective property in respect of the decedent; and

**Sec. 2. 36 MRSA §4062, sub-§1-A, ¶A-1** is enacted to read:

A-1. For the estates of decedents dying after December 31, 2008, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011 as of December 31, 2008 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The federal taxable estate is to be determined using the applicable Code as of the date of the decedent's death, except that the state death tax deduction contained in the Code, Section 2058 is to be disregarded and an amount equal to the value of Maine elective property in respect to the decedent must be added; and

**Sec. 3. 36 MRSA §4068, sub-§2, ¶B,** as enacted by PL 2005, c. 218, §43, is amended to read:

B. The federal gross estate, increased by the amount of adjusted taxable gifts 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 the exclusion and related unified credit amounts specified in section 4062, subsection 1-A.

**Sec. 4. 36 MRSA §4068, sub-§3,** as amended by PL 2005, c. 218, §43, is further amended to read:

**3. No tax liability.** In all cases where a Maine estate tax return is not required to be filed, the personal representative, surviving joint tenant of real estate or any other person whose real estate might be subject to a lien for taxes pursuant to this chapter may at any time file with the assessor in the form prescribed by the assessor a statement of the value of the federal gross estate.

~~A. If the personal representative makes no election pursuant to section 4062, subsection 2-B, the personal representative, surviving joint tenant of real estate or any other person whose real estate might be subject to a lien for taxes pursuant to this chapter may at any time file with the assessor in the form prescribed by the assessor a statement of the value of the federal gross estate; and~~

~~B. If the personal representative makes an election pursuant to section 4062, subsection 2-B, the personal representative shall make such election on a timely filed return. The return must be in the form prescribed by the assessor and it must be accompanied by a copy of the federal estate tax return, if any, and other supporting documentation that the assessor may require, including documentation related to an election made pursuant to section 4062, subsection 2-B.~~

**Sec. 5. Application.** This Act applies to the estates of decedents dying on or after January 1, 2009.

## SUMMARY

This bill amends the Maine estate tax to conform to the federal estate tax, beginning January 1, 2009.