

ENACTED TAX LEGISLATION – 2018 SESSION

2nd Regular Session general (non-emergency) effective date: August 1, 2018

2nd Special Session general (non-emergency) effective date: December 13, 2018

(Includes legislation enacted in prior sessions that become effective beginning in 2018)

1) Administrative Provisions

Legislative/departmental reporting requirements for Pine Tree Development Zone benefits.

Beginning in 2019, the State Tax Assessor is required to report to the Commissioner of the Department of Economic and Community Development and the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters the aggregate revenue loss to the State for each fiscal year resulting from certain sales tax, income tax, and insurance premiums tax benefits (including employment tax increment financing benefits) under the Pine Tree Development Zone program. 30-A M.R.S. § 5250-P(1)(B); LD 1654; PL 2017, c. 440, § 5.

Legislative reporting requirements for tax credit for Maine shipbuilding facility investment.

The State Tax Assessor is required to annually report to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss incurred each fiscal year with respect to each taxpayer claiming the tax credit for Maine shipbuilding facility investment. To facilitate the reporting requirement, an exception to the Maine confidentiality law was enacted to authorize the State Tax Assessor to release this taxpayer-specific information to the Taxation Committee. 36 M.R.S. §§ 191(2)(EEE) and 5219-RR(9)(C); LD 1781; PL 2017 c. 361, §§ 1 and 2.

Legislative reporting requirements for revenue resulting from expansion of MaineCare services.

The Department of Administrative and Financial Services, Maine Revenue Services is required to report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs within 60 days following the end of the first 12 months of enrollment on new revenues generated as a result of expanded coverage under the MaineCare program provided under 22 M.R.S. § 3174-G. The report must include any increase in revenue resulting from federal medical assistance payments. LD 1039; IB 2, c. 1, Part B, § 2.

Legislative reporting requirements for the tax credit for major business headquarters expansions.

The due date for the report regarding revenue loss attributable to the refundable credit for major business headquarters expansions that must be submitted annually by the State Tax Assessor to the Legislature's Taxation Committee is changed from April 1 to December 31. The law clarifies that the taxpayer-specific information required to be disclosed in the report is an exception to the Maine confidentiality law. 36 M.R.S. §§ 191(2)(DDD) and 5219-QQ(4)(B); LD 1805; PL 2017, c. 375, Pt. D, §§ 2 and 4.

New markets tax credit. The provision requiring the Commissioner of Administrative and Financial Services to enter into a memorandum of agreement with the person eligible to claim the new markets capital investment tax credit is repealed. Effective August 1, 2018. 36 M.R.S. § 191(2)(SS); LD 1805; PL 2017, c. 375, Pt. G.

2) General

ABLE ME savings program. The Treasurer of State is authorized to establish the ABLE ME Savings Program, in compliance with the federal Achieving a Better Life Experience Act of 2014, also known as the ABLE Act of 2014. The Treasurer may adopt routine technical rules to implement the program, including rules to establish the terms and conditions of the program. Under the federal ABLE Act of 2014, individuals with disabilities and the families of those individuals may establish federal tax-exempt savings accounts and use the funds from those accounts to pay for the care of the individual with a disability. Effective April 18, 2018. 5 M.R.S. § 156; LD 1881; PL 2017, c. 394.

Conformity. References to the United States Internal Revenue Code of 1986 contained in the Maine Revised Statutes, Title 36 are updated to refer to the United States Internal Revenue Code of 1986 as amended through March 23, 2018. With some exceptions summarized later, Maine conforms to federal tax provisions contained in the Federal Disaster Tax Relief and Airport and Airway Extension Act of 2017, the Federal Tax Cuts and Jobs Act of 2017, the Bipartisan Budget Act of 2018, and the Consolidated Appropriations Act, 2018. Applies to tax years beginning on or after January 1, 2017 and for any prior tax year as specifically provided by the United States Internal Revenue Code of 1986 as amended. 36 M.R.S. § 111(1-A); LD 1655, PL 2017, c. 474.

3) Individual Income Tax

Changes applicable to tax years beginning 2017

Deferred foreign income (deemed repatriated income or IRC § 965 income). Maine law requires that taxpayers who are shareholders of certain foreign corporations include in taxable income their share of accumulated post-1986 deferred foreign income determined under Internal Revenue Code, Section 965. For Maine purposes, the taxable amount is the amount includable in federal adjusted gross income, which is the amount net of the foreign earnings and profits (E&P) deficit deduction (IRC § 965(b)) and net of the federal deduction for the participation exemption (IRC § 965(c)).

Bonus depreciation / Maine capital investment credit. For tax years beginning on or after January 1, 2017, Maine continues to decouple from the federal bonus depreciation under Internal Revenue Code, Section 168(k). The net increase in federal depreciation claimed due to bonus depreciation must be added back to income for Maine income tax purposes. For property placed in service in Maine, the Maine capital investment credit may be claimed. See 36 M.R.S. §§ 5122(1)(KK) and 5122(2)(OO).

Changes applicable to tax years beginning 2018

Domestic production activities addition modification. For tax years beginning on or after January 1, 2018, the income addition modification equal to the taxpayer's federal deduction

relating to income attributable to domestic production activities is repealed. The related federal deduction is repealed. 36 M.R.S. § 5122(1)(X); LD 1655; PL 2017, c. 474, Part C, § 1.

Net operating loss addition modification. For tax years beginning after 2018, an income addition modification is required equal to the amount of net operating loss carryforward claimed as a deduction for the taxable year for federal tax purposes under the Internal Revenue Code, Section 172 which was previously allowed as a deduction for Maine tax purposes under 36 M.R.S. § 5122(2)(PP). See paragraph below for a description of the related net operating loss subtraction modification. 36 M.R.S. § 5122(1)(LL); LD 1655; PL 2017, 474, Part C, § 2.

MainePERS pick-up contributions subtraction modification. For tax years beginning on or after January 1, 2018, pick-up contributions distributed to the taxpayer by the Maine Public Employees Retirement System in the form of a rollover may be subtracted from Maine income fully or in part during the tax year of the rollover. Any amount not subtracted in the tax year of the rollover may be subtracted within the two tax years immediately following the year of the rollover, except that the total amount subtracted over the three-year period may not exceed the pick-up contributions that have been previously taxed by Maine. 36 M.R.S. § 5122(2)(E); LD 1805; PL 2017, c. 375, Pt. C, § 1.

529 Maine Education Savings Program subtraction modification. For tax years beginning on or after January 1, 2018, the income subtraction modification for qualified distributions from a Maine College Savings Program includes qualified disbursements for enrollment or attendance expenses at an elementary or secondary public, private or religious school to the extent the qualified distribution is included in federal adjusted gross income. 36 M.R.S. § 5122(2)(J); LD 1655; PL 2017, 474, Part F, § 8.

Medical use of marijuana business expense subtraction modification. For tax years beginning on or after January 1, 2018, a deduction may be claimed for expenses related to carrying on a trade or business as a registered caregiver or a registered dispensary, in an amount equal to the deduction that would otherwise be allowable for Maine purposes to the extent the deduction was disallowed under Internal Revenue Code, Section 280E. 36 M.R.S. § 5122(2)(PP); LD 1539; PL 2017, c. 452, § 31.

Net operating loss subtraction modification. For tax years beginning on or after January 1, 2018, a net operating loss deduction is allowed on the Maine return equal to the amount of net operating loss carryforward disallowed for the taxable year for federal tax purposes under the Internal Revenue Code, Section 172(a)(2). The modification may not reduce Maine taxable income below zero and may not have been previously used to reduce Maine taxable income. 36 M.R.S. § 5122(2)(PP); LD 1655; PL 2017, 474, Part C, § 3.

Standard deduction amount. For tax years beginning on or after January 1, 2018, the Maine standard deduction amount is equal to the federal standard deduction amount, including the additional standard deduction amount for age/blindness. The Maine standard deduction amount is subject to phaseout for certain high-income taxpayers. 36 M.R.S. §§ 5124-C and 5403(4); LD 1655; PL 2017, 474, Part B, §§ 2 and 21.

Itemized deduction amount. For tax years beginning on or after January 1, 2018, the Maine itemized deduction may be increased by the amount of real and personal property taxes not claimed for federal income tax purposes because of the \$10,000 limitation (\$5,000 for married taxpayers filing separate returns) under the Internal Revenue Code, Section 164(b)(6)(B). 36 M.R.S. § 5125(3)(A-1); LD 1655; PL 2017, 474, Part B, § 3.

Standard/Itemized deduction amount phaseout. For tax years beginning on or after January 1, 2018, the amount at which the standard deduction and itemized deduction begins to phaseout is increased to \$80,000 for single individuals and married persons filing separate returns, \$120,000 for individuals filing as heads of households, and \$160,000 for individuals filing married joint returns or as a surviving spouse. The deduction amount is fully phased out for taxpayers whose Maine adjusted gross income is more than \$155,000 for single individuals and married persons filing separate returns, \$232,500 for individuals filing as heads of household, and \$310,000 for individuals filing joint returns or as a surviving spouse. For tax years beginning after 2018, the \$80,000, \$120,000 and \$160,000 amounts will be adjusted for inflation. 36 M.R.S. §§ 5124-C(2), 5125(7), and 5403(4); LD 1655, PL 2017, 474, Part B, §§ 2, 5 and 21.

Personal exemption. For tax years beginning on or after January 1, 2018, the Maine personal exemption deduction on a single, head-of-household, or married-separate return is \$4,150 unless the taxpayer may be claimed as a dependent on another return, in which case, the personal exemption deduction is zero. The personal exemption deduction on a married-joint or surviving spouse return is \$8,300 unless one or both spouses may be claimed as dependents on another return, in which case the personal exemption deduction is \$4,150 if one spouse may be claimed as a dependent on another return and zero if both spouses may be claimed as dependents on another return. The personal exemption deduction amount is subject to phaseout for taxpayers whose Maine adjusted gross income is more than \$266,700 for single individuals; \$293,350 for individuals filing as heads of household; \$320,000 for individuals filing married joint returns or as a surviving spouse; and one-half of the amount applicable to married joint filers for married individuals filing separate returns. For tax years beginning after 2018, the personal exemption deduction and phaseout threshold amounts will be adjusted for inflation. 36 M.R.S. §§ 5126-A, 5403(7) and 5403(8); LD 1655, PL 2017, 474, Part B, §§ 7 and 24.

Sales tax fairness credit. For tax years beginning on or after January 1, 2018, the sales tax fairness base credit amount is determined by the filing status and number of dependents claimed under the federal child tax credit rather than the number of exemptions claimed by the taxpayer. Also, the definition of income is changed to reflect the repeal of the federal domestic production activities deduction. Taxpayers who may be claimed as a dependent on another person's return do not qualify for the credit. For tax years beginning after 2018, the base credit amounts will be adjusted for inflation. 36 M.R.S. §§ 5213-A and 5403(5)(A); LD 1655; PL 2017, 474, Part B, §§ 8, 9, 10, 11 and 22.

Credit for dependent health benefits. The carryforward period relative to the credit for dependent health benefits has expired. Therefore, the credit may no longer be claimed for tax years beginning on or after January 1, 2018. 36 M.R.S. § 5219-O(5); LD 1019, PL 2015, c. 267, Pt. DD, § 29.

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by three years. Certification will end on December 31, 2021 and benefits will cease on December 31, 2031 including the pine tree development zone income tax credit and employment tax increment financing benefits. Additional annual reporting requirements are established for a qualified Pine Tree Development Zone business, the State Tax Assessor and the Commissioner. 36 M.R.S. §§ 5219-W(4) and 6754(1)(D); LD 1654; PL 2017, c. 440, §§ 12 and 13.

Dental care access credit. The dental care access credit is extended to allow an additional five eligible dentists who practice in an underserved area to be certified each year from 2018 through 2022. The credit may be claimed for up to five years and is equal to \$6,000 the 1st year certified; \$9,000 the 2nd year; \$12,000 the 3rd year; \$15,000 the 4th year, and \$18,000 the 5th year. The credit may not reduce the tax otherwise due to less than zero. Eligibility for the credit is determined by the Oral Health Program (“OHP”) within Maine’s Department of Health and Human Services. 36 M.R.S. § 5219-DD; LD 1287; PL 2017, c. 435, §§ 1 through 3.

Property tax fairness credit. For tax years beginning on or after January 1, 2018, the property tax fairness credit is increased from 50% to 100% of the benefit base that is greater than 6% of the individual’s income. The maximum credit amount is increased from \$600 to \$750, or from \$900 to \$1,200 for individuals 65 years of age and older. The definition of benefit base is changed to \$2,050 for persons filing as single individuals, \$2,650 for individuals filing as heads of household that claim the federal child tax credit for no more than one qualifying child or dependent and for persons filing joint returns, or, \$3,250 for individuals filing as heads of household that claim the federal child tax credit for more than one qualifying child or dependent and for persons filing joint returns that claim the federal child tax credit for at least one qualifying child or dependent. The definition of income is changed to reflect the repeal of the federal domestic production activities deduction. For tax years beginning after 2018, the benefit base amounts will be adjusted for inflation. 36 M.R.S. §§ 5219-KK and 5403(6); LD 1655; PL 2017, 474, Part B, §§ 13, 14, 16, and 23.

Primary care access credit. The primary care access credit is expanded to increase the number of eligible primary care professionals that may be certified each year from 5 to 10 and extends the credit to tax years after 2018. The credit is equal to the annual payments made on a student loan for course work directly related to that person’s training in primary care medicine. The credit may be claimed in the first year that the eligible primary care professional meets the conditions of eligibility for at least 6 months, and each of the four subsequent years. The credit is limited to \$6,000 the 1st year of eligibility, \$9,000 the 2nd year, \$12,000 the 3rd year, \$15,000 the 4th year and \$18,000 the 5th year. The credit may not reduce the tax otherwise due to less than zero. Eligibility for the credit is determined by the Maine Department of Health and Human Services. 36 M.R.S. § 5219-LL; LD 1287; PL 2017, c. 435, § 4.

New markets tax credit. Certain regulatory provisions that limit what is considered a qualified low-income investment is codified into the law governing the new markets capital investment credit. Specifically, a "qualified low-income community investment" does not include a capital or equity investment made after November 9, 2015 if more than 5% of the investment is used to:

- refinance costs, expenses, or investments incurred or paid by the qualified active low-income community business or a party related to the qualified active low-income community business prior to the date of the qualified low-income community investment;
- make equity distributions from the qualified active low-income community business to its owners;
- acquire an existing business or enterprise in Maine; or
- pay transaction fees.

See the Finance Authority of Maine Rule Chapter 324, section 1, sub-§ 19. 36 M.R.S. § 5219-HH(1)(J); LD 1796; PL 2017, c. 339.

Homestead modifications tax credit. For tax years beginning on or after January 1, 2018, the credit for homestead modifications, also referred to as the AccessAble Home tax credit, must be claimed in the tax year during which the certification of eligibility is issued by the Maine State Housing Authority. Credits claimed after 2017 may not include qualified expenditures for which a credit has previously been claimed. 36 M.R.S. § 5219-PP(4); LD 1805; PL 2017, c. 375, Pt. C, § 2.

Dependent exemption tax credit. For tax years beginning on or after January 1, 2018, eligible taxpayers may claim a tax credit equal to \$300 for each qualifying child and dependent of the taxpayer for whom the federal child tax credit pursuant to the Internal Revenue Code, Section 24 was claimed for the same taxable year. The credit for nonresidents is limited to the taxpayer's ratio of Maine source income to federal adjusted gross income. For part-year residents, the credit is prorated based on the ratio of the taxpayer's Maine income (Maine adjusted gross income during the period of Maine residency plus Maine source income during the period of nonresidency) to federal adjusted gross income. The credit is not refundable. The credit is subject to phaseout for taxpayers whose Maine adjusted gross income exceeds \$400,000 for married taxpayers filing jointly and \$200,000 for all other taxpayers. 36 M.R.S. § 5219-SS; LD 1655, PL 2017, 474, Part B, § 17.

Employer credit for family and medical leave. For tax years beginning in 2018 and 2019, eligible taxpayers may claim a credit equal to the federal credit for employer-paid family and medical leave under Internal Revenue Code, Section 45S as a result of wages paid to employees based in Maine during the taxable year. The credit is not refundable and unused credit amounts may not be carried over to any other tax year. 36 M.R.S. § 5219-UU; LD 1655, PL 2017, 474, Part H, § 2.

4) Fiduciary Income Tax

Changes applicable to tax years beginning 2017

Deferred foreign income (deemed repatriated income or IRC § 965 income). Maine law requires that taxpayers who are shareholders of certain foreign corporations include in taxable income their share of accumulated post-1986 deferred foreign income determined under Internal Revenue Code, Section 965. For Maine purposes, the taxable amount is the amount includable in

federal adjusted gross income, which is the amount net of the foreign earnings and profits (E&P) deficit deduction (IRC § 965(b)) and net of the federal deduction for the participation exemption (IRC § 965(c)).

Bonus depreciation / Maine capital investment credit. For tax years beginning on or after January 1, 2017, Maine decouples from the federal bonus depreciation under Internal Revenue Code, § 168(k). The net increase in federal depreciation claimed due to bonus depreciation must be added back to income for Maine income tax purposes. For property placed in service in Maine, the Maine capital investment credit may be claimed. See 36 M.R.S. §§ 5122(1)(KK) and 5122(2)(OO).

Changes applicable to tax years beginning 2018

Domestic production activities addition modification. For tax years beginning on or after January 1, 2018, the income addition modification equal to the taxpayer's federal deduction relating to income attributable to domestic production activities is repealed. The related federal deduction is repealed. 36 M.R.S. § 5122(1)(X); LD 1655; PL 2017, c. 474, Part C, § 1.

Net operating loss addition modification. For tax years beginning after 2018, an income addition modification is required equal to the amount of net operating loss carryforward claimed as a deduction for the taxable year for federal tax purposes under the Internal Revenue Code, Section 172 which was previously allowed as a deduction for Maine tax purposes under 36 M.R.S. § 5122(2)(PP). See paragraph below for a description of the related net operating loss subtraction modification. 36 M.R.S. § 5122(1)(LL); LD 1655; PL 2017, c. 474, Part C, § 2.

MainePERS pick-up contributions subtraction modification. For tax years beginning on or after January 1, 2018, pick-up contributions distributed to the taxpayer by the Maine Public Employees Retirement System in the form of a rollover may be subtracted from Maine income fully or in part during the tax year of the rollover. Any amount not subtracted in the tax year of the rollover may be subtracted within the two tax years immediately following the year of the rollover, except that the total amount subtracted over the three-year period may not exceed the pick-up contributions that have been previously taxed by Maine. 36 M.R.S. § 5122(2)(E); LD 1805; PL 2017, c. 375, Pt. C, § 1.

Medical use of marijuana business expense subtraction modification. For tax years beginning on or after January 1, 2018, a deduction may be claimed for expenses related to carrying on a trade or business as a registered caregiver or a registered dispensary, in an amount equal to the deduction that would otherwise be allowable for Maine purposes to the extent the deduction was disallowed under Internal Revenue Code, Section 280E. 36 M.R.S. § 5122(2)(PP); LD 1539; PL 2017, c. 452, § 31.

Net operating loss subtraction modification. For tax years beginning on or after January 1, 2018, a net operating loss deduction is allowed on the Maine return equal to the amount of net operating loss carryforward disallowed for the taxable year for federal tax purposes under the Internal Revenue Code, Section 172(a)(2). The modification may not reduce Maine taxable

income below zero and may not have been previously used to reduce Maine taxable income. 36 M.R.S. § 5122(2)(PP); LD 1655; PL 2017, c. 474, Part C, § 3.

Fiduciary adjustment. For tax years beginning on or after January 1, 2018, the fiduciary adjustment used in calculating the Maine taxable income of a trust or estate is amended to require an add-back of the federal qualified business income deduction claimed under Internal Revenue Code, Section 199A. 36 M.R.S. § 5164(1); LD 1655; PL 2017, c. 474, Part C, § 4.

Credit for dependent health benefits. The carryforward period relative to the credit for dependent health benefits has expired. Therefore, the credit may no longer be claimed for tax years beginning on or after January 1, 2018. 36 M.R.S. § 5219-O(5); LD 1019, PL 2015, c. 267, Pt. DD, § 29.

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by three years. Certification will end on December 31, 2021 and benefits will cease on December 31, 2031 including the pine tree development zone income tax credit and employment tax increment financing benefits. Additional annual reporting requirements are established for a qualified Pine Tree Development Zone business, the State Tax Assessor and the Commissioner. 36 M.R.S. §§ 5219-W(4) and 6754(1)(D); LD 1654; PL 2017, c. 440, §§ 12 and 13.

New markets tax credit. Certain regulatory provisions that limit what is considered a qualified low-income investment is codified into the law governing the new markets capital investment credit. Specifically, a "qualified low-income community investment" does not include a capital or equity investment made after November 9, 2015 if more than 5% of the investment is used to:

- refinance costs, expenses, or investments incurred or paid by the qualified active low-income community business or a party related to the qualified active low-income community business prior to the date of the qualified low-income community investment;
- make equity distributions from the qualified active low-income community business to its owners;
- acquire an existing business or enterprise in Maine; or
- pay transaction fees.

See the Finance Authority of Maine Rule Chapter 324, section 1, sub-§ 19. 36 M.R.S. § 5219-HH(1)(J); LD 1796; PL 2017, c. 339.

Homestead modifications tax credit. For tax years beginning on or after January 1, 2018, the credit for homestead modifications, also referred to as the AccessAble Home tax credit, must be claimed in the tax year during which the certification of eligibility is issued by the Maine State Housing Authority. Credits claimed after 2017 may not include qualified expenditures for which a credit has previously been claimed. 36 M.R.S. § 5219-PP(4); LD 1805; PL 2017, c. 375, Pt. C, § 2.

Employer credit for family and medical leave. For tax years beginning in 2018 and 2019, eligible taxpayers may claim a credit equal to the federal credit for employer-paid family and medical leave under Internal Revenue Code, Section 45S as a result of wages paid to employees based in Maine during the taxable year. The credit is not refundable and unused credit amounts

may not be carried over to any other tax year. 36 M.R.S. § 5219-UU; LD 1655, PL 2017, c. 474, Part H, § 2.

5) Corporate Income Tax

Changes applicable to tax years beginning 2017

Deferred foreign income (deemed repatriated income). Maine law requires that taxpayers who are shareholders of certain foreign corporations include in taxable income their share of accumulated post-1986 deferred foreign income determined under Internal Revenue Code, Section 965. For Maine tax purposes, the related federal deduction for the participation exemption (IRC § 965(c)) is not allowed for taxable corporations; however, Maine law allows a deduction equal to 80% of the apportionable deemed repatriated income, net of the foreign earnings and profits (E&P) deficit deduction (IRC § 965(b)), that is included in federal gross income. See the paragraphs below for a description of the related Maine addition and subtraction modifications.

Bonus depreciation / Maine capital investment credit. For tax years beginning on or after January 1, 2017, Maine decouples from the federal bonus depreciation under Internal Revenue Code, § 168(k). The net increase in federal depreciation claimed due to bonus depreciation must be added back to income for Maine income tax purposes. For property placed in service in Maine, the Maine capital investment credit may be claimed. See 36 M.R.S. §§ 5200-A(1)(CC) and 5200-A(2)(AA).

Participation exemption addition modification. For tax years beginning on or after January 1, 2017, taxpayers must increase Maine taxable income by the amount of the participation exemption deduction claimed in accordance with the Internal Revenue Code, Section 965(c). 36 M.R.S. § 5200-A(1)(EE); LD 1655; PL 2017, c. 474, Part D, § 1.

Dividends received deduction subtraction modification. For tax years beginning on or after January 1, 2017, the law clarifies that the dividend income that may be used to calculate the Maine 50% dividends received deduction is the amount net of related expenses and deductions deducted in calculating federal taxable income. The law also clarifies that dividend income, for purposes of the Maine deduction, does not include subpart F income (IRC § 952), global intangible low-taxed income (IRC § 951A), and deferred foreign income (IRC § 965). In addition, the law clarifies that the Maine dividends received deduction amount claimed must be excluded from the calculation of the Maine apportionment factor used to determine the Maine liability of a multistate business. 36 M.R.S. § 5200-A(2)(G); LD 1655; PL 2017, c. 474, Part D, § 2.

Subpart F income subtraction modification. For tax years beginning on or after January 1, 2017, the taxpayer may reduce Maine taxable income by an amount equal to 50% of the apportionable subpart F income, to the extent included in federal gross income and as reduced by related expenses and deductions deducted in calculating federal taxable income. The subpart F income deducted for Maine purposes must be excluded from the calculation of the Maine

apportionment factor used to determine the Maine tax liability of a multistate business. 36 M.R.S. § 5200-A(2)(CC); LD 1655; PL 2017, c. 474, Part D, § 3.

Deferred foreign income subtraction modification. For tax years beginning on or after January 1, 2017, the taxpayer may reduce Maine taxable income by an amount equal to 80% of the apportionable deferred foreign income (also known as deemed repatriated income or IRC § 965 income), to the extent included in federal gross income, under the Internal Revenue Code, Section 965(a) and as reduced by the federal earnings and profits deficit deduction under the Internal Revenue Code, Section 965(b). The amount of the Maine deduction must be excluded from the calculation of the Maine apportionment factor used to determine the Maine tax liability of a multistate business. 36 M.R.S. § 5200-A(2)(DD); LD 1655; PL 2017, c. 474, Part D, § 3.

Changes applicable to tax years beginning 2018

Maine life and health insurance guaranty association credit. The Maine Life and Health Insurance Guaranty Association tax credit currently available against the Maine insurance premiums tax is expanded to apply against the Maine income tax for affected insurance companies that are not subject to the Maine insurance premiums tax. Effective August 1, 2018. 24-A M.R.S. § 4621(2-A); LD 1875; PL 2017, c. 382, § 30.

Tax rate schedules for tax years beginning on or after January 1, 2018. For tax years beginning on or after January 1, 2018, the taxable income brackets in the corporate income tax rate schedules are expanded to an amount not over \$350,000 (3.5% bracket), \$1,050,000 (7.93% bracket), \$3,500,000 (8.33% bracket) and to an amount over \$3,500,000 (8.93% bracket). The upper taxable income bracket amounts for tax years beginning prior to 2018 are \$25,000 (3.5% bracket), \$75,000 (7.93% bracket), \$250,000 (8.33% bracket), and the amount over \$250,000 (8.93% bracket). 36 M.R.S. § 5200(1-A); LD 1655, PL 2017, c. 474, Part E, § 2.

Domestic production activities addition modification. For tax years beginning on or after January 1, 2018, the income addition modification equal to the taxpayer's federal deduction relating to income attributable to domestic production activities is repealed. The related federal deduction is repealed. 36 M.R.S. § 5200-A(1)(S); LD 1655; PL 2017, c. 474, Part C, § 5.

Net operating loss addition modification. For tax years beginning after 2018, an addition modification is required equal to the amount of net operating loss carryforward claimed as a deduction for the taxable year for federal tax purposes under the Internal Revenue Code, Section 172 which was previously allowed as a deduction for Maine tax purposes under 36 M.R.S. § 5200-A(2)(BB). See paragraph below for a description of the related net operating loss subtraction modification. 36 M.R.S. § 5200-A(1)(DD); LD 1655; PL 2017, c. 474, Part C, § 6.

Global intangible low-taxed income addition modification. For tax years beginning on or after January 1, 2018, taxpayers must increase Maine taxable income by the amount of the global intangible low-taxed income deduction claimed in accordance with the Internal Revenue Code, Section 250(a)(1)(B). See the summary of the related income subtraction modification below. 36 M.R.S. § 5200-A(1)(FF); LD 1655; PL 2017, c. 474, Part D, § 1.

Medical use of marijuana business expense subtraction modification. For tax years beginning on or after January 1, 2018, a deduction may be claimed for expenses related to carrying on a trade or business as a registered caregiver or a registered dispensary, in an amount equal to the deduction that would otherwise be allowable for Maine purposes to the extent the deduction was disallowed under Internal Revenue Code, Section 280E. 36 M.R.S. § 5200-A(2)(BB); LD 1539; PL 2017, c. 452, § 32.

Net operating loss subtraction modification. For tax years beginning on or after January 1, 2018, a net operating loss deduction is allowed on the Maine return equal to the amount of net operating loss carryforward disallowed for the taxable year for federal tax purposes under the Internal Revenue Code, Section 172(a)(2). The modification may not reduce Maine taxable income below zero and may not have been previously used to reduce Maine taxable income. 36 M.R.S. § 5200-A(2)(BB); LD 1655; PL 2017, c. 474, Part C, § 7.

Global intangible low-taxed income subtraction modification. For tax years beginning on or after January 1, 2018, Maine taxable income may be reduced by an amount equal to 50% of the apportionable global intangible low-taxed income (IRC § 951A), to the extent included in federal gross income and net of related expenses and deductions deducted in calculating federal taxable income. Although the amount of the Maine deduction must be excluded from the calculation of the Maine apportionment factor used to determine the Maine tax liability of a multistate business, the remaining 50% of the apportionable global intangible low-taxed income may, to the extent included in federal gross income and net of related expenses and deductions deducted in calculating federal taxable income, be used to calculate the Maine apportionment factor. See the summary of the related income addition modification above. 36 M.R.S. § 5200-A(2)(EE); LD 1655; PL 2017, c. 474, Part D, § 3.

Alternative minimum tax. For tax years beginning on or after January 1, 2018, the Maine alternative minimum tax for corporate taxpayers is repealed. The minimum tax credit remains in effect for unused credit amounts. 36 M.R.S. § 5203-C(2)(C); LD 1655; PL 2017, c. 474, Part C, § 8.

Credit for dependent health benefits. The carryforward period relative to the credit for dependent health benefits has expired. Therefore, the credit may no longer be claimed for tax years beginning on or after January 1, 2018. 36 M.R.S. § 5219-O(5); LD 1019, PL 2015, c. 267, Pt. DD, § 29.

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by three years. Certification will end on December 31, 2021 and benefits will cease on December 31, 2031 including the pine tree development zone income tax credit and employment tax increment financing benefits. Additional annual reporting requirements are established for a qualified Pine Tree Development Zone business, the State Tax Assessor and the Commissioner. 36 M.R.S. §§ 5219-W(4) and 6754(1)(D); LD 1654; PL 2017, c. 440, §§ 12 and 13.

New markets tax credit. Certain regulatory provisions that limit what is considered a qualified low-income investment is codified into the law governing the new markets capital investment

credit. Specifically, a "qualified low-income community investment" does not include a capital or equity investment made after November 9, 2015 if more than 5% of the investment is used to:

- refinance costs, expenses, or investments incurred or paid by the qualified active low-income community business or a party related to the qualified active low-income community business prior to the date of the qualified low-income community investment;
- make equity distributions from the qualified active low-income community business to its owners;
- acquire an existing business or enterprise in Maine; or
- pay transaction fees.

See the Finance Authority of Maine Rule Chapter 324, section 1, sub-§ 19. 36 M.R.S. § 5219-HH(1)(J); LD 1796; PL 2017, c. 339.

Employer credit for family and medical leave. For tax years beginning in 2018 and 2019, eligible taxpayers may claim a credit equal to the federal credit for employer-paid family and medical leave under Internal Revenue Code, Section 45S as a result of wages paid to employees based in Maine during the taxable year. The credit is not refundable and unused credit amounts may not be carried over to any other tax year. 36 M.R.S. § 5219-UU; LD 1655, PL 2017, c. 474, Part H, § 2.

Changes applicable to tax years beginning in 2020

Tax credit for major business headquarters expansions. This credit is first available for tax years beginning on or after January 1, 2020. Newly enacted provisions clarify that:

- the credit is available only to a certified applicant who has received a certificate of completion;
- the certificate of completion must state the amount of the qualified investment made by the certified applicant;
- the credit is equal to the lesser of 2% of the qualified investment reflected in the certificate of completion or 2% of the qualified investment reflected in the certificate of approval;
- the required full-time employment level for the tax year must exceed the base level of employment (a provision is added to define "base level of employment");
- additional full-time employees do not include employees shifted to the Maine headquarters from an affiliated business in Maine;
- the requirements governing the revocation of a certificate of approval or a certificate of completion apply to a transferee as well as to the applicant;
- any credit amounts recaptured after a certificate of approval has been transferred must be paid by the transferee;
- the credit amount subject to recapture due to the revocation of a certificate must be reported as an additional tax in the year of the revocation and that the additional tax is subject to the collection and enforcement provisions contained in Maine tax law;
- a certified applicant must report additional employment and wage information to the Department of Economic and Community Development;

- the credit is subject to periodic review by the Legislature’s Office of Program Evaluation and Government Accountability (“OPEGA”).

The law also authorizes the Commissioner of the Department of Economic and Community Development and the State Tax Assessor to adopt routine technical rules to implement the credit.

36 M.R.S. § 5219-QQ; LD 1805; PL 2017, c. 375, Part D, §§ 3 through 5; LD 1903; PL 2017, c. 405.

Tax credit for Maine shipbuilding facility investment. For tax years beginning on or after January 1, 2020, a nonrefundable income tax credit is allowed for major investments and maintaining employment levels in a shipbuilding facility. In order to qualify, the facility must make an investment of at least \$100 million and have at least 5,000 employees. Generally, the credit is equal to \$3 million annually for a period of 10 years based on an employment level of 5,500 employees. The credit is decreased if the employment level for the tax year is less than 5,500 and increased if the employment level is 6,000 or more. Unused credits may not be carried over to any other tax year. The taxpayer may qualify for five additional years of credits if they make an additional investment of at least \$100 million before 2025. No credit may be taken if employment at the facility falls below 4,000 employees. The total aggregate credit for the 15-year period is limited to \$45 million. The Department of Economic and Community Development (“DECD”) certifies eligibility for the credit. A taxpayer that qualifies for either the Pine Tree Development Zone program or the Employment Tax Increment Financing program at the time an application for approval is filed with DECD, or is certified for one of those programs for the tax year, does not qualify for the shipbuilding investment credit. A certified applicant must submit an annual report to DECD containing certain employment, payroll, investment and expenditure information. DECD must submit an annual report to the Maine Legislature containing aggregate data for all certified applicants and Maine Revenue Services must submit an annual report to the Legislature that identifies the revenue loss associated with each taxpayer claiming the shipbuilding investment credit. 36 M.R.S. § 5219-RR; LD 1781; PL 2017, c. 361.

6) Franchise Tax

Maine life and health insurance guaranty association credit. The Maine Life and Health Insurance Guaranty Association tax credit currently available against the Maine insurance premiums tax is expanded to apply against the Maine income tax for affected insurance companies that are not subject to the Maine insurance premiums tax. Effective August 1, 2018. 24-A M.R.S. § 4621(2-A); LD 1875; PL 2017, c. 382, § 30.

Credit for dependent health benefits. The carryforward period relative to the credit for dependent health benefits has expired. Therefore, the credit may no longer be claimed for tax years beginning on or after January 1, 2018. 36 M.R.S. § 5219-O(5); LD 1019, PL 2015, c. 267, Pt. DD, § 29.

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by three years. Certification will end on December 31, 2021 and benefits will cease on

December 31, 2031 including the pine tree development zone income tax credit and employment tax increment financing benefits. Additional annual reporting requirements are established for a qualified Pine Tree Development Zone business, the State Tax Assessor and the Commissioner. 36 M.R.S. §§ 5219-W(4) and 6754(1)(D); LD 1654; PL 2017, c. 440, §§ 12 and 13.

New markets tax credit. Certain regulatory provisions that limit what is considered a qualified low-income investment is codified into the law governing the new markets capital investment credit. Specifically, a "qualified low-income community investment" does not include a capital or equity investment made after November 9, 2015 if more than 5% of the investment is used to refinance costs, expenses or investments incurred or paid by the qualified active low-income community business or a party related to the qualified active low-income community business prior to the date of the qualified low-income community investment; make equity distributions from the qualified active low-income community business to its owners; acquire an existing business or enterprise in Maine; or pay transaction fees. See the Finance Authority of Maine Rule Chapter 324, section 1, sub-§ 19. 36 M.R.S. § 5219-HH(1)(J); LD 1796; PL 2017, c. 339.

Employer credit for family and medical leave. For tax years beginning in 2018 and 2019, eligible taxpayers may claim a credit equal to the federal credit for employer-paid family and medical leave under Internal Revenue Code, Section 45S as a result of wages paid to employees based in Maine during the taxable year. The credit is not refundable and unused credit amounts may not be carried over to any other tax year. 36 M.R.S. § 5219-UU; LD 1655, PL 2017, c. 474, Part H, § 2.

7) Insurance Premiums Tax

Limitation on credit or refund. Under prior Maine law, refunds of insurance premiums tax payments could be requested for an unlimited amount of time after the payment was made. The law is revised to limit the amount that can be refunded to the amount of tax paid within the 3-year period immediately preceding the filing of a refund claim or audit. Effective August 1, 2018. 36 M.R.S. § 2521-D; LD 1805; PL 2017, c. 375, Pt. B, § 1.

Interest on overpayments. The law is amended to prohibit the payment of interest on requests for refunds of insurance premiums tax if the overpayment is refunded by the State Tax Assessor within 60 days of the taxpayer's filing of the claim or the due date of the return, whichever is later. Effective August 1, 2018. 36 M.R.S. § 2521-E; LD 1805; PL 2017, c. 375, Pt. B, § 2.

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by three years. Certification will end on December 31, 2021 and benefits will cease on December 31, 2031 including the pine tree development zone income tax credit and employment tax increment financing benefits. Additional annual reporting requirements are established for a qualified Pine Tree Development Zone business, the State Tax Assessor and the Commissioner. 36 M.R.S. §§ 2529(3) and 6754(1)(D); LD 1654; PL 2017, c. 440, §§ 11 and 13.

Employer credit for family and medical leave. For tax years beginning in 2018 and 2019, eligible taxpayers may claim a credit equal to the federal credit for employer-paid family and

medical leave under Internal Revenue Code, Section 45S as a result of wages paid to employees based in Maine during the taxable year. The credit is not refundable and unused credit amounts may not be carried over to any other tax year. 36 M.R.S. § 2536; LD 1655, PL 2017, c. 474, Part H, § 1.

8) Estate Tax

Maine exclusion amount. For estates of decedent's dying on or after January 1, 2018, the Maine exclusion amount is \$5,600,000. For tax years beginning after 2018, the Maine exclusion amount will be adjusted for inflation. 36 M.R.S. §§ 4102(5) and 4119; LD 1655, PL 2017, c. 474, Part G.

9) Sales/Use Tax

Tax exemption – sales to heating assistance organizations. The law provides a sales tax exemption for sales to organizations that have been determined by the United States Internal Revenue Service to be exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and whose primary purpose is to provide residential heating assistance to low-income individuals. LD 1755, PL 2017, c. 399. Effective October 1, 2018.

Tax exemption – sales to veterans' support organizations. The law provides a sales tax exemption for sales to incorporated nonprofit organizations organized for the primary purpose of operating a retreat in the State for combat-injured veterans and their families free of charge. LD 1882, PL 2017, c. 399. Effective October 1, 2018.

Tax exemption – instrumentalities of interstate or foreign commerce. The sales tax exemption for certain instrumentalities of interstate and foreign commerce has been repealed and replaced. The new exemption, which is effective retroactively to January 1, 2012, is similar to the old one but differs from it in several ways, including the following: (1) property dispatched for use in interstate or foreign commerce is considered in use from the date of dispatch through the date it arrives back at its principal place of business, or is dispatched for use in connection with a new bona fide payload, whichever occurs first; (2) any day or portion of a day in which property is used in interstate or foreign commerce is computed as a full day of qualifying use; (3) a full day during which the property in question is being stored, repaired, or maintained is disregarded for purposes of the statutory 80% eligibility computation; and (4) for purposes of the exemption, use of a trailer, semitrailer or tow dolly pursuant to a written interchange agreement (as described in the Code of Federal Regulations) between the purchaser and an authorized motor carrier is considered use by the purchaser. LD 1805, PL 2017, c. 375, Part I.

Sale price exclusion - Paint Stewardship Program fees. The law provides that a "paint stewardship assessment" must be added to the cost of all architectural paint sold to retailers and distributors in the State. Retailers must add the paint stewardship assessment to the consumer's purchase price. For retail sales made on or after December 1, 2018, the paint stewardship assessment is excluded from sale price for the purposes of Maine sales and use tax. LD 1597, PL 2017, c. 438.

New registration requirement – room remarketers and transient rental platforms; definition of “sale price” amended. Effective October 1, 2018, room remarketers and transient rental platforms are required to register as retailers with Maine Revenue Services. A “room remarketer” is defined in the law as “a person who reserves, arranges for, offers, furnishes or collects or receives consideration for the rental of living quarters in this State, whether directly or indirectly, pursuant to a written or other agreement with the owner, manager or operator of a hotel, rooming house or tourist or trailer camp.” A “transient rental platform” is defined as “an electronic or other system, including an Internet-based system, that allows the owner or occupant of living quarters in this State to offer the living quarters for rental and that provides a mechanism by which a person may arrange for the rental of the living quarters in exchange for payment to either the owner or occupant, to the operator of the system or to another person on behalf of the owner, occupant or operator.” The definition of “sale price” is also amended to include “[a]ll consideration received for the rental of living quarters in this State, including any service charge or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the owner, occupant, manager or operator or the living quarters, by a room remarketer, by a person that operates a transient rental platform or by another person on behalf of any of those persons.” LD 1805, PL 2017, c. 375, Part A.

Pine Tree Development Zones – reimbursement program expanded. The Pine Tree Development Zone (“PTDZ”) program has been expanded. Certification of new PTDZ businesses will continue through December 31, 2021, and qualified PTDZ businesses will be able to receive certain PTDZ benefits through December 31, 2031. Businesses that apply to the Commissioner of the Department of Economic and Community Development (“DECD”) on or after January 1, 2019 for certification as a qualified PTDZ business will be issued a letter of certification, followed by a certificate of qualification upon the PTDZ business’s hiring of at least one new employee above their baseline. The sales tax reimbursement statute (36 M.R.S. § 2016) has been amended to include a reimbursement available for PTDZ businesses on taxes paid with respect to the sale or use of tangible personal property and the transmission and distribution of electricity to a qualified business and used directly and primarily in one or more qualified business activities for the time period between when the PTDZ business receives their letter of certification and certificate of qualification from the DECD. This is in addition to the provision allowing the reimbursement of taxes paid in connection with the sale or use of tangible personal property physically incorporated in, and made a permanent part of, real property owned by or sold to a qualified business and used directly and primarily by that business in one or more qualified business activities. The sales tax exemption for PTDZ businesses (36 M.R.S. § 1760(87)) has been amended to require PTDZ businesses that are certified after January 1, 2019 to have been issued their certificate of qualification prior to receiving their sales tax exemption certificate. LD 1654, PL 2017, c. 440.

Posting of bonds by retailers – statute amended. Effective August 1, 2018, the statute allowing the State Tax Assessor to require a bond for a retailer as a condition for issuance of a registration certificate or subsequent to the issuance of a registration certificate is amended to include retailers registering for a sales tax account under 36 M.R.S. §§ 1756 or 36 M.R.S. § 1951-B. LD 1805, PL 2017, c. 375, Part H.

10) Service Provider Tax/E-9-1-1 Surcharge

Cellular or wireless service supported by Federal universal support funds. The law provides that effective January 1, 2019, “Lifeline” telephone services available to income-eligible Maine consumers and supported by federal universal service support funds are not subject to the service provider tax and that federal support for such services is not subject to fees assessed under the state universal service fund, the state telecommunications education access fund and the statewide E-9-1-1 surcharge. These “Lifeline” services are also excluded from the definition of “sale price” under the sales tax. LD 1746, PL 2017, Ch. 422.

11) Property Tax

True and perfect lists. An assessor request for a true and perfect list from a taxpayer may now include additional requests for information. The additional requests for information may also be made separately from the true and perfect list request. Confidential information submitted to an assessor may now be shared with, in addition to the State Tax Assessor, other parties involved in an appeal. Confidential information may also be shared with any person with the taxpayer’s written consent. Effective August 1, 2018. LD 1479, PL 2017, c. 367.

The State Board of Property Tax Review. Membership of the State Board of Property Tax Review (State Board) is changed. The State Board may now include property appraisers and retired assessor members will be replaced with active assessors. Beginning August 1, 2018, at least one new member appointed by the governor must be a person experienced with tax, finance, or property valuation matters. Appeals to the State Board are now required to undergo mediation, unless excused by the State Board chair. A task force is established to study the State Board and make recommendations to the 129th Legislature for improvements to the efficiency of the appeal process. Effective August 1, 2018. LD 1479, PL 2017, c. 367.

Municipal deorganization. The Legislature has approved a request by Cary Plantation to proceed with the deorganization of that municipality. Once the process is completed, Cary will become part of the unorganized territory, which is administered by the State. Effective August 1, 2018. LD 780, P&SL 2017, c. 11.

Municipal deorganization. The Legislature has approved a request by the Town of Atkinson to proceed with the deorganization of that municipality. Once the process is completed, Atkinson will become part of the unorganized territory, which is administered by the State. Effective August 1, 2018. LD 1484, P&SL 2017, c. 14.

Municipal deorganization. The Legislature has approved a request by Codyville Plantation to proceed with the deorganization of that municipality. Once the process is completed, Codyville will become part of the unorganized territory, which is administered by the State. Effective August 1, 2018. LD 1673, P&SL 2017, c. 11.

Municipal cost component. This law is a routine annual process for establishing the costs of administering the unorganized territory of Maine. The costs approved by the Maine Legislature

must be incorporated into the 2018 property tax levy in the unorganized territory. The unorganized territory property tax is collected as dedicated revenue to the Unorganized Territory Education and Services Fund. Effective June 27, 2018. LD 1862, PL 2017, c. 424.

Conveyance of state interest in certain real estate in the unorganized territory. This Resolve authorizes the State Tax Assessor to sell certain tax-acquired parcels located in the unorganized territory. Effective August 1, 2018. LD 1660, Resolves, 2017, c. 36.

Foreclosure of property in the unorganized territory. The law controlling the foreclosure and sale of property in the unorganized territory for nonpayment of taxes is amended. The State Tax Assessor may sell foreclosed property to the previous owner after the right of redemption has expired and before the sale of that property to a third party. The State Tax Assessor also has the option to exclude the description of permanent residences from the annual report to the Legislature of tax acquired property. Applies retroactively to October 1, 1935. LD 1805, PL 2017, c. 375.

Foreclosure. For properties receiving the homestead exemption, municipalities must include information about hardship or poverty abatements and contact information for the Consumer Credit Protection Bureau in the notice of overdue taxes under 36 M.R.S. § 942. Certain taxpayers meeting age, income and asset limits may be able to require municipalities to sell foreclosed property through a real estate broker and return excess proceeds to the former owner. Applies December 13, 2018. LD 1629, PL 2017, c. 478.