

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND TWELVE

H.P. 1290 - L.D. 1749

An Act To Amend the Tax Laws

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

**Sec. 1. 29-A MRSA §525, sub-§11**, as amended by PL 2009, c. 598, §6, is further amended to read:

**11. Cooperation.** The State Tax Assessor, the Department of Public Safety and the Secretary of State shall cooperate in the issuance of decals, licenses and permits, the processing of tax returns, enforcement of this section and to ensure that timely information is readily available to all enforcement personnel of the status of those in noncompliance with the fuel use tax laws and motor vehicle registration laws.

Subject to the provisions of Title 36, the State Tax Assessor may by mutual agreement with the Secretary of State delegate to the Secretary of State responsibility for the audit and processing of motor carrier fuel tax returns, motor carrier fuel tax assessment and collection and compliance with the administrative requirements of the International Fuel Tax Agreement.

**Sec. 2. 36 MRSA §187-B, sub-§1, ¶A**, as amended by PL 1999, c. 521, Pt. A, §2, is further amended to read:

A. If the return is filed before or within ~~30~~ 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, or if the return is not filed but the tax due is assessed by the assessor before the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is \$25 or 10% of the tax due, whichever is greater.

**Sec. 3. 36 MRSA §187-B, sub-§1, ¶B**, as amended by PL 2011, c. 380, Pt. K, §1 and affected by §2, is further amended to read:

B. If the return is not filed within ~~30~~ 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is \$25 or 25% of the tax due, whichever is greater. The period provided by this paragraph must be extended for up to ~~420~~ 90 days if the taxpayer requests an extension in writing prior to the expiration of the original ~~30-day~~ 60-day period.

**Sec. 4. 36 MRSA §187-B, sub-§1-A**, as enacted by PL 2007, c. 437, §3 and affected by §22, is amended to read:

**1-A. Failure to file information return.** ~~Any~~ A partnership or S corporation that fails to make and file an information return required by section 5241 and that has received from the assessor a formal demand that the return be filed is liable for one of the following penalties:

A. If the return is filed within ~~30~~ 60 days after the partnership or S corporation receives from the assessor a formal demand that the return be filed, the penalty is \$100. The ~~30-day~~ period provided by this paragraph is must be extended for up to ~~420~~ 90 days if the partnership or S corporation requests an extension in writing prior to the expiration of the ~~30-day~~ 60-day period; or

B. Except as provided in paragraph A, if the return is not filed within ~~30~~ 60 days after the partnership or S corporation receives from the assessor a formal demand that the return be filed, the penalty is \$500.

**Sec. 5. 36 MRSA §191, sub-§2, ¶UU**, as reallocated by RR 2011, c. 1, §52, is amended to read:

UU. The production in court on behalf of the assessor or any other party to an action or proceeding under this Title, or the production pursuant to a discovery request under the Maine Rules of Civil Procedure or a request under the freedom of access laws, of any reconsideration decision or other document setting forth or discussing the assessor's practice, interpretation of law or application of the law to particular facts, in redacted format so as not to reveal information from which the taxpayer may be identified. A person requesting the production of any such document shall pay, at the time the request is made, all direct and indirect costs associated with the redacting of information from which the taxpayer or other interested party may be identified, plus an additional fee of \$100 per request; ~~and~~

**Sec. 6. 36 MRSA §191, sub-§2, ¶VV**, as reallocated by RR 2011, c. 1, §53, is 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. 7. 36 MRSA §191, sub-§2, ¶WW** is enacted to read:

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. 8. 36 MRSA §1140-B, sub-§2**, as enacted by PL 2007, c. 466, Pt. A, §58, is repealed.

**Sec. 9. 36 MRSA §1752, sub-§1-B,** as amended by PL 2011, c. 296, §1, is further amended to read:

**1-B. Automobile.** "Automobile" means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks. "Automobile" includes a pickup truck or van with a ~~registered~~ gross vehicle weight rating of 10,000 pounds or less.

**Sec. 10. 36 MRSA §1754-A,** as amended by PL 2003, c. 390, §9, is further amended to read:

**§1754-A. Registration of owners of space temporarily rented as retail space**

A person who rents or leases space to more than 4 persons at one location for less than a 12-month period for the purpose of making retail sales shall register with the State Tax Assessor. The form for application for registration and the registration certificates must be prescribed and furnished free of charge by the assessor. For each location where more than 4 persons rent or lease space for less than 12 months from the same person, the assessor shall issue a registration certificate, which must be conspicuously displayed at that location. ~~By the 15th of each month following any month in which rental or lease activity has occurred, the person shall provide to the assessor the names, addresses and sales tax registration certificate numbers of those persons who have rented space during the previous month. Information returns must be prescribed and furnished free of charge by the assessor. Returns required under this section must be treated as returns filed under this Title and are subject to section 187-B.~~ A registration certificate issued pursuant to this section is nontransferable and is not a license within the meaning of that term in the Maine Administrative Procedure Act.

A person required to register with the assessor under this section may not rent or lease space to a person for the purpose of making retail sales without verifying that the person is the holder of a valid registration certificate issued by the assessor under section 1754-B. Each person required to register with the assessor under this section shall maintain a list subject to the requirements of section 135, subsection 1 that includes the names, addresses and sales tax registration certificate numbers of those persons who have rented or leased space at that location for the purpose of making retail sales and the dates on which those rentals or leases occurred.

**Sec. 11. 36 MRSA §3202, sub-§2-C,** as enacted by PL 2001, c. 396, §27, is amended to read:

**2-C. IFTA governing documents.** "IFTA governing documents" means the IFTA Articles of Agreement, the IFTA Audit Manual and the IFTA Procedures Manual, as amended as of December 31, 2011.

**Sec. 12. 36 MRSA §3209, sub-§1-B,** as enacted by PL 2001, c. 396, §30, is amended to read:

**1-B. International Fuel Tax Agreement.** The State Tax Assessor shall enforce the IFTA governing documents and take all steps necessary to maintain the State's membership in the IFTA, in order to:

- A. Facilitate the administration of this chapter;
- B. Promote the fullest and most efficient possible use of the highway system; and
- C. Make uniform the administration, collection and enforcement of special fuel use taxation laws with respect to motor vehicles operated in multiple jurisdictions; by ensuring this State's full participation in the single-base jurisdiction system embodied in the IFTA governing documents, ~~agreed to by other IFTA member jurisdictions and approved by the United States Congress in the Intermodal Surface Transportation Efficiency Act of 1991.~~

If a provision of chapter 7 or this chapter is inconsistent with the IFTA governing documents, the IFTA governing documents prevail for purposes of this chapter except when prohibited by the Constitution of Maine or the United States Constitution. The assessor is authorized to ratify amendments to the IFTA governing documents on behalf of this State, except that the assessor may not ratify any provision that infringes on the substantive taxation authority of the Legislature, including the power to impose taxes, set tax rates and determine exemptions. ~~Subject to the provisions of this Title, the~~ The assessor may by mutual agreement with the Secretary of State delegate to the Secretary of State the assessor's responsibilities under this subsection, as well as the responsibility for the audit, assessment and processing of IFTA special fuel tax returns, IFTA special fuel tax collection, the administrative appeal of IFTA special fuel tax assessments and compliance with IFTA administrative requirements. ~~The assessor shall consult with the Secretary of State and the Commissioner of Public Safety with respect to rules adopted by the Secretary of State pertaining to IFTA.~~ Notwithstanding section 151, if the administrative appeal of IFTA special fuel tax assessments has been delegated to the Secretary of State, such appeals must be taken under Title 29-A, section 111 and the Maine Administrative Procedure Act. For purposes of this Title and Title 29-A, an IFTA special fuel tax assessment is considered final and subject to demand and enforced collection under this Title and Title 29-A if the tax assessed has not been paid by its due date and no further administrative or judicial review is available pursuant to this Title or Title 29-A.

**Sec. 13. 36 MRSA §5122, sub-§1, ¶EE,** as amended by PL 2011, c. 380, Pt. O, §4, is further amended to read:

- EE. The amount claimed as a deduction in determining federal adjusted gross income that is included in the credit for wellness programs under section 5219-FF; ~~and~~

**Sec. 14. 36 MRSA §5122, sub-§1, ¶FF,** as enacted by PL 2011, c. 380, Pt. O, §5, is amended to read:

- FF. For taxable years beginning in 2011 and 2012:
  - (1) An amount equal to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the

State during the taxable year for which a credit is claimed under section 5219-GG; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-GG-; and

**Sec. 15. 36 MRSA §5122, sub-§1, ¶GG** is enacted to read:

GG. The amount claimed as a deduction in determining federal adjusted gross income that is used to calculate the credit for Maine fishery infrastructure investment under section 5216-D.

**Sec. 16. 36 MRSA §5122, sub-§2, ¶HH**, as corrected by RR 2011, c. 1, §54, is 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 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;

**Sec. 17. 36 MRSA §5122, sub-§2, ¶II**, as corrected by RR 2011, c. 1, §56, is amended to read:

II. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph FF, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph FF, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property placed in service outside the State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph FF, subparagraph (2) for the same property; ~~and~~

**Sec. 18. 36 MRSA §5122, sub-§2, ¶JJ**, as reallocated by RR 2011, c. 1, §55, is amended to read:

JJ. To the extent included in federal adjusted gross income, an amount equal to the distribution from a private venture capital fund of the refundable portion of the credit allowed under section 5216-B-; and

**Sec. 19. 36 MRSA §5122, sub-§2, ¶KK** is enacted to read:

KK. To the extent included in federal adjusted gross income, an amount equal to the refundable portion of the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z.

**Sec. 20. 36 MRSA §5200-A, sub-§1, ¶X**, as amended by PL 2011, c. 380, Pt. O, §12, is further amended to read:

X. The amount claimed as a deduction in determining federal taxable income that is included in the credit for wellness programs under section 5219-FF; ~~and~~

**Sec. 21. 36 MRSA §5200-A, sub-§1, ¶Y**, as enacted by PL 2011, c. 380, Pt. O, §13, is amended to read:

Y. For taxable years beginning in 2011 and 2012:

(1) An amount equal to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-GG; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-GG; and

**Sec. 22. 36 MRSA §5200-A, sub-§1, ¶Z** is enacted to read:

Z. The amount claimed as a deduction in determining federal taxable income that is used to calculate the credit for Maine fishery infrastructure investment under section 5216-D.

**Sec. 23. 36 MRSA §5200-A, sub-§2, ¶U**, as amended by PL 2011, c. 380, Pt. O, §15 and c. 454, §12, is further amended to read:

U. An amount equal to the gross income from discharge of indebtedness previously deferred under the Code, Section 108(i) and included in federal taxable income. The total subtraction for all years under this paragraph may not exceed the amount of the addition modification under subsection 1, paragraph W for the same indebtedness; ~~and~~

**Sec. 24. 36 MRSA §5200-A, sub-§2, ¶V**, as corrected by RR 2011, c. 1, §57, is amended to read:

V. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph Y, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph Y, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property placed in service outside the State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph Y, subparagraph (2) for the same property; ~~and~~

**Sec. 25. 36 MRSA §5200-A, sub-§2, ¶W**, as reallocated by RR 2011, c. 1, §58, is amended to read:

W. To the extent included in federal taxable income, an amount equal to the refundable portion of the credit allowed under section 5216-B and an amount equal to the distribution from a private venture capital fund of the refundable portion of the credit allowed under section 5216-B; and

**Sec. 26. 36 MRSA §5200-A, sub-§2, ¶X** is enacted to read:

X. To the extent included in federal taxable income, an amount equal to the refundable portion of the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z.

**Sec. 27. 36 MRSA §5203-C, sub-§4, ¶A**, as amended by PL 2005, c. 618, §8 and affected by §22, 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 ~~and~~, the seed capital investment tax credit provided by section 5216-B, 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 ~~such~~ those prior taxable years, plus unused minimum tax credits from years beginning after 1990.

**Sec. 28. 36 MRSA §5216-D, sub-§6**, as enacted by PL 2011, c. 380, Pt. HHHH, §3, is repealed.

**Sec. 29. 36 MRSA §5219-H, sub-§1**, as amended by PL 2011, c. 240, §36, is further amended to read:

**1. Meaning of tax.** Whenever a credit provision in this chapter, other than section 5216-B, section 5219-W, section 5219-BB and the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z, allows for a credit "against the tax otherwise due under this Part," "against the tax imposed by this

Part" or similar language, "tax" means all taxes imposed under this Part, except the minimum tax imposed by section 5203-C and the taxes imposed by chapter 827.

**Sec. 30. PL 2009, c. 356, Pt. A, §5** is repealed.

**Sec. 31. P&SL 2009, c. 12, §1** is amended to read:

**Sec. 1. Electronic filing requirements.** With regard to electronic filing requirements established by the Department of Administrative and Financial Services, Bureau of Revenue Services that begin on April 1, 2009, the bureau shall continue the practice of leniency in granting waivers of the electronic filing requirement for any taxpayer who has difficulty in meeting the requirements of electronic filing and shall provide clear explanation to taxpayers by the most expeditious method of the availability of waivers. ~~The bureau shall report by January 15th annually to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the status of electronic filing requirements and the number of waivers requested and granted. The bureau's reporting requirement under this section ends January 15, 2015.~~

**Sec. 32. Application.** Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph HH, Title 36, section 5203-C, subsection 4, paragraph A and Title 36, section 5219-H, subsection 1 and that enact Title 36, section 5122, subsection 2, paragraph KK and Title 36, section 5200-A, subsection 2, paragraph X apply to tax years beginning on or after January 1, 2012.

**Sec. 33. Retroactivity.** Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 187-B, subsections 1 and 1-A apply retroactively to July 1, 2011. That section of this Act that amends Title 36, section 1752, subsection 1-B applies retroactively to September 28, 2011. That section of this Act that amends Private and Special Law 2009, chapter 12, section 1 applies retroactively to April 21, 2009. Those sections of this Act that enact Title 36, section 5122, subsection 1, paragraph GG and Title 36, section 5200-A, subsection 1, paragraph Z and repeal Title 36, section 5216-D, subsection 6 apply retroactively to June 20, 2011.

**Sec. 34. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Revenue Services - Bureau of 0002**

Initiative: Removes Highway Fund allocation from Maine Revenue Services for the transfer of 4 Senior Revenue Agent positions and related All Other from Maine Revenue Services to the Department of Secretary of State, Administration - Motor Vehicles.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(4.000)
Personal Services	\$0	(\$302,202)
All Other	\$0	(\$64,748)



HIGHWAY FUND TOTAL	\$0	(\$366,950)
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**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS**

	2011-12	2012-13
HIGHWAY FUND	\$0	(\$366,950)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$366,950)</b>

**SECRETARY OF STATE, DEPARTMENT OF**

**Administration - Motor Vehicles 0077**

Initiative: Provides Highway Fund allocation for the transfer of 4 Senior Revenue Agent positions and related All Other from Maine Revenue Services to the Department of Secretary of State, Administration - Motor Vehicles.

	2011-12	2012-13
<b>HIGHWAY FUND</b>		
POSITIONS - LEGISLATIVE COUNT	0.000	4.000
Personal Services	\$0	\$302,202
All Other	\$0	\$64,748
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$366,950</b>

**SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS**

	2011-12	2012-13
HIGHWAY FUND	\$0	\$366,950
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$366,950</b>

**SECTION TOTALS**

	2011-12	2012-13
HIGHWAY FUND	\$0	\$0
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

**Sec. 35. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1754-A takes effect August 1, 2012.

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In House of Representatives, ..... 2012

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2012

Read twice and passed to be enacted.

..... President

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Approved ..... 2012

..... Governor