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Legislative Document

No. 235

S.P. 79

In Senate, January 24, 2017

An Act To Repeal the Service Provider Tax

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin. (BY REQUEST)
Cosponsored by Senators: BELLOWS of Kennebec, LIBBY of Androscoggin.

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

2 **Sec. 1. 25 MRSA §2927, sub-§1-E, ¶C**, as enacted by PL 2009, c. 400, §9 and
3 affected by §15, is amended to read:

4 C. The place of residence of cellular or wireless telecommunications service
5 customers who are not prepaid wireless telecommunications service consumers must
6 be determined according to the sourcing rules for mobile telecommunications
7 services as set forth in former Title 36, section 2556.

8 **Sec. 2. 30-A MRSA §5681, sub-§5**, as amended by PL 2015, c. 267, Pt. K, §1, is
9 further amended to read:

10 **5. Transfers to funds.** No later than the 10th day of each month, the State
11 Controller shall transfer to the Local Government Fund 5% of the receipts during the
12 previous month from the taxes imposed under Title 36, Parts 3 and 8, ~~and Title 36,~~
13 ~~section 2552, subsection 1, paragraphs A to F and L,~~ and credited to the General Fund
14 without any reduction, except that for fiscal years 2015-16, 2016-17, 2017-18 and 2018-
15 19 the amount transferred is 2% of the receipts during the previous month from the taxes
16 imposed under Title 36, Parts 3 and 8, ~~and Title 36, section 2552, subsection 1,~~
17 ~~paragraphs A to F and L,~~ and credited to the General Fund without any reduction, and
18 except that the postage, state cost allocation program and programming costs of
19 administering state-municipal revenue sharing may be paid by the Local Government
20 Fund. A percentage share of the amounts transferred to the Local Government Fund each
21 month must be transferred to the Disproportionate Tax Burden Fund and distributed
22 pursuant to subsection 4-B as follows:

23 C. For months beginning on or after July 1, 2009 but before July 1, 2010, 15%;

24 D. For months beginning on or after July 1, 2010 but before July 1, 2011, 16%;

25 E. For months beginning on or after July 1, 2011 but before July 1, 2012, 17%;

26 F. For months beginning on or after July 1, 2012 but before July 1, 2013, 18%;

27 G. For months beginning on or after July 1, 2013 but before July 1, 2014, 19%; and

28 H. For months beginning on or after July 1, 2014, 20%.

29 **Sec. 3. 35-A MRSA §7308, sub-§1**, as enacted by PL 2007, c. 511, §1, is
30 amended to read:

31 **1. Definition.** For purposes of this section, "prepaid calling service" ~~has the same~~
32 ~~meaning as in Title 36, section 2551, subsection 9~~ means the right to access exclusively
33 telecommunications services that must be paid for in advance and that enables the
34 origination of calls using an access number or authorization code or both, whether
35 manually or electronically dialed, and that is sold in predetermined units or dollars, the
36 number of which declines with use in a known amount.

37 **Sec. 4. 36 MRSA §182, sub-§1**, as amended by PL 2007, c. 437, §2, is further
38 amended to read:

1 **1. Generally.** The State Tax Assessor may, through the Attorney General, file an
2 action in Superior Court applying for an order to enjoin from doing business any person
3 who has:

4 A. Failed to register with the assessor when the person is required to register by any
5 provision of Part 3, ~~chapter 358~~ or Part 5 or by any rule adopted pursuant to this Title,
6 as long as the assessor has provided written notice and the person continues to fail to
7 register 15 days after receiving notice from the assessor of such failure;

8 B. Failed to file with the assessor any overdue return required by Part 3, ~~chapter 358~~
9 or Part 5 within 15 days after receiving notice from the assessor of such failure;

10 C. Failed to pay any tax required by Part 3, ~~chapter 358~~ or Part 5 when the tax is
11 shown to be due on a return filed by that person, or that is otherwise conceded by that
12 person to be due, or has been determined by the assessor to be due and that
13 determination has become final;

14 D. Knowingly filed a false return required by Part 3, ~~chapter 358~~ or Part 5; or

15 E. Failed to deduct and withhold, or truthfully account for or pay over or make
16 returns of, income taxes in violation of the provisions of chapter 827.

17 **Sec. 5. 36 MRSA §191, sub-§2, ¶R,** as amended by PL 2005, c. 332, §6, is
18 further amended to read:

19 R. The disclosure to the Department of Health and Human Services of information
20 relating to the administration and collection of the taxes imposed by ~~chapter 358,~~
21 chapter 373, chapter 375 and chapter 377;

22 **Sec. 6. 36 MRSA §191, sub-§2, ¶EE,** as amended by PL 2007, c. 438, §10, is
23 further amended to read:

24 EE. The disclosure by the State Tax Assessor of the fact that a person has or has not
25 been issued a certificate of exemption pursuant to section 1760, or 2013 ~~or 2557~~, a
26 provisional resale certificate pursuant to section 1754-B, subsection 2-B or a resale
27 certificate pursuant to section 1754-B, subsection 2-C;

28 **Sec. 7. 36 MRSA §1752, sub-§11, ¶B,** as amended by PL 2015, c. 390, §5, is
29 further amended to read:

30 B. "Retail sale" does not include:

31 (1) Any casual sale;

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

35 (3) The sale, to a person engaged in the business of renting automobiles, of
36 automobiles, integral parts of automobiles or accessories to automobiles, for
37 rental or for use in an automobile rented for a period of less than one year. For
38 the purposes of this subparagraph, "automobile" includes a pickup truck or van
39 with a gross vehicle weight of less than 26,000 pounds;

- 1 (4) The sale, to a person engaged in the business of renting video media and
2 video equipment, of video media or video equipment for rental;
- 3 (5) The sale, to a person engaged in the business of renting or leasing
4 automobiles, of automobiles for rental or lease for one year or more;
- 5 (6) The sale, to a person engaged in the business of providing cable or satellite
6 television services or satellite radio services, of associated equipment for rental or
7 lease to subscribers in conjunction with a sale of cable or satellite television
8 services or satellite radio services;
- 9 (7) The sale, to a person engaged in the business of renting furniture or audio
10 media and audio equipment, of furniture, audio media or audio equipment for
11 rental pursuant to a rental-purchase agreement as defined in Title 9-A, section
12 11-105;
- 13 (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant
14 to Title 29-A, section 953;
- 15 (9) The sale of automobile repair parts used in the performance of repair services
16 on an automobile pursuant to an extended service contract sold on or after
17 September 20, 2007 that entitles the purchaser to specific benefits in the service
18 of the automobile for a specific duration;
- 19 (10) The sale, to a retailer that has been issued a resale certificate pursuant to
20 section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in
21 the form of tangible personal property, except resale as a casual sale;
- 22 (11) The sale, to a retailer that has been issued a resale certificate pursuant to
23 section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except
24 resale as a casual sale;
- 25 (12) The sale, to a retailer that is not required to register under section 1754-B,
26 of tangible personal property for resale outside the State in the form of tangible
27 personal property, except resale as a casual sale;
- 28 (13) The sale, to a retailer that is not required to register under section 1754-B,
29 of a taxable service for resale outside the State, except resale as a casual sale;
- 30 (14) The sale of repair parts used in the performance of repair services on
31 telecommunications equipment ~~as defined in section 2551, subsection 19~~
32 pursuant to an extended service contract that entitles the purchaser to specific
33 benefits in the service of the telecommunications equipment for a specific
34 duration;
- 35 (15) The sale of positive airway pressure equipment and supplies for rental for
36 personal use to a person engaged in the business of renting positive airway
37 pressure equipment;
- 38 (16) The sale, to a person engaged in the business of renting or leasing motor
39 homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of
40 motor homes or camper trailers for rental; or

1 (17) The sale of truck repair parts used in the performance of repair services on a
2 truck pursuant to an extended service contract that entitles the purchaser to
3 specific benefits in the service of the truck for a specific duration.

4 **Sec. 8. 36 MRSA §1752, sub-§18-E** is enacted to read:

5 **18-E. Telecommunications equipment.** "Telecommunications equipment" means
6 any 2-way interactive communications device, system or process for transmitting or
7 receiving signals and capable of exchanging audio, video, data or textual information.
8 "Telecommunications equipment" includes all transmission media that are used or
9 capable of being used in the provision of 2-way interactive communications, including,
10 without limitation, copper wire, coaxial cable and optical fiber, except those transmission
11 media designed and primarily used to transmit electricity. "Telecommunications
12 equipment" does not include computers, except those components of a computer used
13 primarily and directly as a 2-way interactive communications device capable of
14 exchanging audio, video, data or textual information.

15 **Sec. 9. 36 MRSA c. 358**, as amended, is repealed.

16 **Sec. 10. Effective date.** This Act takes effect October 1, 2017.

17 **SUMMARY**

18 This bill repeals the service provider tax effective October 1, 2017.