

SUMMARY OF 2008 LEGISLATION

Income/Estate Taxes & Tax Benefit Programs

General

Conformity. Conformity with the Internal Revenue Code and amendments is extended to the Code as of February 13, 2008. Conformity with the Code applies unless otherwise stated in Maine statute. Applies to tax years beginning on or after January 1, 2007 and to any prior years as specifically provided by the Code. See 36 MRSA § 111(1-A). LD #2289, PL 2007, c. 539, § CCC-1.

Lottery winnings. The State Tax Assessor is authorized to apply a person's lottery winnings against a tax liability under Title 36. Effective June 30, 2008. See 36 MRSA § 185(3). LD #2289, PL 2007, c. 539, § M-1.

Individual Income Tax

Bonus depreciation -- addition. An addition modification is required equal to the net increase in depreciation applicable to the 50% bonus depreciation claimed for federal purposes under section 103 of the Economic Stimulus Act of 2008. Applies to tax years beginning in 2008 or 2009. See 36 MRSA § 5122(1)(AA). LD #2289, PL 2007, c. 539, § CCC-5.

Bonus depreciation -- recapture. A subtraction modification is allowed equal to the net decrease in depreciation, in years after the year an asset was placed in service, applicable to the 50% bonus depreciation claimed for federal purposes under section 103 of the Economic Stimulus Act of 2008. This subtraction modification differs from the bonus depreciation recapture under § 5122(2)(N) in that this subtraction modification reconciles the difference between the depreciation claimed at the federal level and the amount of depreciation that would have been allowable had the 50% bonus depreciation under the Economic Stimulus Act of 2008 not been taken. Any remaining difference may be claimed in the year the asset is disposed. Applies to tax years beginning on or after January 1, 2009. See 36 MRSA § 5122(2)(AA). LD #2289, PL 2007, c. 539, § CCC-8.

Payments to firefighters and emergency medical responders. Qualified payments and tax benefits from states or municipalities to firefighters and emergency medical responders must be added back to adjusted gross income for Maine tax purposes, to the extent that those payments are excluded from federal gross income. Applies to tax years beginning on or after January 1, 2008. See 36 MRSA § 5122(1)(Z). LD #2289, PL 2007, c. 539, § CCC-4.

Mortgage insurance premiums – itemized deductions. Maine itemized deductions must be reduced by the amount of mortgage insurance premiums claimed for federal purposes under IRC § 163(h)(3)(E). Applies to tax years beginning on or after January 1,

2008. See 36 MRSA §§ 5125(3)(F) [individual income tax] and 5164(1) [fiduciary income tax]. LD #2289, PL 2007, c. 539, §§ CCC-11 & 12.

Deduction for Dentists with Military Pensions. Allows certain licensed dentists to reduce Maine taxable income by the amount of military retirement benefits not included in the pension income deduction allowed by 36 MRSA § 5122(2)(M). Dentists may claim this deduction only if they practice an average of 20 hours or more per week in Maine during the tax year and accept patients who receive MaineCare benefits. Applies to tax years beginning on or after January 1, 2008. See 36 MRSA § 5122(2)(AA). LD #1984, PL 2007, c. 689.

Airport authority bond interest. An airport authority chartered in accordance with Maine Title 6, Chapter 10 is allowed to issue bonds, the interest from which is not subject to Maine income tax. Thus, any such interest included in federal adjusted gross income or federal taxable income will be subtracted for Maine income tax purposes. Effective July 18, 2008. See 6 MRSA § 179(10). LD 599, PL 2007, c. 563.

Casual rental of living quarters. Individuals with an expected sales tax liability during the income tax year of less than \$2,000 due to casual rental of living quarters may report the liability on, and make payment with, that individual's Maine income tax return. Effective June 30, 2008. See 36 MRSA § 1951-A(3). LD #2289, PL 2007, c. 539, § KKK-1.

Senior Citizen Property Tax Credit for Volunteer Service. 36 M.R.S.A. § 6232(1). A municipality may adopt an ordinance to allow resident homeowners who are at least 60 years of age to earn up to \$750 in benefits by volunteering to provide services to the municipality. The municipality may establish procedures and additional standards of eligibility for the program.

Because the volunteer benefits are not subject to Maine income tax, Maine adjusted gross income on the Maine individual income tax return may be reduced by the amount of the benefits, up to \$750, to the extent included in federal adjusted gross income. See LD 2202, PL 2007, c. 635

[Fiduciary Income Tax](#)

Mortgage insurance premiums deduction. The federal deduction for mortgage insurance premiums under IRC § 163(h)(3)(E) must be added back on the Maine return to calculate Maine taxable income. Applies to tax years beginning on or after January 1, 2008. See 36 MRSA § 5164(1). LD #2289, PL 2007, c. 539, § CCC-12.

Airport authority bond interest. An airport authority chartered in accordance with Maine Title 6, Chapter 10 is allowed to issue bonds, the interest from which is not subject to Maine income tax. Thus, any such interest included in federal adjusted gross income or federal taxable income will be subtracted for Maine income tax purposes. Effective July 18, 2008. See 6 MRSA § 179(10). LD 599, PL 2007, c. 563.

Corporate Income Tax

Bonus depreciation -- addition. An addition modification is required equal to the net increase in depreciation applicable to the 50% bonus depreciation claimed for federal purposes under section 103 of the Economic Stimulus Act of 2008. Applies to tax years beginning in 2008 or 2009. See 36 MRSA § 5200-A(1)(T). LD #2289, PL 2007, c. 539, § CCC-15.

Bonus depreciation -- recapture. A subtraction modification is allowed equal to the net decrease in depreciation, in years after the year an asset was placed in service, applicable to the 50% bonus depreciation claimed for federal purposes under section 103 of the Economic Stimulus Act of 2008. This subtraction modification differs from the bonus depreciation recapture under § 5200-A(2)(N) in that this subtraction modification reconciles the difference between the depreciation claimed at the federal level and the amount of depreciation that would have been allowable had the 50% bonus depreciation under the Economic Stimulus Act of 2008 not been taken. Any remaining difference may be claimed in the year the asset is disposed. Applies to tax years beginning on or after January 1, 2009. See 36 MRSA § 5200-A(2)(R). LD #2289, PL 2007, c. 539, § CCC-18.

Net operating losses – recapture amount limited. Corporations with a recapture subtraction modification of a previously denied net operating loss (“NOL”) carryback are limited to claiming no more than \$100,000 for any tax year beginning in 2008. See 36 MRSA §§ 5200-A(2)(H) and 5200-A(2)(L). LD #2289, PL 2007, c. 539, §§ AAAA-1 & 2.

Net operating losses. For tax years beginning in 2008, corporate taxpayers must increase Maine taxable income by 10% of the federal net operating loss carryover in excess of \$100,000 used in calculating federal taxable income. The addition may be recaptured in subsequent tax years as long as the tax year is within the allowable federal carryover period for the loss, plus one year. Effective April 24, 2008. See 36 MRSA §§ 5200-A(1)(U) & 5200-A(2)(S). LD 2305, PL 2007, c. 700, Pt. B.

Airport authority bond interest. An airport authority chartered in accordance with Maine Title 6, Chapter 10 is allowed to issue bonds, the interest from which is not subject to Maine income tax. Thus, any such interest included in federal adjusted gross income or federal taxable income will be subtracted for Maine income tax purposes. Effective July 18, 2008. See 6 MRSA § 179(10). LD 599, PL 2007, c. 563.

Pass-through Entities

Pass-through Entities - amended informational returns (Form 1065ME/1120S-ME). Partnerships and S corporations must file an amended Form 1065ME/1120S-ME within 90 days of any change to the entity’s net income or to the distributive share of partners or shareholders. A claim for credit or refund by a partner or shareholder arising from an amended Form 1065ME/1120S-ME must be filed within 3 years from the time the original Form 1065ME/1120S-ME was filed. Effective July 18, 2008. See 36 MRSA § 5245. LD 2151, PL 2007, c. 693, § 34.

Credits

Credit for rehabilitation of historic properties – qualified expenditures incurred after 2007. This credit is either:

- 1) 25% of qualified expenditures certified by the Maine Historic Preservation Commission with respect to certified historic structures located in Maine and for which a federal credit is claimed under the Code Section 47; or
- 2) 25% of qualified expenditures between \$50,000 and \$250,000 certified by the Maine Historic Preservation Commission with respect to certified historic structures located in Maine and for which a federal credit is *not* claimed. This credit may be claimed in the tax year the property is placed in service and must exclude expenditures incurred before 2008 and after 2013.

Eligible projects containing at least 33% (25% in certain cases) of the square footage in affordable housing may qualify for a 30% credit. Although the credit is refundable, only 25% of the credit must be claimed over 4 years, beginning with the year of eligibility. The credit is further limited to \$5 million for each project. The allowable credit is allocable to all members of a pass-through entity, even if the member is a tax-exempt organization. Certain other allocation and recapture provisions apply. See 36 MRSA § 5219-BB. LD #2289, PL 2007, c. 539, § WW-4 and LD 2151, PL 2007, c. 693, § 32.

Dental Care Access Credit. Dentists certified as eligible for this credit by the Department of Health and Human Services, Oral Health Program (“OHP”) may claim a \$15,000 nonrefundable credit on their individual income tax return. OHP may certify up to 5 eligible dentists in 2009 and an additional 5 eligible dentists in 2010. To be eligible, the dentist must be licensed by Maine and must practice in an underserved area of Maine for at least 5 years. The credit may be claimed beginning the first year the dentist meets the conditions of eligibility for at least 6 months and each of the 4 subsequent years as long as they retain eligibility. See 36 MRSA § 5219-BB. LD #2192, PL 2007, c. 690.

Forest Management Planning Credit. Individuals who claim the forest management planning credit who also deducted the cost of the forest management plan as an expense on their federal income tax return must add back the expense to federal adjusted gross income (FAGI) for Maine income tax purposes. See 36 MRSA §5219-C. LD #2154, PL 2007, c.627, § 90.

Community wind power generator credit. The law clarifies that the credit applies to tax years beginning on or after January 1, 2006, but before January 1, 2008. Effective August, 23, 2006. See 36 MRSA § 5219-CC. LD 2151, PL 2007, c. 693, § 33.

Estate Tax

Estate taxes paid to another jurisdiction. A new credit for estate taxes paid to another jurisdiction has been enacted. The credit applies to taxes imposed and paid on real or tangible personal property located in another state and held in a pass-through entity. The

credit is equal to the lesser of the percentage of the Maine estate tax applicable to the related real or tangible personal property or the actual estate tax paid to the other jurisdiction on that property. See 36 MRSA § 4063. LD 2151, PL 2007, c. 693, § 27.

Estate tax – final federal determination. If a final federal determination has occurred, the assessor can make a separate determination regarding an estate tax issue. The assessor’s determination in this situation must be made within the later of two years from the due date, or two years from the filing date, of a return. Applies to estates of deaths occurring on or after July 1, 2008, but before January 1, 2010. See 36 MRSA, § 4071(1-A). LD 2151, PL 2007, c. 693, § 29.

Estate tax – amended returns. The law is clarified to require amended Maine estate tax returns *within 90 days* of receipt of property, entitlement to property, or change by the Internal Revenue Service that increases the Maine estate tax liability. The requirement applies to receipts, entitlements and changes occurring after the assessor’s determination of the estate tax due with respect to the original Maine estate tax return. See 36 MRSA, § 4071(1-A). LD 2151, PL 2007, c. 693, § 30.

Maine Residents Property Tax & Rent Refund Program

Circuit Breaker Program. Income limits are established for programs beginning on or after August 1, 2008. The limits are \$60,000 for single-member households and \$80,000 for multi-member households for the program beginning August 1, 2008. Claimants with household income amounts exceeding these limits do not qualify for the program. The limits are adjusted for inflation for programs beginning after July 31, 2009. See 36 MRSA §§ 6201(1), 6207(2-A), 6209(3) and 6209(4). LD #2305, PL 2007, c. 700, Pt. A.

Business Equipment Tax Reimbursement Program

BETR – special application dates for forestry & logging industry. Persons engaged in the forestry or logging industry may apply for reimbursement of eligible property taxes paid in 2007 beginning February 1, 2008. For other applicants, the filing period begins August 1, 2008. The filing period for *all* applicants ends December 31, 2008. Persons eligible for early filing are those with a North American Industry Classification System (“NAICS”) business code of 113110, 113210 or 113310. Effective April 23, 2008. LD 2222, PL 2007, resolve c. 218.

Media Production Wage Reimbursement Program

Media Production Reimbursement. The date for filing an application with Maine Revenue Services (“MRS”) for reimbursement is changed. Under prior law, the due date was the 15th day of the month immediately following the month during which a reimbursement and credit certificate was received from the Department of Economic and Community Development. Under the new law, the due date is *6 weeks* from the date the reimbursement and credit certificate is received. MRS has 90 days to pay the eligible

reimbursement amount. Effective July 18, 2008. See 36 MRSA § 6902(2). LD 2151, PL 2007, c. 693, § 36.

Property Taxes

General

Real Estate Transactions and Closings. 36 M.R.S.A. § 558-A. New law provides a remedy by which a seller of real estate may repair their credit rating whenever a lien is placed in their name for unpaid property taxes for which the buyer of the property was required to pay as part of a proration agreement. The law allows the seller to recover the tax and costs associated with acquiring a lien release, including reasonable attorney's fees, in a civil action. If the seller prevails, consumer credit reporting agencies must consider any related lien on file invalid if a copy of the court judgment is submitted to the reporting agency. The law requires Maine Revenue Services to prepare a guidance document for buyers and sellers of real estate regarding their rights and responsibilities and to provide information concerning problems that may arise if the taxes remain unpaid. See LD 2140, PL 2007, c. 687.

Municipal LURC Fees and Unorganized Territory Service Fees. New law increases the fee for municipalities that choose not to administer local land use controls and receive services from the Maine Land Use Regulation Commission from .01% of State Valuation to .015%. This law also authorizes the county commissioners to now impose fees for certain services in the unorganized territory and increases the fee from \$4 to \$6 to agents for the collection of motor vehicle and watercraft excise taxes in the unorganized territory. See LD 885, PL 2007, c. 541.

Exemptions

Municipal Service Charges. 36 M.R.S.A. § 652(1)(L). The State Tax Assessor must convene a study group to review current law regarding the application of service charges on institutions and organizations exempt from property taxes. The study group must consist of members that represent municipal assessors, municipal officers, private colleges and universities, hospitals, nonprofit medical institutions, municipal governments and the broad spectrum of nonprofit entities. The group is tasked in evaluating current law, identifying alternative methods for calculating service charges, identifying institutions and organizations that should be exempt from service charges, whether service charges should be a municipal option or a statewide requirement, and the administration of service charges. A report together with recommendations must be

submitted to the Legislature no later than December 15, 2008. See LD #1413, Resolve 2007, c.146.

Current Use

Municipal Reimbursement for Tree Growth. 36 M.R.S.A. § 578(1). The formula for computing the annual municipal tree growth reimbursement is changed. The change requires Maine Revenue Services to use a computed full value tax rate in place of an adjusted local tax rate, clarifies the source of information used for determining valuation reductions resulting from tree growth classifications, and eliminates the education cost saving calculation utilized in the old formula. See LD 2274, PL 2007, c. 639.

Review of Maine Tree Growth Issues. 36 M.R.S.A. §571. The Director of the Maine Forest Service is required to convene a task force of not more than seven (7) members to review the timing for determining forest growth rates, whether the geographic region for determining stumpage values beyond county lines should be broadened, whether land currently classified as tree growth meets the statutory requirements of the program, and best methods for making landowners and municipal officials aware of the requirements of tree growth. The task force must submit a report to the Legislature no later than December 15, 2008. See LD 543, Resolve 2007, c. 197.

Property Tax Assistance

Senior Citizen Property Tax Credit for Volunteer Service. 36 M.R.S.A. § 6232(1). A municipality may adopt an ordinance to allow resident homeowners who are at least 60 years of age to earn up to \$750 in benefits by volunteering to provide services to the municipality. The municipality may establish procedures and additional standards of eligibility for the program.

Because the volunteer benefits are not subject to Maine income tax, Maine adjusted gross income on the Maine individual income tax return may be reduced by the amount of the benefits, up to \$750, to the extent included in federal adjusted gross income. See LD 2202, PL 2007, c. 635.

Sales, Fuel & Special Tax

Fuel Tax

Alternative fuels – calculation of tax. Changes the method of taxing compressed natural gas and other alternative fuels used in vehicles so that the BTU value is more accurately reflected and accounted for in determining the tax, effective July 1, 2008. See 36 MRSA §3203, sub-§1-B. LD 531, c. 650.

Invoicing – gasoline/diesel fuel. Provides that if a gasoline distributor (or diesel fuel supplier or retailer) includes the motor fuel excise tax on a customer's bill it must be

shown as a separate line item and identified as "Maine gasoline tax" (or "Maine special fuel tax"). See 36 MRSA §§2903, sub-§3; 3203, sub-§2. LD 2151 (§§22, 23), c. 693.

Sales/Use Tax

Aircraft used in Maine by nonresidents. Provides that days during which an aircraft owned by a nonresident is used in Maine for conducting “angel flights” are included within the 20-day taxation “safe harbor” provided by 36 MRSA §1760(45)(A-3). LD 1976, c. 691.

Casual rentals. Provides that an individual that has an expected sales tax liability during the income tax year of less than \$2,000 due to casual rental of living quarters, and has no other sales tax liability, may report the liability on, and make payment with, that individual’s Maine income tax return. Effective June 30, 2008. See 36 MRSA §1951-A, sub-§3. LD 2289, c. 539.

Forest products. Provides a sales tax exemption or refund for repair parts and maintenance supplies used for motor vehicles and trailers primarily engaged in the transportation of forest products from the forest land where they were harvested to their initial destination involving production or use, and purchased on or after April 1, 2008 but before October 1, 2008. Effective 4/18/08. See 36 MRSA §2019. LD 2225, c. 658.

Kerosene – retail sales in small containers. Provides that retail sales of kerosene and home heating oil dispensed into containers of 5 gallons or less are exempt from sales and use tax. See 36 MRSA §1760, sub-§9. LD 2097, c. 675.

Prepared meals provided by youth camps. Provides a sales tax exemption for meals served by certain youth camps licensed by the Department of Health and Human Services. Effective June 30, 2008. See 36 MRSA §1760, sub-§6, ¶F. LD 2005, c. 529.

Service Provider Tax

Services provided under contract with DHHS. Amends the terminology that controls the taxation of service providers licensed by, and operating under a contract with, the Department of Health and Human Services. Effective June 30, 2008. See 36 MRSA §2551, sub-§§1-A, 1-B, 7-B; and §2552, sub-§1, ¶¶H, I, J. LD 2289, c. 539, §§DDD-1 through DDD-9.

Premium on Bulk Vehicle Motor Oil

Premium on Bulk Motor Vehicle Oil. The premium enacted last year on oil changes has been repealed and replaced with a premium on the first sale or distribution of bulk motor vehicle oil in the State. The premium is set at \$1.10 per gallon on bulk oil used in gasoline engines and 35¢ per gallon for bulk oil used in diesel combustion engines. See 10 MRSA §1020. LD 1947, c. 618.

Soft Drink & Syrup Tax

Soft Drink & Syrup Tax. Legislation was enacted during the spring of 2008 creating the Soft Drink and Syrup Tax. (PL 2007, Chapter 629.) Effective August 1, 2008, a tax is imposed on distributors, manufacturers or wholesale dealers selling or offering for sale in this State syrup, simple syrup, bottled soft drinks, and powders or base product(s) used by a retailer to make soft drinks. This is a tax imposed at the distributor level, not at the retail level.