Public Law

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Second Regular Session

Chapter 693

H.P. 1531 - L.D. 2151

An Act To Make Minor Substantive Changes to the Tax Laws

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

Sec. 1. 7 MRSA §60, sub-§2, ¶A, as enacted by PL 2007, c. 301, §1, is amended to read:

A. In an amount ~~equal~~up to 100% of the annual property taxes assessed by that municipality against land and buildings subject to a qualified easement up to the fair market value of the easement; and

Sec. 2. 7 MRSA §60-A, sub-§1, ¶B, as enacted by PL 2007, c. 301, §1, is amended to read:

B. Unless approved by a 2/3 vote of the municipality's legislative body, the municipality may not enter into farm support arrangements:

(1) Affecting more than 3% of the total annual valuation of taxable land in the municipality; and

(2) In any calendar year, affecting more than 1% of the total annual valuation of taxable land in the municipality.

Sec. 3. 30-A MRSA §5223, sub-§3, as amended by PL 2007, c. 413, §3, is further amended to read:

3. Conditions for approval. Designation of a development district is subject to the following conditions.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

(1) Must be a blighted area;

(2) Must be in need of rehabilitation, redevelopment or conservation work; or

(3) Must be suitable for commercial or arts district uses.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality. The total area of all development districts may not exceed 5% of the total acreage of the municipality.

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the commissioner's approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

(1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed $10,000,000;

(2) The geographic area consists entirely of contiguous property owned by a single taxpayer;

(3) The assessed value exceeds 10% of the total value of taxable property within the municipality; and

(4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way.

D. The aggregate value of municipal general obligation indebtedness financed by the proceeds from tax increment financing districts within any county may not exceed $50,000,000 adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average from January 1, 1996 to the date of calculation.

(1) The commissioner may adopt rules necessary to allocate or apportion the designation of captured assessed value of property within proposed tax increment financing districts to permit compliance with the condition in this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~2-A.

(2) The acquisition, construction and installment of all real and personal property improvements, buildings, structures, fixtures and equipment included within the development program and financed through municipal bonded indebtedness must be completed within 5 years of the commissioner's approval of the designation of the tax increment financing district.

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts, tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3 or tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator ~~or generators~~that has been certified by the Public Utilities Commission pursuant to Title ~~36~~35-A, section ~~5219-AA~~3403, subsection 3.

Sec. 4. 35-A MRSA §3402, as amended by PL 2005, c. 646, §3, is further amended to read:

§ 3402. Legislative findings

The Legislature finds that it is in the public interest to explore opportunities for and encourage the development, where appropriate, of wind energy production in the State in a manner that is consistent with all state and federal environmental standards and that achieves reliable, cost-effective, sustainable energy production on those sites in the State that will attract investment and permit the development of viable wind energy projects. The Legislature finds that the development of the wind energy potential in the State needs to be integrated into the existing energy supply and transmission systems in a way that achieves system reliability, total capital cost-effectiveness and optimum short-term and long-term benefits to Maine people. The Legislature finds it is in the public interest to encourage the construction and operation of community wind power ~~generator projects~~generation facilities in the State. For the purposes of this ~~section~~chapter, "community wind power ~~generator~~generation facility" means an electricity-generating facility at any one site with instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy. The Legislature also finds it is in the public interest to encourage wind energy research and the development of wind generation equipment manufacturing facilities in the State.

Sec. 5. 35-A MRSA §3403, sub-§3 is enacted to read:

3. Certification. The commission may certify a person as a community wind power generator if the commission determines that such a certification would support construction of a community wind power generation facility in this State and that the person will be the owner of that facility. The person must demonstrate to the commission that the construction of the community wind power generation facility would not be likely to occur absent the availability of the benefits under Title 36, section 1760, subsection 89 and Title 36, sections 2017 and 5219-CC. The commission may not certify a person as a community wind power generator with respect to a community wind power generation facility for which the person commenced the site permit application process prior to August 23, 2006.

Sec. 6. 36 MRSA §187-B, sub-§6, as enacted by PL 1991, c. 873, §5 and affected by §§8 and 9, is amended to read:

6. Penalties not exclusive. Each penalty provided ~~by~~under this section is in addition to any interest and other penalties provided ~~by~~under this section and other law, except as otherwise provided in this section~~, and interest~~. Interest may not accrue on the penalty. This section does not apply to any filing or payment responsibility pursuant to Part 2 except that this section does apply to a filing or payment responsibility pursuant to the state tax on telecommunications personal property imposed under section 457. The penalties imposed ~~by~~under subsections 1 and 2 accrue automatically, without being assessed by the State Tax Assessor~~, and each~~. Each penalty imposed ~~by~~under this section is recoverable by the ~~State Tax Assessor~~assessor in the same manner as if it were a tax assessed under this Title.

Sec. 7. 36 MRSA §191, sub-§2, ¶II, as amended by PL 2007, c. 328, §3, is further amended to read:

II. The disclosure to an authorized representative of the Maine Milk Commission of information on the quantity of packaged milk handled in the State and subject to the milk handling fee established in section 4902 and other information obtained by the assessor in the administration of chapter 721; ~~and~~

Sec. 8. 36 MRSA §191, sub-§2, ¶JJ, as enacted by PL 2007, c. 328, §4, is amended to read:

JJ. The disclosure to the State Purchasing Agent of a person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection 14~~.~~; and

Sec. 9. 36 MRSA §191, sub-§2, ¶KK is enacted to read:

KK. The disclosure to an authorized representative of the Department of Economic and Community Development of information required for the administration of the media production credit under section 5219-Y, the employment tax increment financing program under chapter 917, the media production reimbursement program under chapter 919-A or the Pine Tree Development Zone program under Title 30-A, chapter 206, subchapter 4.

Sec. 10. 36 MRSA §193, sub-§2, ¶B, as amended by PL 2007, c. 437, §6, is further amended to read:

B. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222 that submits returns pursuant to section 5253 or Title 26, chapter 13, subchapter 5 or 7 for 100 or more employers, the assessor may require that the returns be filed by electronic data submission.

Sec. 11. 36 MRSA §193, sub-§3, as amended by PL 2007, c. 437, §6, is further amended to read:

3. Payment by electronic funds transfer. The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services, may adopt a rule allowing or requiring the payment of a tax or the refund of a tax by electronic funds transfer. An electronic funds transfer allowed or required by the assessor pursuant to this subsection in payment of a tax obligation to the State is considered a return. For the purposes of this subsection, "tax" includes Competitive Skills Scholarship Fund contributions and unemployment insurance contributions required to be paid to the State pursuant to Title 26.

A. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a person that is liable for $200,000 or more per year pursuant to section 5253 or for $400,000 or more per year in payments of any other single tax type, the assessor may require payment or refund of that tax by electronic funds transfer.

B. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222, the assessor may require payment or refund of taxes pursuant to section 5253 and payment or refund of Competitive Skills Scholarship Fund contributions and unemployment insurance contributions pursuant to Title 26, chapter 13, ~~subchapter~~subchapters 5 and 7, respectively, by electronic funds transfer.

Sec. 12. 36 MRSA §457, as amended by PL 2001, c. 559, Pt. H, §1, is further amended to read:

§ 457. State tax on telecommunications personal property

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

A. "Telecommunications business" means a person engaged in the activity of providing interactive 2-way communication services for compensation.

B. "Telecommunications personal property" means personal property used for the transmission of any interactive 2-way communications, including voice, image, data and information~~. Transmission of communications includes the use of any~~, via a medium such as wires, cables, ~~community antenna television or other broad band cables,~~ microwaves, radio waves, light waves or any combination of those or similar media. "Telecommunications personal property" includes qualifying property used to provide telegraph service. "Telecommunications personal property" does not include property used solely to provide value-added nonvoice services in which computer processing applications are used to act on the form, content, code and protocol of the information to be transmitted, unless those services are provided under a tariff approved by the Public Utilities Commission. "Telecommunications personal property" does not include single or multiline standard telephone instruments. Notwithstanding section 551, "telecommunications personal property" includes any interest of a telecommunications business in poles.

2. Tax imposed. A state tax is imposed on telecommunications personal property at the rate ~~of 27 mills~~provided in this subsection times the just value of the property ~~for assessments made before December 31, 2003~~. Just value and ownership of the property must be determined as of the April 1st preceding the assessment. ~~For assessments made after December 31, 2003, the~~The rate of tax is:

A. For assessments made in 2004, 26 mills;

B. For assessments made in 2005, 25 mills;

C. For assessments made in 2006, 24 mills;

D. For assessments made in 2007, 23 mills;

E. For assessments made in 2008, 22 mills;

F. For assessments made in 2009, 21 mills; and

G. For assessments made in 2010 and subsequent years, 20 mills.

3-A. Returns to State Tax Assessor. Each telecommunications business owning or leasing telecommunications personal property that on the first day of April in any year is situated, whether permanently or temporarily, within this State shall, on or before the 20th day of April in that year, return to the State Tax Assessor a complete list of such property on a form to be furnished by the State Tax Assessor.

4. Assessment. The State Tax Assessor shall assess a tax on telecommunications personal property owned or leased by a telecommunications business. Telecommunications personal property owned or leased by a person ~~who~~that is not a telecommunications business must be assessed a tax by the

municipal assessor in the municipality in which the property is located on April 1st of the taxable year. The date of assessment of telecommunications personal property by municipalities must be consistent with other property subject to property taxation by the municipalities.

5-B. Procedure. The tax on telecommunications personal property of a telecommunications business must be assessed and paid in accordance with this subsection.

A. The State Tax Assessor shall make the assessment by May 30th of each year.

B. ~~For the 1999 tax year, a payment must be made no later than August 15, 1999 equal to the amount by which the 1999 gross tax assessment exceeds the estimated tax paid for that tax year.~~

C. ~~For tax years subsequent to 1999, the~~The tax assessment must be paid no later than the August 15th following the date of assessment.

D. ~~The estimated prepayment made for the 2000 tax year must be applied to the 1999 gross tax assessment that must be made by August 15, 1999.~~

7. Collection. Taxes assessed under this section by the State Tax Assessor must be enforced as generally provided by this Title. Taxes assessed under this section by municipal assessors must be enforced in the same way as other locally assessed personal property taxes.

8. Penalty. ~~Underpayment of the tax imposed by this section and the prepayment of estimated tax required by this section are subject to the penalties imposed by section 187-B.~~

Sec. 13. 36 MRSA §1487, sub-§2, as amended by PL 1995, c. 29, §1, is further amended to read:

2. State Tax Assessor. ~~In the unorganized territory, the~~The State Tax Assessor shall appoint agents to collect the excise tax in the unorganized territory. Agents, including municipalities designated as agents, are allowed a fee of $4 for each tax receipt issued. The State Tax Assessor may authorize the offset of credit card fees incurred in the collection of the excise taxes against the receipts from those collections. Agents shall deposit the remainder on or before the 20th day of each month following receipt with the Treasurer of State. The Treasurer of State shall make quarterly payments to each county in an amount that is equal to the receipts for that period from each county. Those payments must be made at the same time as payments under section 1606. County receipts under this section must be deposited in the county's unorganized territory fund.

Sec. 14. 36 MRSA §1752, sub-§11, as amended by PL 2007, c. 410, §1 and affected by §6 and amended by c. 437, §10, is further amended to read:

11. Retail sale. "Retail sale" means any sale of tangible personal property or a taxable service in the ordinary course of business ~~for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property~~. ~~"Retail sale" also means any sale of a taxable service in the ordinary course of business for any purpose other than for resale, except resale as a casual sale~~.

A. "Retail sale" includes:

(1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later;

(2) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. The tax must be paid by the retailer to the State;

(3) A sale in the ordinary course of business by a retailer to a purchaser who is not engaged in selling that kind of tangible personal property or taxable service in the ordinary course of repeated and successive transactions of like character; and

(4) The sale or liquidation of a business or the sale of substantially all of the assets of a business, to the extent that the seller purchased the assets of the business for resale, lease or rental in the ordinary course of business, except when:

(a) The sale is to an affiliated entity and the transferee, or ultimate transferee in a series of transactions among affiliated entities, purchases the assets for resale, lease or rental in the ordinary course of business; or

(b) The sale is to a person that purchases the assets for resale, lease or rental in the ordinary course of business or that purchases the assets for transfer to an affiliate, directly or through a series of transactions among affiliated entities, for resale, lease or rental by the affiliate in the ordinary course of business.

For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct and indirect affiliates.

B. "Retail sale" does not include:

(1) Any casual sale;

(2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;

(3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;

(4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;

(5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;

(6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;

(7) The sale, to a person engaged in the business of renting furniture, or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105; ~~or~~

(8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953~~. For purposes of this subparagraph, "loaner vehicle" means an automobile to be provided to the dealer's service customers for short-term use free of charge pursuant to the dealer's franchise, as defined in Title 10, section 1171, subsection 6.~~;

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

(10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale; or

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale.

Sec. 15. 36 MRSA §1760, sub-§89, as enacted by PL 2005, c. 646, §5, is amended to read:

89. Sales of tangible personal property to qualified community wind power generators. Beginning October 1, 2006, sales of tangible personal property to a qualified community wind power generator, as defined in section ~~5219-AA~~2017, subsection 1, paragraph B, for use directly and primarily in the generation of electricity ~~by that~~in this State at a community wind power

~~generator~~generation facility, as defined in section 2017, subsection 1, paragraph A-1. The exemption provided by this subsection is limited ~~for each qualified community wind power generator~~ to sales occurring on or before December 31, 2011.

Sec. 16. 36 MRSA §1763 is amended to read:

§ 1763. Presumptions

The burden of proving that a transaction was not taxable ~~shall be upon~~is on the person charged with tax liability. The presumption that a sale was not for resale may be overcome during an audit or upon reconsideration if the seller proves that the purchaser was the holder of a currently valid resale certificate as provided in section 1754-B at the time of the sale or proves through other means that the property purchased was purchased for resale by the purchaser in the ordinary course of business. Notwithstanding section 1752, subsection 11, paragraph B, if the seller satisfies the seller's burden of proof, the sale is not considered a retail sale.

Sec. 17. 36 MRSA §2017, sub-§1, ¶A-1 is enacted to read:

A-1. "Community wind power generation facility" means an electricity-generating facility at any one site with an instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy.

Sec. 18. 36 MRSA §2017, sub-§1, ¶B, as enacted by PL 2005, c. 646, §6, is amended to read:

B. "Qualified community wind power generator" ~~has the meaning given to it in section 5219-AA~~means a person that has been certified as a community wind power generator by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3.

Sec. 19. 36 MRSA §2017, sub-§2, as enacted by PL 2005, c. 646, §6, is amended to read:

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid pursuant to this Part with respect to the sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified community wind power generator and that is used directly and primarily ~~by the qualified community wind power generator~~in the generation of electricity at a community wind power generation facility in this State.

Sec. 20. 36 MRSA §2017, sub-§3, as enacted by PL 2005, c. 646, §6, is amended to read:

3. Claim for reimbursement. Claims under this section for reimbursement of taxes are controlled by this subsection.

A. A claim for reimbursement under this section must be filed by the contractor or subcontractor with the State Tax Assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified community wind power generator certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily ~~by the qualified~~in the generation of electricity in this State at a community wind power ~~generator~~generation facility. All records pertaining to such certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified community wind power

generator and by the person, if any, that sold the real property in question to ~~that business~~the qualified community wind power generator. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales or use tax is included in the contractor's or subcontractor's contract price, the contractor or subcontractor shall file, at the request of the qualified community wind power generator, a claim for reimbursement in accordance with this section and pay the reimbursement to the qualified community wind power generator.

B. If, by agreement between the contractor or subcontractor and the qualified community wind power generator, the contractor or subcontractor assigns its right to claim and receive reimbursement, the qualified community wind power generator must file a claim for reimbursement in accordance with this subsection. Reimbursement may not be issued to a qualified community wind power generator under this paragraph unless the contractor or subcontractor has previously submitted to the ~~bureau~~assessor a certificate, signed by the contractor or subcontractor, releasing the contractor's or subcontractor's claim to the reimbursement. The certificate must be in a format prescribed by the ~~State Tax Assessor~~assessor.

Sec. 21. 36 MRSA §2017, sub-§4, ¶A, as enacted by PL 2005, c. 646, §6, is amended to read:

A. Reimbursements made by the State Tax Assessor pursuant to this section are limited to taxes paid in connection with sales of tangible personal property that occur within a period of 5 years from the date the qualified community wind power generator receiving the property is certified pursuant to ~~section 5219-AA~~Title 35-A, section 3403, subsection 3 or by December 31, 2011, whichever occurs first.

Sec. 22. 36 MRSA §2903, sub-§3, as amended by PL 2007, c. 407, §1, is further amended to read:

3. Legal incidence of tax. Internal combustion engine fuel may be taxed only once under this section. The tax imposed by this section is declared to be a levy and assessment on the ultimate consumer, and other persons levied and assessed pursuant to this chapter are agents of the State for the collection of the tax. The distributor that first receives the fuel in this State is primarily responsible for paying the tax except when the fuel is sold and delivered to a licensed exporter wholly for exportation from the State or to another licensed distributor in the State, in which case the purchasing distributor is primarily responsible for paying the tax. If a distributor includes the tax on a bill to a customer, it must be shown as a separate line item and identified as "Maine gasoline tax."

Sec. 23. 36 MRSA §3203, sub-§2, as amended by PL 1999, c. 733, §5 and affected by §17, is further amended to read:

2. Legal incidence of tax. Special fuel may be taxed only once under this section. The tax imposed by this section is declared to be a levy and assessment on the ultimate consumer, and other persons levied and assessed pursuant to this chapter are agents of the State for the collection of the tax. The supplier and retailer are primarily responsible for paying the tax. When a supplier sells and delivers to a licensed exporter wholly for exportation from the State or to another supplier in the State, the purchasing supplier is primarily responsible for paying the tax. If a supplier or retailer includes the tax on a bill to a customer, it must be shown as a separate line item and identified as "Maine special fuel tax."

Sec. 24. 36 MRSA §4062, sub-§2, as amended by PL 2003, c. 673, Pt. D, §2, is further amended to read:

2. Federal gross estate. "Federal gross estate" means the gross estate of a decedent as determined ~~for the purpose of the federal estate tax under~~by the assessor in accordance with the Code.

Sec. 25. 36 MRSA §4062, sub-§8, as enacted by PL 2005, c. 622, §17 and affected by §33, is repealed.

Sec. 26. 36 MRSA §4062, sub-§8-A is enacted to read:

8-A. Value. When determining value for purposes of this chapter, "value" means, with respect to an estate or to property included in an estate, including Maine qualified terminable interest property, the value as determined by the assessor in accordance with the Code.

Sec. 27. 36 MRSA §4063, as repealed and replaced by PL 2005, c. 622, §18, is amended to read:

§ 4063. Tax on estate of resident

A tax is imposed upon the transfer of the estate of every person who dies on or after January 1, 2002 and who, at the time of death, was a resident of this State. The amount of this tax is equal to the federal credit multiplied by a fraction, the numerator of which is the value of that portion of the decedent's federal gross estate that consists of real and tangible personal property located in the State plus the value of all intangible personal property and the denominator of which is the value of the decedent's federal gross estate. ~~For purposes of this section, "federal gross estate" means the decedent's federal gross estate as modified by Maine qualified terminable interest property and Maine elective property.~~

A credit against the tax imposed by this section is allowed for all constitutionally valid estate, inheritance, legacy and succession taxes actually paid to another jurisdiction upon the value of real or tangible personal property owned by the decedent or subject to those taxes as a part of or in connection with the estate and located in that jurisdiction if the value of that property is also included in the value of the decedent's intangible personal property subject to taxation under this section. The credit provided by this section may not exceed the amount of tax otherwise due multiplied by a fraction, the numerator of which is the value of the property located in the other taxing jurisdiction subject to this credit on which tax was actually paid and the denominator of which is the value of the decedent's federal gross estate. For purposes of this section, “another jurisdiction” means another state, the District of Columbia, a possession or territory of the United States or any political subdivision of a foreign country that is analogous to a state.

For purposes of this section, "federal gross estate" means the decedent's federal gross estate as modified by Maine qualified terminable interest property and Maine elective property.

Sec. 28. 36 MRSA §4071, sub-§1, as amended by PL 2005, c. 622, §22 and affected by §33, is further amended to read:

1. Final federal determination. ~~A~~Except as provided in subsection 1-A, a final federal determination as to any of the following issues also determines the same issue for purposes of the tax under this chapter:

A. The inclusion in the federal gross estate of any item of property or interest in property;

B. The allowance of any item claimed as a deduction from the federal gross estate; or

E. For estates of decedents dying before January 1, 2003, the amount of the federal credit.

Sec. 29. 36 MRSA §4071, sub-§1-A is enacted to read:

1-A. State determination of certain estates. For deaths occurring on or after July 1, 2008 but before January 1, 2010, the State Tax Assessor is not bound by a final federal determination under subsection 1 if the assessor determines the issue for purposes of tax under this chapter within 2 years of the date the return was filed or the date the return is due, whichever is later.

Sec. 30. 36 MRSA §4075, as enacted by PL 1981, c. 451, §7, is amended to read:

§ 4075. Amount of tax determined

The State Tax Assessor shall determine the amount of tax due and payable upon any estate or part of that estate. If, after determination and certification of the full amount of the tax upon an estate or any interest in or part of an estate, the estate ~~shall receive~~receives or ~~become~~becomes entitled to property in addition to that shown in the estate tax return filed with the ~~State Tax Assessor~~assessor or the United States Internal Revenue Service changes any item increasing the estate's liability shown in the Maine estate tax return filed with the assessor, the personal representative shall ~~forthwith notify the State Tax Assessor who~~within 90 days of any receipt, entitlement or change file an amended Maine estate tax return. The assessor shall ~~upon being informed, by the notice or otherwise,~~ determine the amount of additional tax~~, if any, due and payable thereon~~ and shall certify the amount due, including interest and penalties, to the person by whom the tax is payable~~, including interest and penalties~~.

Sec. 31. 36 MRSA §5219-S, as amended by PL 2003, c. 20, Pt. GG, §1, is repealed and the following enacted in its place:

§ 5219-S. Earned income credit

1. Resident taxpayer. A resident individual is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year.

2. Nonresident taxpayer. A nonresident individual is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122.

3. Part-year resident taxpayer. An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122.

4. Limitation. The credit allowed by this section may not reduce the Maine income tax to less than zero.

Sec. 32. 36 MRSA §5219-BB, sub-§7, as enacted by PL 2007, c. 539, Pt. WW, §4, is amended to read:

7. Allocation of credit. Credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property must be passed through to the partners, members or owners respectively pro rata in the same manner as under section 5219-G, subsection 1 or pursuant to an executed agreement among the partners, members or owners documenting an alternate allocation method. Credits may be allocated to partners, members or owners that are exempt from taxation under Section 501 (c)(3), Section 501 (c)(4) or Section 501 (c)(6) of the Code, and those partners, members or owners must be treated as taxpayers for the purposes of this subsection.

Sec. 33. 36 MRSA §5219-CC is enacted to read:

§ 5219-CC. Community wind power generator credit

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

A. "Commission" means the Public Utilities Commission.

B. "Community wind power generation facility" means an electricity-generating facility at any one site with an instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy.

C. "Payroll" means the total amount paid in this State during the tax period by the taxpayer for compensation, including wages, pretax employee contributions made to a benefit package and employer contributions made to an employee benefit package.

D. "Property value" means the average value of the taxpayer's real and tangible personal property that is owned or rented and used during the tax period. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. The net annual rental rate is the annual rental rate paid by the taxpayer.

E. "Qualified community wind power generator" means a person that has been certified as a community wind power generator by the commission pursuant to Title 35-A, section 3403, subsection 3.

2. Credit. A taxpayer that is a qualified community wind power generator is allowed a credit against the tax imposed by this Part equal to 100% of the tax otherwise due under this Part that is attributable to ownership of a community wind power generation facility in this State. The amount of the tax attributable to ownership of a community wind power generation facility in this State is calculated by an apportionment. The apportionment is determined by multiplying a fraction, the numerator of which is the property value plus the payroll for the taxable year attributed to ownership of a community wind power generation facility in this State and the denominator of which is the statewide property value plus payroll for the taxable year of the taxpayer, by the total tax otherwise due under this Part from the qualified community wind power generator. The credit is available for the first taxable year that begins after the commencement of operation of a community wind power generation facility in this State and prior to the tax year beginning on or after January 1, 2008.

If the qualified community wind power generator is a taxable corporation that is a member of an affiliated group engaged in a unitary business, the property value and payroll in the State of the unitary affiliated group must be included in the apportionment fraction. The resulting fraction must be multiplied by the total tax otherwise due under this Part of the qualified community wind power generator and the affiliated group engaged in the unitary business.

If the apportionment provisions of this subsection do not fairly reflect the amount of the credit attributable to the taxpayer's ownership of a community wind power generation facility in this State, the taxpayer may petition for, or the State Tax Assessor may require, in respect to all or any part of the taxpayer's business activity, the employment of another reasonable method to effectuate an equitable apportionment of the credit.

3. Qualification. The credit allowed under this section is available only to a qualified community wind power generator certified by the commission prior to January 1, 2008.

4. Termination of credit. The credit provided in this section is available only for tax years beginning on or after January 1, 2006 but before January 1, 2008.

Sec. 34. 36 MRSA §5245 is enacted to read:

§ 5245. Amended returns

1. Amended return required. Every partnership or S corporation that is required by section 5241 to file a return shall file an amended Maine return whenever the partnership or S corporation files an amended federal return affecting its net income under this Part or the amount of the distributive share of any partner or shareholder under this Part, whenever the United States Internal Revenue Service changes or corrects any item affecting the taxpayer's net income under this Part or the amount of the distributive share of any partner or shareholder under this Part or whenever for any reason there is a change or correction affecting the taxpayer's net income under this Part or the amount of the distributive share of any partner or shareholder under this Part. The amended Maine return must be filed within 90 days of the final determination of the change or correction or the filing of the federal amended return.

2. Contents of amended return. The amended Maine return must indicate the change or correction and the reason for that change or correction. The amended return constitutes an admission as to the correctness of the change unless the taxpayer includes with the return a written explanation of the reason the change or correction is erroneous. If the taxpayer files an amended federal return, a copy of the amended federal return must be attached to the amended Maine return. The State Tax Assessor may require additional information to be filed with the amended Maine return. The assessor may prescribe exceptions to the requirements of this section.

3. Notice of change or correction. A claim for credit or refund arising from an amended return filed pursuant to this section may not be made by a partner or shareholder of the partnership or S corporation unless the amended return is filed by the partnership or S corporation within 3 years from the time the original return was filed. For purposes of this subsection, any return filed before the last day prescribed for the filing of a return is considered as filed on that last day.

Sec. 35. 36 MRSA §6664, sub-§1, as enacted by PL 2005, c. 12, Pt. BBB, §5, is amended to read:

1. Report to Legislature. By ~~January 15th~~April 1st annually, the State Tax Assessor shall submit to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters a report that contains the following information with regard to persons receiving benefits under this chapter:

A. A list of persons receiving reimbursement for property taxes both under this chapter and under a tax increment financing agreement;

B. The total ~~of~~ tax increment financing district property value for each person;

C. The municipality of each tax increment financing district and the property tax rate for that municipality;

D. The total tax increment financing district property taxes paid, categorized by real property and personal property;

E. The total tax increment financing credit enhancement agreement reimbursement for property taxes paid categorized by real property and personal property;

F. The total reimbursement received by each person under this chapter; and

G. The extent of overlap between reimbursement for property taxes on personal property under this chapter and under a tax increment financing agreement.

Sec. 36. 36 MRSA §6902, sub-§2, as enacted by PL 2005, c. 519, Pt. GG, §3, is amended to read:

2. Procedure for reimbursement. ~~On or before the 15th day of the month immediately~~Within 6 weeks following receipt of a tax reimbursement and credit certificate pursuant to Title 5, section 13090-L, subsection 4, a media production company shall report to the State Tax Assessor ~~and to the Department of Economic and Community Development~~ that portion of certified production wages paid during the project period, together with any additional information the assessor may reasonably require. The assessor shall ~~report~~certify to the commissioner the reimbursement amount to which a media production company is entitled. The commissioner shall deposit the ~~reported~~ amounts ~~on or before June 30th of each year~~certified by the assessor in a media production reimbursement account established, maintained and administered by the commissioner and shall pay ~~the reported~~those amounts to each ~~certified~~ media production company ~~on or before July 31st of each year~~within 90 days of the receipt by the assessor of the media production company's report.

Sec. 37. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 30-A, section 5223, subsection 3 applies retroactively to August 23, 2006. Those sections of this Act that amend Title 35-A, section 3402 and enact Title 35-A, section 3403, subsection 3 apply retroactively to August 23, 2006. Those sections of this Act that amend Title 36, section 1760, subsection 89 and Title 36, section 2017 apply retroactively to August 23, 2006. That section of this Act that amends Title 36, section 5219-BB applies retroactively to June 30, 2008. That section of this Act that enacts Title 36, section 5219-CC applies retroactively to August 23, 2006.