

OFFICE OF FISCAL AND PROGRAM REVIEW

Date: May 28, 2013
To: Members, Joint Standing Committee on Taxation
From: Elizabeth Cooper, Legislative Analyst
Re: Final Amendment Review – LD 988

An amendment and fiscal note for LD 988 are attached for your review.

LD 988 "An Act To Amend the Tax Laws"

- The Committee voted OTPA on May 7, 2013 and reconsidered with a voted of OPTA on May 17, 2013.
- This amendment makes the following changes to the bill.
 - It provides greater flexibility in the renewal of resale certificates.
 - It provides for changes to reflect the estate tax law applicable to estates on or after January 1, 2013 and includes provisions for the automatic release of the estate tax lien.
 - It provides a mechanism for taxpayers to request an appeal conference after the filing a statement of appeal and clarifies confidentiality provisions regarding the disclosure of taxpayer information to the Maine Board of Appeals by Maine Revenue Services.
 - It adds to the bill clarification that the term “personal home care” has the same meaning as “private nonmedical institution” in the application of the service provided tax in order to align the language with that used in the Department of Health and Human Services rule.
 - It makes changes to the wild blueberry tax provisions to clarify which party is responsible for paying the tax and that the tax is levied on the unprocessed weight of the blueberries received by a processor.
- The fiscal note indicates that the bill makes multiple technical changes to the tax laws that collectively have no fiscal impact.

Please let me know if you have any questions or concerns.



126th MAINE LEGISLATURE

LD 988

LR 379(02)

An Act To Amend the Tax Laws

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

No net fiscal impact

Fiscal Detail and Notes

This bill makes multiple technical changes to the tax laws that collectively have no fiscal impact.

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Date: (Filing No. S-)

TAXATION

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 333, L.D. 988, Bill, “An Act To Amend the Tax Laws”

Amend the bill by striking out all of section 1 and inserting the following:

'PART A

Sec. A-1. 36 MRSA §1754-B, sub-§2-C, as amended by PL 2005, c. 519, Pt. 000, §1, is further amended to read:

2-C. Issuance and renewal of resale certificates; contents; presentation to vendor. ~~The On November 1st of each year, the~~ assessor shall periodically review the ~~status of returns filed by each registered retailer registered under this section unless the retailer has a resale certificate expiring after December 31st of that year. On or before the date of expiration of a resale certificate, the assessor shall issue to each registered retailer with gross sales of \$3,000 or more during the 12 months preceding the assessor's review a resale certificate effective for the next 3 calendar years. Any subsequent annual resale certificate issued is effective for the next 5 calendar years. If the retailer reports \$3,000 or more in gross sales during the 12 months preceding the assessor's review, the assessor shall issue to the registered retailer a resale certificate effective for 5 calendar years.~~ Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid.

A registered retailer that fails to meet the \$3,000 threshold upon the annual review of the assessor is not entitled to renewal of its resale certificate except as provided in this subsection. When any such retailer shows that its gross sales for a more current 12-month period total \$3,000 or more or explains to the satisfaction of the assessor why temporary extraordinary circumstances caused its gross sales for the period used for the assessor's annual review to be less than \$3,000, the assessor shall, upon the written request of the retailer, issue to the retailer a resale certificate effective for the next 5 calendar years.

COMMITTEE AMENDMENT

1 **Sec. A-2. 36 MRSA §4072**, as amended by PL 1999, c. 38, §1, is further amended
2 to read:

3 **§4072. Lien for taxes**

4 All property subject to taxes under this chapter, in whatever form of investment it
5 may happen to be, is charged with a lien for all taxes, interest and penalties that are or
6 may become due on that property. The lien does not attach to any property passing by
7 right of survivorship to a surviving joint tenant who was the decedent's spouse on the
8 decedent's date of death. The lien does not attach to any real or personal property after
9 the property has been sold or disposed of for value by the personal representative, trustee
10 or surviving joint tenant. Upon payment of those taxes, interest and penalties due under
11 this chapter, or upon determination that no tax is due, the State Tax Assessor shall upon
12 request execute a discharge of the tax lien for recording in the appropriate registry or
13 registries of deeds.

14 Any lien that attached to real property prior to September 30, 1989 and after the
15 property was sold or disposed of for value by the personal representative, trustee or
16 surviving joint tenant is released by operation of this section. A lien that attaches under
17 this section is released 10 years after the decedent's date of death.

18 **Sec. A-3. 36 MRSA §4112**, as enacted by PL 2011, c. 380, Pt. M, §9, is amended
19 to read:

20 **§4112. Lien for taxes**

21 All property subject to taxes under this chapter, in whatever form of investment it
22 may happen to be, is charged with a lien for all taxes, interest and penalties that are or
23 may become due on that property. The lien does not attach to any property passing by
24 right of survivorship to a surviving joint tenant who was the decedent's spouse on the
25 decedent's date of death. The lien does not attach to any real or personal property after
26 the property has been sold or disposed of for value by the personal representative, trustee
27 or surviving joint tenant. Upon payment of those taxes, interest and penalties due under
28 this chapter or upon determination that no tax is due, the assessor shall upon request
29 execute a discharge of the tax lien for recording in the appropriate registry or registries of
30 deeds.

31 A lien that attaches under this section is released 10 years after the decedent's date of
32 death.

33 **Sec. A-4. 36 MRSA §5122, sub-§1, ¶Y**, as amended by PL 2007, c. 539, Pt.
34 CCC, §3, is further amended to read:

35 Y. Any amount of allowable deduction claimed for federal purposes in accordance
36 with the election under Section 642(g) of the Code that is also used to determine the
37 taxable estate for purposes of calculating the Maine estate tax under chapter 575 or
38 577;

39 **Sec. A-5. Application.** That section of this Part that amends the Maine Revised
40 Statutes, Title 36, section 5122, subsection 1, paragraph Y applies to tax years beginning
41 on or after January 1, 2013.

1 an appeal to the parties. The board may make available to the public redacted
2 decisions that do not disclose the identity of a taxpayer or any information made
3 confidential by state or federal statute.

4 **PART C**

5 **Sec. C-1. 36 MRSA §111, sub-§1-C**, as enacted by PL 2011, c. 694, §2, is
6 amended to read:

7 **1-C. Board.** ~~“Board”~~ For purposes of sections 151 and 151-D and section 191,
8 subsection 2, paragraphs C, XX and YY, “board” means the Maine Board of Tax Appeals
9 as established in Title 5, section 12004-B, subsection 10.’

10 Amend the bill by striking out all of section 4 and inserting the following:

11 **‘Sec. 4. 36 MRSA §151-A, sub-§2**, as amended by PL 2013, c. 45, §5, is further
12 amended to read:

13 **2. Representative of taxpayer.** The taxpayer may bring to any interview ~~or~~
14 ~~informal conference~~ with the State Tax Assessor or to any proceeding pursuant to section
15 151-D any attorney, certified public accountant, enrolled agent, enrolled actuary or any
16 other person permitted to represent the taxpayer. If the taxpayer does not bring anyone to
17 the interview, ~~conference~~ or proceeding but clearly states at any time during the
18 interview, ~~conference~~ or proceeding that the taxpayer wishes to consult with an attorney,
19 certified public accountant, enrolled agent, enrolled actuary or any other person permitted
20 to represent the taxpayer, the State Tax Assessor shall suspend the interview or
21 ~~conference~~ or the board shall suspend the proceeding. The suspension must occur even if
22 the taxpayer has answered one or more questions before that point in the interview,
23 ~~conference~~ or proceeding. The ~~conference~~ interview must be rescheduled to be held
24 within 10 working days.’

25 Amend the bill by inserting after section 11 the following:

26 **‘Sec. 12. 36 MRSA §2551, sub-§10**, as amended by PL 2007, c. 438, §53, is
27 further amended to read:

28 **10. Private nonmedical institution or personal home care.** “Private nonmedical
29 institution or personal home care” means a person licensed by the Department of Health
30 and Human Services to provide private nonmedical institution or personal home care
31 services to 4 or more MaineCare-eligible and other residents in single or multiple
32 facilities under a written agreement with the Department of Health and Human Services.
33 “Private nonmedical institution or personal home care” does not include a health
34 insurance organization, hospital, nursing home or community health care center.

35 **Sec. 13. 36 MRSA §2551, sub-§11**, as enacted by PL 2003, c. 673, Pt. V, §25
36 and affected by §29, is amended to read:

37 **11. Private nonmedical institution or personal home care services.** “Private
38 nonmedical institution or personal home care services” means services, including food,
39 shelter and treatment, that are provided by a private nonmedical institution or personal
40 home care.

1 protecting the identity of the taxpayer involved in the appeal and any confidential tax
2 information.

3 Part C:

4 1. Adds to the bill's changes to a definition of "board," referring to the Maine Board
5 of Tax Appeals, a reference to language added in Part B regarding confidential taxpayer
6 information;

7 2. Changes the bill to take into account recently enacted law; and

8 3. Changes the bill to clarify that personal home care services are subject to the
9 service provider tax as private nonmedical institution services are, aligning the language
10 with that used in Department of Health and Human Services rules. It makes changes to
11 the wild blueberry tax provisions to clarify which party is responsible for paying the tax
12 and that the tax is levied on the unprocessed weight of the blueberries received by a
13 processor.