

MAINE TAX ALERT

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The 118th Maine Legislature enacted bills affecting a wide range of issues and creating at least five task forces, commissions and study groups to make recommendations on various tax issues. A significant change is the elimination of a requirement to file for most individuals with \$2,000 or less in Maine taxable income. The following is a brief summary of some of the recent law changes affecting Maine tax administration and enforcement:

GENERAL LAW CHANGES

- { The Bureau of Taxation will become the Bureau of Revenue Services effective September 19, 1997. The Bureau anticipates using the new name, Maine Revenue Services. Other state agencies may contract with the Bureau for collection services. [P.L. 1997 Chapter 526]
- { The State may require electronic funds transfer for taxpayers with \$200,000 or more in annual withholding payments or \$400,000 or more in annual payments of any other single tax and for payroll companies. Effective June 12, 1997. The Bureau is writing a rule to cover EFT payments. [36 MRSAAe193] [P.L. '97 Ch. 504]
- { Effective September 19, 1997, the State will require all payroll processing companies to register annually with the Bureau of Taxation. Payroll companies are also required to disclose to each customer company the length of time the payroll company has provided payroll services and to identify any services which are contracted out to another provider, with the names of the provider(s). Disclosure must be made to each new customer company and on September 1, every other year to all customers. The legislation provides significant civil and criminal penalties for certain violations. Disclosure is not required of payroll processing companies that do not handle client funds. Payroll processors are subject to tax audit, as are client books and records in their possession. [36 MRSA e112(4)] The Bureau may apply for an injunction from doing business where a payroll processor has failed to pay over funds and make tax returns for which it was responsible. [36 MRSAAe5255-A] [P.L. '97 Ch. 495]
- { The Maine income, estate and mining excise tax laws conform with federal tax laws as of December 31, 1996 for tax years beginning on or after January 1, 1996. The bill adds an income modification equal to the amount of the federal Work Opportunity Credit which is in effect until September 30, 1997 and replaced the New Jobs Credit, repealed December, 1994. [36 MRSAAe111(1-A) and e5122] [Chapter 27]
- { Effective October 1, 1997, the Bureau of Taxation may release taxpayer residence, employer, income and asset information to the Department of Human Services for child support enforcement purposes. The release of confidential tax information to the Attorney General is extended to local law enforcement and prosecution staff in connection with a criminal investigation or prosecution, but only if done through the Attorney General. [36 MRSA e191] [P.L. '97 Ch. 537]
- { Maine is now authorized to join the MultiState Tax Commission as a full member under the MultiState Tax Compact. As a member, Maine will participate in developing voluntary uniform tax policies for multistate businesses. The MTC also provides joint tax compliance and administrative services and works to limit federal preemption of state taxing authority. Effective September 19, 1997. [36 MRSA Chapter 920] [P.L. '97 Ch. 411]

- { A task force is established to study a single-payment system for state and federal taxes for small business. [Resolve 1997 Ch. 66]
- { A new position of Director of Econometric Research is established in the Bureau of Taxation. This position replaces the previous research director position. [P.L. '97 Ch. 459]

FRANCHISE TAX

- { Financial institutions are now included in the 36 MRSA e111(3) definition of "person." Franchise tax is amended to broaden the definition of "financial institution" and to change the apportionment formula that is used to apportion net income of multi-state institutions to reflect more accurately the way financial institutions earn their income. The new apportionment formula is also used to compute Maine assets from the total end-of-year assets of the financial institutions and applies to tax years beginning on or after January 1, 1997. [36 MRSA Chapter 819] [P.L. 1997 Chapter 404]

INCOME TAX

- { For the 1997 tax year and later, individuals whose Maine taxable income is \$2,000 or less will not be required to file a Maine individual income tax return. This is accomplished by making these individuals eligible for the Low-Income Tax Credit equal to the income tax otherwise due. This credit is not available to individuals who are claimed as a dependent on another taxpayer's return or to taxpayers subject to the Maine minimum tax. [36 MRSA e5219-N] [Chapter 557]
- { Effective October 1, 1997, Maine will regulate viatical settlement agreements which allow an individual with critical or terminal illness to assign, transfer, sell or bequeath a death benefit or life insurance policy to a viatical settlement provider in exchange for cash or other value. Income from a viatical settlement is taxable by Maine to the same extent that it is taxable under federal law. [24-A MRSA Chapter 85e6809(7)] [P.L. 1997 Chapter 439]
- { A Family Development Account Program to be administered by the Finance Authority of Maine will benefit families with income below 200% of the poverty level. Accounts will be available through approved community development organizations which will provide funds matching the families' contributions. Account proceeds may be used for purposes from education through job training and purchase or repair of a home and other job and health related uses. Account balances and withdrawals are exempt from Maine individual income tax. Effective June 12, 1997. [10 MRSA Ch. 110] [P.L. '97 Ch. 578]

INSURANCE PREMIUM TAX

- { For certain large insurers, the premium tax rate on qualified group disability policies was reduced to 1% except for certain large domestic insurers. [P.L. '97 Ch. 496]

PROPERTY TAX

- { 36 MRSA e1482 has been amended to allow property tax credit to lessees of motor vehicles effective September 19, 1997. [P.L. '97 Ch. 175]

SALES TAX

- { Includes "bin pilers" as exempt depreciable machinery and equipment used in commercial agricultural production. [P.L. '97 Ch. 514]
- { Expands sales tax exemption for animal shelters to include those that house wildlife. [P.L. '97 Ch. 545]
- { Provides shrinkage allowance for propane. [P.L. '97 Ch. 262]
- { Redefines farm tractors and lumber harvesting vehicles to include them in "special mobile equipment." [P.L. '97 Ch. 133]

- { The raising of horses is now included in "agricultural production." Also, sales of hay and bedding for farm animals are exempt from sales tax. The law also exempts "other feed and litter" used in the raising and keeping of equines. [36 MRSA e1760(7) P.L. '97 Ch. 550]
- { Sales tax exemptions now include custom computer software, including the custom modifications to an existing, "canned," program to the extent that the amount charged for the modification is separately stated. The definition of "tangible personal property" includes any computer software that is not a custom computer software program. [36 MRSA e1752(17)]
- { Included in exempt sales are sales of machinery, equipment, instruments and supplies for use by the purchaser directly and primarily in biotechnology applications, which are enumerated in the law. [36 MRSA e1752(32)] [P.L. '97 Ch. 557]
- { Certain biological processes are now included in the definition of "production" for sales tax purposes. These include (exclusively) biological processes that are part of an integrated process of manufacturing organisms or microorganic materials through the application of biotechnology. [36 MRSA e1752(9-B)] [P.L. '97 Ch. 557]

REAL ESTATE TRANSFER TAX

- { 36 MRSA e4641-b(B) is amended to allow the Bureau to charge interest to county registrars if transfer tax is not paid over to the Bureau by the 10th day of the month for the tax collected in the previous month.
- { Clarifies e4641-c(1) to provide that all gifts of real property to government entities and e4641-c(3) deeds which affect a previous deed without changing ownership of ownership interest and deeds between certain family members. [P.L. '97 Ch. 504]

TOBACCO TAX

- { Effective for cigarettes held for resale on November 1, 1997, the cigarette tax has been raised to 37 mills per cigarette. The Tobacco Tax Relief Fund is established for the prevention and reduction of tobacco use and for tax relief for Maine citizens. The Tobacco Prevention and Control Program established under this law will be administered by the Bureau of Health. [36 MRSAe4365] [P.L. '97 Ch. 560]

TREE GROWTH TAX LAW

- { The percentage factor by which the growth rates set by the Bureau pursuant to e576 must be reduced to reflect the growth that can be extracted on a sustained basis, is 10%. The capitalization rate applied to the value of the annual net wood production has been set by the state at 8.5%. An annual rule will no longer be required. [P.L. '97 Ch. 504]

WITHHOLDING TAX

- { The Department of Labor is directed to monitor the employee leasing industry to ensure its development in a manner that provides the greatest benefit to Maine employers while minimizing the financial risk to those employers and to leased employees. Written materials will be available for employers interested in contracting with an employee leasing firm. The Bureau of Taxation, the Department of Labor and others will meet annually to develop these materials. Effective June 5, 1997. [36 MRSA e1401(B)] [P.L. '97 Ch. 393]

BUSINESS TAX CREDITS

- { For tax years beginning on or after January 1, 1998, a Super Credit for substantially increased research and development will be available to businesses whose Maine research expenses increase by more than 50% over the average research expenses incurred in the 3 years immediately preceding the effective date of the credit. The credit is equal to the excess over 150% of the 3-year average of research expenses and is limited to 50% of the net income tax due after other credits and to the net tax liability in the preceding year after other credits. The credit may be carried over. [36 MRSA e5219-L] [Ch. 557]

- { For tax years beginning on or after January 1, 1998, a new High Technology Credit is available to businesses that lease, purchase and use, or purchase and lease computer equipment, electronic components and accessories, communications equipment or computer software placed in service in Maine and used in "high-technology activities." The activities included are: The design, creation and production of computer software, computer equipment, supporting communications components and other accessories that are directly associated with computer software and computer equipment; and, the provision of Internet or electronic communications access services or support access to electronic media and data and associated communications support, or advanced telecommunications capability as that term is defined in the U.S. Telecommunications Act of 1996. The credit is available to both owners and lessors of the equipment. The credit is subject to certain limitations based upon the current and preceding years. The credit may be carried over. Use of the credit affects the reimbursement period for the Business Property Tax Reimbursement Program and may require a modification to Maine taxable income. [36 MRSA e5219-M] [P.L.'97 Ch. 557] [Note: The Bureau anticipates introducing corrective legislation in early 1998 to rectify several technical flaws within this program.]
- { The Maine Withholding Shipbuilding Facility Credit will be available beginning in calendar year 1999. The total credit available is \$60,000,000 or no more than \$3,000,000 annually and is applied against withholding tax otherwise due to the state. The credit is contingent upon investment by the qualified taxpayer of at least \$150 million within 5 years of certification and at least \$200 million within 10 years of certification. Employment of 6,500 is required at the time of application with diminishing thresholds in later years. [36 MRSA Ch. 919] [P.L. '97 Ch. 449]
- { Jobs and Investment Tax Credit: The credit has been expanded to include "used property," which is defined as property originally placed in service by the taxpayer outside Maine. The basis of the property is the original cost minus straight-line depreciation for the number of years the property was used outside Maine. The basis of used property placed into service in Maine before January 1, 1997 is the original cost of the property. Effective June 12, 1997. [36 MRSA e 5215] [P.L. '97 Ch. 504]
- { Solid Waste Reduction ITC has been amended to extend the use of carryovers to December 31, 2004. Effective June 12, 1997. [36 MRSA e5215] [P.L. '97 Ch. 504]

ENFORCEMENT

- { The crime of intentionally attempting to evade taxes in an amount of \$2,000 or less is classed as a Class D crime unless the taxpayer has a prior conviction for tax evasion, in which case the crime is a Class C crime. For similar offenses over \$2,000, the crime is a Class C crime, or with prior conviction for tax evasion, a Class B crime. Effective June 12, 1997 [36 MRSA e184-A] [P.L. '97 Ch. 504]

TAXPAYER BENEFIT PROGRAMS

- { Tax Increment Financing: The costs to a municipality for recreational facilities may not be included in determining project costs related to a tax increment financing district. Effective May 20, 1997. [30-A MRSA e5252(8)(A)] [P.L. '97 Ch. 220]
- { Property Tax and Rent Refund Program: Changes to the program are effective for the 1997 Program which will begin on August 1, 1997 and end on January 31, 1998. The upper income limit for nonelderly multi-member households was increased to \$40,000 with the maximum refund for nonelderly households raised to \$1,000. Households receiving special AFDC (TANF) housing will now be eligible. The benefit calculation for nonelderly was also changed. The program will eventually provide an option for TeleFile application. Beginning with the 1997 tax return, there will be a check-off box to request an application for the following year. [36 MRSAe5207 and 6210] [P.L.'97 Ch. 557]

In addition to the legislation detailed here, the Joint Standing Committee on Taxation will study tax relief and tax reform. Their study is to include broadening the sales tax base by eliminating exemptions and exclusions,

the "rent-to-own" industry, income tax and revenue targeting and report its findings to the 2nd Regular Session of the 118th Legislature.

TAX CHANGES IN THE BUDGET BILL (repeated from the April 1997 issue of Tax Alert for your convenience)

The Maine State Budget for fiscal years 1998-9 includes tax provisions affecting corporations, exemption amount for individuals and state reimbursement for business personal property tax. Corporations known as 80-20 corporations will be included as part of the base for Maine net income and combined reporting effective for tax years beginning on or after January 1, 1997. The personal exemption amount has been increased by \$50 to \$2,150 as the first move toward conformity with the federal personal exemption amount. The revenue targeting fund, or "tax cap" was repealed.

The Business Equipment Tax Reimbursement Program has been amended by the bill. Effective after April 1, 1996, reimbursement for personal property tax will be reduced by one year for each year the taxpayer included the property under the ITC base. Eligible property includes construction-in-process commenced after April 1, 1995. Beginning after April 1, 1996, eligible property excludes office furniture, including tables, chairs, desks, bookcases, filing cabinets, modular office partitions and lamps and lighting fixtures. Items of this type of property which were eligible for reimbursement for 1996 remain eligible for reimbursement. Also the Investment Tax Credit is repealed for personal property placed in service after April 1, 1996.

Entities which are public utilities and some communications companies are excluded from the business equipment tax reimbursement program, beginning after April 1, 1995. These are: radio paging services, mobile telecommunications services, cable television companies, satellite-based direct television broadcast services and multichannel, multipoint television distribution services.

FEDERAL RETIREES CAN NOW REQUEST STATE TAX WITHHOLDING

Beginning this summer, the federal Office of Personnel Management will notify all Maine resident federal retirees that they may request that state tax withholding be taken from their pension checks. The OPM will send the total withholding payments to Maine, just as any employer would do. This voluntary state tax withholding from federal pensions should make it much easier for these retirees to take care of their state taxes. Those who wish to request state tax withholding from their pensions may call the OPM's Annuitant Express line at 1-800-409-6528. For information on the program, call (202)606-0500.

YOU COULD WRITE THE TAX ALERT!

Beginning in September, the Bureau of Taxation will need someone to write the monthly Tax Alert and press releases and to perform other similar tax related duties. The successful candidate should have a tax background and an interest in writing about tax developments in a clear and concise style. The position will be part time (20 hours a week) and includes some State benefits including health insurance. Please contact Jerome D. Gerard, CPA, Director, Income/Estate Tax Division at (207)287-2076 for more information.

MAINE TAX INSTITUTE - October 23-24

Save the date. Watch for your invitation to the Maine Tax Institute in the August Tax Alert. The Institute is sponsored by Thomas College and The Maine Bureau of Taxation. It will present a comprehensive review of current tax policy and law changes by major speakers beginning with Maine's Governor, Angus S. King.