

**LR 2721 An Act Related to the Report of the Tax Expenditure Review Task Force
Pursuant to PL 2013, c. 368, Part S**

LIMIT BETR TO 12 YEARS:

Part A

Sec. A-1. 36 MRSA §699, sub-§2 is amended to read:

2. Intent. It is the intent of the Legislature to fund fully transfers to the Disproportionate Tax Burden Fund under section 700-A, subsection 1 ~~and reimbursements under the business equipment tax reimbursement program under section 6652, subsection 4, paragraph B.~~

Sec. A-2. 36 MRSA §6652, sub-§1 is amended to read:

1. Generally. A person against whom taxes have been assessed pursuant to Part 2, except for chapters 111 and 112, with respect to eligible property and who has paid those taxes is entitled to reimbursement of a portion of those taxes from the State as provided in this chapter. The reimbursement under this chapter is the percentage of the taxes assessed and paid with respect to eligible property specified in subsection 4. For purposes of this chapter, a tax applied as a credit against a tax assessed pursuant to chapter 111 or 112 is a tax assessed pursuant to chapter 111 or 112. Reimbursement under this chapter is limited to 12 property tax years. A taxpayer that included eligible property in its investment credit base under section 5219-M and claimed the credit provided in section 5219-M on its income tax return may not be reimbursed under this chapter for taxes assessed on that same eligible property in a year in which that credit is taken. A successor in interest of a person against whom taxes have been assessed with respect to eligible property is entitled to reimbursement pursuant to this section, whether the tax was paid by the person assessed or by the successor, as long as a transfer of the property in question to the successor has occurred and the successor is the owner of the property as of August 1st of the year in which a claim for reimbursement may be filed pursuant to section 6654. For purposes of this subsection, "successor in interest" includes the initial successor and any subsequent successor. When an eligible successor in interest exists, the successor is the only person to whom reimbursement under this chapter may be made with respect to the transferred property. For an item of eligible property that is first subject to assessment under Part 2 on or after April 1, 2008, and for any item of eligible property for which reimbursement is paid under subsection 4, paragraph B, the reimbursement otherwise payable under this section may not exceed the actual property taxes paid less any tax increment financing refund received with respect to that property.

Sec. A-3. 36 NRSA §6652, sub-§4, ¶B is repealed.

Sec. A.4. Application. The section of this Act that amends Title 36, section 699, subsection 2 and section 6652, subsection 1 and that repeals Title 36, section 6652, subsection 4, paragraph B apply to claims for reimbursement for property taxes filed for application periods beginning on or after August 1, 2014.

EXCLUDING RETAIL FACILITIES:

PART B

Sec. B-2. 36 MRS §691, sub-§1, ¶A is amended to read:

A. "Eligible business equipment" means qualified property that, in the absence of this subchapter, would first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became subject to assessment under this Part before April 1, 2008 if the part, addition, equipment, accession or accessory would, in the absence of this subchapter, first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" also includes inventory parts.

"Eligible business equipment" does not include:

- (1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;
- (2) Lamps and lighting fixtures used primarily for the purpose of providing general purpose office or worker lighting;
- (3) Property owned or used by an excluded person;
- (4) Telecommunications personal property subject to the tax imposed by section 457;
- (5) Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

- (a) Associated equipment as defined in Title 8, section 1001, subsection 2;

- (b) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;
 - (c) An electronic video machine as defined in Title 17, section 1831, subsection 4;
 - (d) Equipment used in the playing phases of lottery schemes; and
 - (e) Repair and replacement parts of a gambling machine or device;
- (6) Property located at a retail sales facility and used primarily in a retail sales activity ~~unless the property is owned by a business that operates a retail sales facility in the State exceeding 100,000 square feet of interior customer selling space that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue on a calendar year basis from sales that are made at a retail sales facility located in the State.~~ For purposes of this subparagraph, the following terms have the following meanings:
- (a) "Primarily" means more than 50% of the time;
 - (b) "Retail sales activity" means an activity associated with the selection and purchase of goods or services or the rental of tangible personal property. "Retail sales activity" does not include production as defined in section 1752, subsection 9-B; and
 - (c) "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods or services at retail or for renting tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility;

Sec. B-2. 36 MRSA §6652, sub-§1-D is amended to read:

1-D. Retail sales facilities. Reimbursement pursuant to this chapter may not be made with respect to property that is located in a retail sales facility ~~exceeding 100,000 square feet of interior customer selling space and used primarily in a retail sales activity, unless the facility is owned by a business whose Maine-based operation derives less than 50% of its total annual revenue on a calendar year basis from sales that are subject to Maine sales tax.~~ This subsection applies to property tax years beginning after April 1, 2006. Property affected by this subsection that was eligible for reimbursement pursuant to this chapter for property taxes paid for the 2006 property tax year is grandfathered into the program and continues to be eligible for reimbursement to the extent permitted by this chapter as it existed on April 1, 2006, unless that property subsequently becomes ineligible.

Sec. B-3. Application. The section of this Part that amends Title 36, section 691, subsection 1, paragraph A applies to property taxes based on the status of property on or

after April 1, 2014. The section of this Part that amends Title 36, section 6652, subsection 1-D applies to claims for reimbursement for property taxes filed for application periods beginning on or after August 1, 2014.

LIFO election disallowance:

PART C

Sec. C-1. 36 MRSA §5122, sub-§1, ¶II is enacted to read:

II. For tax years beginning on or after January 1, 2014, the amount by which federal adjusted gross income would be increased if the taxpayer was not permitted to use the last-in, first-out method of inventorying goods allowed under the Code, Section 472.

Sec. C-2. 36 MRSA §5200-A, sub-§1, ¶BB is enacted to read:

BB. For tax years beginning on or after January 1, 2014, the amount by which taxable income would be increased if the taxpayer was not permitted to use the last-in, first-out method of inventorying goods allowed under the Code, Section 472.

PART D

Sec. D-1. PL 2013, chapter 368, §S-8 is repealed.

Sec. D-2. Transfer from tax relief fund. The State Controller shall transfer \$4,000,000 from the Tax Relief Fund for Maine Residents established in the Maine Revised Statutes, Title 5, section 1518-A to the unappropriated surplus of the General Fund no later than June 30, 2015.

Sec. D-3. Transfer from budget stabilization fund. The State Controller shall transfer (\$_____ amount to be determined) from the Maine Budget Stabilization Fund established in the Maine Revised Statutes, Title 5, section 1532 to the unappropriated surplus of the General Fund no later than June 30, 2015.

Summary

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Part A restores the original 12-year limit on eligibility for reimbursement under the Business Equipment Tax Reimbursement program.

Part B eliminates eligibility under the Business Equipment Tax Reimbursement program for property located at a retail sales facility and used primarily in a retail sales activity.

Part C requires taxpayers who take advantage of the federal option to use the last-in, first-out method of inventorying goods allowed under the United States Internal Revenue Code, Section 472 to adjust federal adjusted gross income or taxable income claimed under the state income tax by the amount of income that would be required if the federal option was not available.

Part D repeals the provision in Part S of the Biennial Budget Bill, Public Law 2013, chapter 368, that reduced the transfers to municipal revenue sharing by \$40,000,000 in fiscal year 2014-15, if legislation is not enacted by July 1, 2014 pursuant to Part S that generates an increase of \$40,000,000 in budgeted General Fund revenue.

Part D also transfers \$4,000,000 from the Tax Relief Fund for Maine Resident to the General Fund unappropriated surplus in fiscal year 2014-15.

Part D also transfers (an amount to be determined) from the Maine Budget Stabilization Fund to the General Fund unappropriated surplus in fiscal year 2014-15. (Amount will be the amount necessary after calculating the available