

ENACTED TAX LEGISLATION – 2020 SESSION

2nd Regular Session general (non-emergency) effective date: June 16, 2020

(Includes legislation enacted in prior sessions that becomes effective beginning in 2020)

1) Administrative Provisions

Brunswick Naval Air Station Job Increment Financing Program. The date by which the Department of Economic and Community Development (DECD) must provide information necessary to determine the job tax increment under the Brunswick Naval Air Station job increment financing program to the State Tax Assessor is changed from June 30th to June 1st of each year. Additionally, businesses located in the base area are required to report to DECD by April 15th of each year the number of employees employed at the base area during the immediately preceding calendar year, the state income taxes withheld for each of those employees and any other information as may be reasonably required for purposes of administering the program. Effective June 16, 2020. 5 M.R.S. § 13083-S-1(4); L.D. 2047; P.L. 2019, c. 659, Pt. E, § 1.

Employment Tax Increment Financing Program. The date by which businesses under the Maine Employment Tax Increment Financing Program must report required information to DECD is changed from April 15th to March 15th of each year. The date by which DECD must provide information to the State Tax Assessor necessary for making determinations of eligibility for reimbursement under the program is May 15th of each year. Effective June 16, 2020. 36 M.R.S. § 6758; L.D. 2047; P.L. 2019, c. 659, Pt. E, § 4.

Disclosure of tax information. Several changes were made regarding disclosure of certain confidential tax information as follows:

- The law clarifies that any personally identifiable financial information, supporting data, or tax return obtained by the Maine Health Insurance Marketplace is confidential and not open to public inspection in accordance with Internal Revenue Code, Section 6103 and 36 M.R.S. § 191. Effective June 16, 2020. 22 M.R.S. § 5409; L.D. 2007; P.L. 2019, c. 653, Pt. A.
- The general confidentiality law limiting the Department of Administrative and Financial Services, Bureau of Revenue Services to disclose to the Department of Professional and Financial Regulation, Bureau of Insurance (BOI) information relevant to the income tax credit for disability income protection plans in the workplace is amended to also authorize disclosure to BOI information necessary to administer Maine insurance taxes. In addition, the provision clarifies that BOI may not disclose the information it receives unless the disclosure is authorized by 36 M.R.S. § 191 and 24-A M.R.S. § 216. Effective June 16, 2020. 36 M.R.S. § 191(2)(BBB); L.D. 2047; P.L. 2019, c. 659, Pt. A.

- The law clarifies that MRS is authorized to divulge information to the Office of Program Evaluation and Government Accountability (OPEGA), as well as to the joint standing committee of the Legislature having jurisdiction over taxation matters, that is necessary for the administration of the credit for major food processing and manufacturing facility expansions. Effective June 16, 2020. 36 M.R.S. §§ 191(2)(HHH); L.D. 2008; P.L. 2019, c. 607, Pt. C, § 1.
- An exception to the general confidentiality laws is added that allows the disclosure of confidential tax information to the Maine State Housing Authority (MSHA) necessary to administer the credit for affordable housing under 36 M.R.S. § 5219-WW and for purposes of reporting credit and housing project information to OPEGA and to the joint standing committee of the Legislature having jurisdiction over taxation matters. Effective June 16, 2020. 36 M.R.S. § 191(2)(KKK); L.D. 1645; P.L. 2019, c. 555, § 4.
- An exception to the general confidentiality laws is added that allows the disclosure of confidential tax information to DECD necessary to administer the renewable chemicals tax credit under 36 M.R.S. § 5219-XX. Effective June 16, 2020. 36 M.R.S. § 191(2)(LLL); L.D. 1698; P.L. 2019, c. 628, § 1.

Legislative reporting requirements for the tax credit for Maine shipbuilding facility investment. The due date established for the report regarding the revenue loss associated with each credit claimed for Maine shipbuilding facility investment that must be submitted annually by the State Tax Assessor to the joint standing committee of the Legislature having jurisdiction over taxation matters is December 31. The law also clarifies that the report is for the tax year ending during the immediately preceding calendar year and defines the term “revenue loss” for purposes of the annual report. Effective June 16, 2020. 36 M.R.S. § 5219-RR(9)(C); L.D. 2008; P.L. 2019, c. 607, Pt. C, § 6.

Legislative reporting requirements for the tax credit for major food processing and manufacturing facility expansion. The due date for the report regarding the revenue loss associated with each credit claimed for major food processing and manufacturing facility expansions that must be submitted annually by the State Tax Assessor to OPEGA and to the joint standing committee of the Legislature having jurisdiction over taxation matters is changed from April 1 to December 31. The law also clarifies that the report is for the tax year ending during the immediately preceding calendar year and defines the term “revenue loss” for purposes of the annual report. Effective June 16, 2020. 36 M.R.S. §§ 5219-VV(5)(B) and 5219VV(5)(C); L.D. 2008; P.L. 2019, c. 607, Pt. C, § 7.

Legislative reporting requirement for the Pine Tree Development Zone Program. The requirement that the State Tax Assessor issue a report on the Pine Tree Development Zone Program benefits annually on October 1st to DECD and the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters is repealed. Additionally, the date by which qualified Pine Tree Development Zone businesses are required to report relevant information to DECD is changed from April 15th to March 15th of each year. Effective June 16, 2020. 30-A M.R.S. § 5250-P(1); L.D. 2047; P.L. 2019, c. 659, Pt. E, § 3.

2) General

Refund setoff. Maine Revenue Services is authorized to set off any refund under Title 36, except for refunds of property tax under Part 2, to cover a liquidated debt owed to another agency of the State. Under prior law, only Maine income tax refunds were subject to set off. Effective June 16, 2020. 36 M.R.S. § 185-A; L.D. 2047; P.L. 2019, c. 659, Pt. D.

Denial, suspension or revocation of license. A person who has an unpaid tax liability under Title 36, other than property taxes, in an amount greater than \$1,000 has 15 days after receiving notice that the liability has become final before the State Tax Assessor may notify certain licensing authorities of the taxpayer's lack of cooperation, thereby beginning the license denial, suspension, or revocation process. Under prior Maine law, taxpayers had 60 days to settle the liability after receiving notification of finality. Effective June 16, 2020. 36 M.R.S. § 172; L.D. 2047, P.L. 2019, c. 659, Pt. F.

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 December 31, 2019. Applies to tax years beginning on or after January 1, 2019 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); L.D. 2126, P.L. 2019, c. 616, Pt. X, §§ 1 and 4.

Return due date – statute of limitations. The due date for filing a return, for purposes of determining the extension period for income tax returns and calculating the statute of limitations for assessments and claiming income tax credits or refunds, has been clarified to mean the date prescribed for filing the return without regard to any extension (generally referred to as the original due date of the return). Applies retroactively to tax years beginning on or after January 1, 2017. 36 M.R.S. §§ 141(1), 5231(1-A), 5278(1), and 5278(5)(A); L.D. 2047; P.L. 2019, c. 659, Pt. G.

3) Individual Income Tax

Changes applicable to tax years beginning 2019 (retroactively)

Installment sales of real or tangible property – nonresident individuals. For tax years beginning on or after January 1, 2019, the law removes an erroneous reference to losses with respect to the election available to a nonresident individual making an installment sale of real or tangible property located in Maine. 36 M.R.S. § 5147; L.D. 2008; P.L. 2019, c. 607, Pt. C, § 3.

Changes applicable to tax years beginning 2020

Reporting use tax on income tax return. For tax years beginning on or after January 1, 2020, the requirement that a tax table be used to calculate use tax reportable on individual income tax returns is repealed. However, taxpayers may continue to report unpaid use tax liability on Maine individual income tax returns. For taxable items having a sales price no greater than \$1,000, the

use tax may be estimated by multiplying Maine adjusted gross income by .04%. For items with a sales price greater than \$1,000 but no more than \$5,000, the actual unpaid use tax liability for each taxable purchase must be reported. Use tax on items that cost more than \$5,000 must be reported on an individual use tax return by the 15th day of the month following the purchase. 36 M.R.S. §1861-A; L.D. 2008; P.L. 2019, c. 607, Pt. C, § 2.

ABLE savings account subtraction modification. For tax years beginning on or after January 1, 2020, earnings on funds held in a qualified Achieving a Better Life Experience (ABLE) account are deductible in calculating Maine taxable income. 36 M.R.S. § 5122(2)(QQ); L.D. 1637; P.L. 2019, c. 348.

Bonus depreciation / Maine capital investment credit. For property placed in service during a tax year beginning on or after January 1, 2020, the bonus depreciation addition modification with respect to property for which the Maine capital investment credit is claimed (36 M.R.S. § 5122(1)(KK)(1)) may be recaptured in future tax years over the life of the asset. Thus, affected property may, for Maine tax purposes, qualify for both regular depreciation and the Maine capital investment credit. See below for changes made to the Maine capital investment credit. See 36 M.R.S. §§ 5122(2)(RR) and 5219-NN; L.D. 1671; P.L. 2019, c. 527, Pt. A, § 2.

Student loan payment subtraction modification. For tax years beginning on or after January 1, 2020, a qualified health care employee (generally, an individual who is licensed as a registered nurse, practical nurse, osteopathic physician, or to practice medicine or surgery and is employed by a hospital in Maine) may claim, to the extent included in the employee's federal adjusted gross income, the income subtraction modification for student loan payments made by an employer directly to the lender. The modification may not be claimed for any loan payment amounts subtracted under 36 M.R.S. § 5122(2)(FF). 36 M.R.S. § 5122(2)(SS); L.D. 1028; P.L. 2019, c. 530, Pt. C, § 1.

Standard deduction amount. For tax years beginning on or after January 1, 2020, the Maine standard deduction is equal to the federal standard deduction amount, subject to the Maine phase-out. Previously, the Maine standard deduction was limited to the federal standard deduction amount determined under Internal Revenue Code, Section 63 and did not include any additional federal standard deduction amount contained in other provisions of federal law. 36 M.R.S. § 5124-C(1-A); L.D. 2126; P.L. 2019, c. 616, Pt. X, §§ 2 and 3.

Personal exemption. For tax years beginning on or after January 1, 2020, a married taxpayer may claim a Maine personal exemption deduction for that taxpayer's spouse when not filing a joint return as long as the spouse has no gross income during the taxable year and, notwithstanding the temporary suspension of the federal personal exemption deduction through 2025, a personal exemption deduction would be allowed for the spouse for federal income tax purposes. 36 M.R.S. § 5126-A(1); L.D. 2047, P.L. 2019, c. 659, Pt. C, § 1.

Property tax fairness credit. For tax years beginning on or after January 1, 2020, the property tax fairness credit is increased to 100% of the benefit base that is greater than 5% (previously 6%) of the individual's income, up to \$750 (\$1,200 for individuals 65 years of age or older). 36 M.R.S. § 5219-KK; L.D. 1001; P.L. 2019, c. 343, Pt. H, §§ 5 and 6.

Earned income credit. For tax years beginning on or after January 1, 2020, the Maine earned income credit is increased from 5% to 12% of the federal earned income tax credit (25% for eligible individuals who do not have a qualifying child). The credit is also extended to individuals who are 18 to 24 years of age, have no qualifying children, and are otherwise qualified for the federal earned income tax credit. 36 M.R.S. §5219-S; L.D. 1671; P.L. 2019, c. 527, Pt. B, §§ 2 and 3.

Maine capital investment credit. For property placed in service in Maine during a tax year beginning on or after January 1, 2020, the Maine capital investment credit is reduced to 1.2% of the bonus depreciation addition modification required with respect to that property under 36 M.R.S. § 5122(1)(KK)(1). See discussion above regarding the recapture of the bonus depreciation addition modification in future tax years. 36 M.R.S. § 5219-NN; L.D. 1671, P.L. 2019, c. 527, Pt. A, § 6.

Maine Children's Cancer Research Fund. For tax years beginning on or after January 1, 2020, a new voluntary contribution check-off is added to the Maine individual income tax form, Schedule CP, for the Maine Children's Cancer Research Fund. The purpose of the fund is to provide grants and other funding to support children's cancer research provided by research facilities in Maine that operate children's cancer programs. 36 M.R.S. §§ 5283-A and 5292; L.D. 1044; P.L. 2019, c. 433.

Maine Seed Capital Tax Credit Program. The Seed Capital Tax Credit Program is changed relative to investments in an eligible business made on or after April 1, 2020 as follows:

- The credit certificate amount available to an investor is reduced from 50% to 40% of the amount of cash actually invested in an eligible business in a calendar year;
- Expands the definition of an eligible business to include a business that provides a product that is sold or rendered predominantly outside of Maine;
- Reduces the aggregate investment eligible for credit for any one business from \$5,000,000 to \$3,500,000 (from \$4,000,000 to \$3,500,000 for investments made by a private venture capital fund);
- Limits the total aggregate investment eligible for any one business in any calendar year to \$2,000,000; and
- Increases the total annual aggregate amount of credits that may be issued under the program from \$5,000,000 to \$15,000,000 for investments made in calendar years 2020 to 2026. The aggregate amount of credits that may be issued for investments made in calendar years beginning after 2026 reverts back to no more than \$5,000,000.

Effective March 18, 2020. 10 M.R.S. § 1100-T and 36 M.R.S. § 5216-B; L.D. 2126, P.L. 2019, c. 616, Pt. LL.

Credit for rehabilitation of historic properties after 2007. The credit for rehabilitation of historic properties is extended to include qualified rehabilitation expenditures, if:

- 1) with respect to expenditures for which the federal credit under Internal Revenue Code, Section 47 is claimed, the United States Department of the Interior, National Park Service issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior's standards for rehabilitation, with or without conditions; or
- 2) with respect to expenditures for which the federal credit under Internal Revenue Code, Section 47 is not claimed, the Maine Historic Preservation Commission issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior's standards for rehabilitation, with or without conditions.

Previously, the credit could not be claimed for expenditures incurred after 2023. Expenditures incurred prior to 2008 do not qualify for the credit. Effective June 16, 2020. 36 M.R.S. § 5219-BB(1)(C); L.D. 2047, P.L. 2019, c. 659, Pt. J.

Fiscal year tax determination. The provision of law that requires the calculation of income tax using blended tax rates for fiscal year filers when there is a change in tax rates that are effective on a date other than the first day of the taxable year is repealed. Effective June 16, 2020. 36 M.R.S. § 5234; L.D. 2008; P.L. 2019, c. 607, Pt. C, § 8.

Changes applicable to tax years beginning 2021

Loan Guarantee Program deferred interest income subtraction modification. Interest deferred or not charged on a loan issued under the Loan Guarantee Program established under 10 M.R.S., § 1100-CC is exempt from all state taxes. Effective March 18, 2020. 10 M.R.S. § 1100-DD(6). L.D. 2167; P.L. 2019, c. 617, Pt. I, § 2.

Credit for biofuel commercial production. For tax years beginning on or after January 1, 2021, the nonrefundable tax credit for biofuel commercial production and commercial use is reinstated. 36 M.R.S. § 5219-X(5); L.D. 1698, P.L. 2019, c. 628, § 2.

Credit for affordable housing. A taxpayer receiving a tax credit certificate for the taxable year from the MSHA for an affordable housing project located in Maine may claim a refundable income tax credit for that taxable year. Generally, the total amount that may be allocated by MSHA each calendar year for tax credit certificates is limited to \$10,000,000. MSHA may make an allocation only during a calendar year beginning in 2021 through 2028. The credit is equal to either (1) the total federal low-income housing tax credit claimed under Internal Revenue Code, Section 42 using the entire federal credit period for all buildings in a qualified Maine project, or (2) an amount equal to the lesser of \$500,000 or 50% of the qualified basis of an affordable housing project that incurs at least \$100,000 includible in eligible basis in the construction or rehabilitation of an affordable housing project for which a federal low-income housing tax credit is not claimed under Section 42 of the Code with respect to those expenditures. Other allocation,

recapture, and reporting provisions apply. 36 M.R.S. § 5219-WW; L.D. 1645, P.L. 2019, c. 555, § 6.

Renewable chemicals tax credit. For tax years beginning on or after January 1, 2021, a taxpayer engaged in the production of renewable chemicals in Maine may claim a credit equal to 8¢ per pound of the renewable chemicals produced. The credit may only be used to reduce the Maine tax imposed on income derived during the taxable year from the production of renewable chemicals. Unused credit amounts may be carried forward for up to ten taxable years. Eligible taxpayers must demonstrate to DECD that at least 75% of the employees of the contractors hired or retained to harvest renewable biomass used in the production of the renewable chemicals meet the eligibility conditions specified in the Employment Security Law. Taxpayer and legislative reporting requirements apply. 36 M.R.S. § 5219-XX; L.D. 1698, P.L. 2019, c. 628, § 3.

Changes applicable to tax years beginning 2022

Tax credit for major food processing and manufacturing facility expansions. The following clarifications are made with respect to the tax credit for major food processing and manufacturing facility expansions:

- The requirement for a facility to process, produce, and manufacture food from agricultural products primarily grown and harvested in the State is an ongoing requirement;
- The expenditures of a qualified applicant and other entities, whether or not incorporated, that are part of a single business enterprise must be aggregated to determine whether a qualified investment has been made;
- An applicant's headquarters and facility must be located in the State and the annual income derived from employment with the applicant of at least 75% of the applicant's employees must exceed the most recent annual per capita personal income in the county in which the facility is located in order to qualify for a certificate of completion and the credit;
- The jobs that must be added in order to qualify for the credit must be added since the first day of the year in which the certificate of approval was issued;
- The cumulative credit for a single certificate is limited to \$30,600,000;
- The certified applicant's annual reporting requirement must include the number of the applicant's full-time employees based in the State as of the last day of the report year;
- An applicant whose certificate of approval or certificate of completion has been revoked is no longer eligible for the credit beginning with the year during which the certificates is revoked and any subsequent year; and

- The requirement that the amount of credit be repaid within 60 days following the revocation of a certificate of approval or certificate of completion is repealed. Credit amounts required to be repaid are subject to the collection and enforcement provisions of Title 36.

Effective June 16, 2020. 36 M.R.S. § 5219-VV; L.D. 2047; P.L. 2019, c. 659., Pt. H.

4) Fiduciary Income Tax

Changes applicable to tax years beginning 2020

ABLE savings account subtraction modification. For tax years beginning on or after January 1, 2020, earnings on funds held in a qualified Achieving a Better Life Experience (ABLE) account are deductible in calculating Maine taxable income. 36 M.R.S. § 5122(2)(QQ); L.D. 1637; P.L. 2019, c. 348.

Bonus depreciation / Maine capital investment credit. For property placed in service during a tax year beginning on or after January 1, 2020, the bonus depreciation addition modification with respect to property for which the Maine capital investment credit is claimed (36 M.R.S. § 5122(1)(KK)(1)) may be recaptured in future tax years over the life of the asset. Thus, affected property may, for Maine tax purposes, qualify for both regular depreciation and the Maine capital investment credit. See below for changes made to the Maine capital investment credit. See 36 M.R.S. §§ 5122(2)(RR) and 5219-NN; L.D. 1671; P.L. 2019, c. 527, Pt. A, § 2.

Maine capital investment credit. For property placed in service in Maine during a tax year beginning on or after January 1, 2020, the Maine capital investment credit is reduced to 1.2% of the bonus depreciation addition modification required with respect to that property under 36 M.R.S. § 5122(1)(KK)(1). See discussion above regarding the recapture of the bonus depreciation addition modification in future tax years. 36 M.R.S. § 5219-NN; L.D. 1671, P.L. 2019, c. 527, Pt. A, § 6.

Maine Seed Capital Tax Credit Program. The Seed Capital Tax Credit Program is changed relative to investments in an eligible business made on or after April 1, 2020 as follows:

- The credit certificate amount available to an investor is reduced from 50% to 40% of the amount of cash actually invested in an eligible business in a calendar year;
- Expands the definition of an eligible business to include a business that provides a product that is sold or rendered predominantly outside of Maine;
- Reduces the aggregate investment eligible for credit for any one business from \$5,000,000 to \$3,500,000 (from \$4,000,000 to \$3,500,000 for investments made by a private venture capital fund);

- Limits the total aggregate investment eligible for any one business in any calendar year to \$2,000,000; and
- Increases the total annual aggregate amount of credits that may be issued under the program from \$5,000,000 to \$15,000,000 for investments made in calendar years 2020 to 2026. The aggregate amount of credits that may be issued for investments made in calendar years beginning after 2026 reverts back to no more than \$5,000,000.

Effective March 18, 2020. 10 M.R.S. § 1100-T and 36 M.R.S. § 5216-B; L.D. 2126, P.L. 2019, c. 616, Pt. LL.

Credit for rehabilitation of historic properties after 2007. The credit for rehabilitation of historic properties is extended to include qualified rehabilitation expenditures, if:

- 1) with respect to expenditures for which the federal credit under Internal Revenue Code, Section 47 is claimed, the United States Department of the Interior, National Park Service issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior’s standards for rehabilitation, with or without conditions; or
- 2) with respect to expenditures for which the federal credit under Internal Revenue Code, Section 47 is not claimed, the Maine Historic Preservation Commission issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior’s standards for rehabilitation, with or without conditions.

Previously, the credit could not be claimed for expenditures incurred after 2023. Expenditures incurred prior to 2008 do not qualify for the credit. Effective June 16, 2020. 36 M.R.S. § 5219-BB(1)(C); L.D. 2047, P.L. 2019, c. 659, Pt. J.

Fiscal year tax determination. The provision of law that requires the calculation of income tax using blended tax rates for fiscal year filers when there is a change in tax rates that are effective on a date other than the first day of the taxable year is repealed. Effective June 16, 2020. 36 M.R.S. § 5234; L.D. 2008; P.L. 2019, c. 607, Pt. C, § 8.

Changes applicable to tax years beginning 2021

Loan Guarantee Program deferred interest income subtraction modification. Interest deferred or not charged on a loan issued under the Loan Guarantee Program established under 10 M.R.S., § 1100-CC is exempt from all state taxes. Effective March 18, 2020. 10 M.R.S. § 1100-DD(6). L.D. 2167; P.L. 2019, c. 617, Pt. I, § 2.

Credit for biofuel commercial production. For tax years beginning on or after January 1, 2021, the nonrefundable tax credit for biofuel commercial production and commercial use is reinstated. 36 M.R.S. § 5219-X(5); L.D. 1698, P.L. 2019, c. 628, § 2.

Credit for affordable housing. A taxpayer receiving a tax credit certificate for the taxable year from the MSHA for an affordable housing project located in Maine may claim a refundable income tax credit for that taxable year. Generally, the total amount that may be allocated by MSHA each calendar year for tax credit certificates is limited to \$10,000,000. MSHA may make an allocation only during a calendar year beginning in 2021 through 2028. The credit is equal to either (1) the total federal low-income housing tax credit claimed under Internal Revenue Code, Section 42 using the entire federal credit period for all buildings in a qualified Maine project, or (2) an amount equal to the lesser of \$500,000 or 50% of the qualified basis of an affordable housing project that incurs at least \$100,000 includible in eligible basis in the construction or rehabilitation of an affordable housing project for which a federal low-income housing tax credit is not claimed under Section 42 of the Code with respect to those expenditures. Other allocation, recapture, and reporting provisions apply. 36 M.R.S. § 5219-WW; L.D. 1645, P.L. 2019, c. 555, § 6.

Renewable chemicals tax credit. For tax years beginning on or after January 1, 2021, a taxpayer engaged in the production of renewable chemicals in Maine may claim a credit equal to 8¢ per pound of the renewable chemicals produced. The credit may only be used to reduce the Maine tax imposed on income derived during the taxable year from the production of renewable chemicals. Unused credit amounts may be carried forward for up to ten taxable years. Eligible taxpayers must demonstrate to DECD that at least 75% of the employees of the contractors hired or retained to harvest renewable biomass used in the production of the renewable chemicals meet the eligibility conditions specified in the Employment Security Law. Taxpayer and legislative reporting requirements apply. 36 M.R.S. § 5219-XX; L.D. 1698, P.L. 2019, c. 628, § 3.

Changes applicable to tax years beginning 2022

Tax credit for major food processing and manufacturing facility expansions. The following clarifications are made with respect to the tax credit for major food processing and manufacturing facility expansions:

- The requirement for a facility to process, produce, and manufacture food from agricultural products primarily grown and harvested in the State is an ongoing requirement;
- The expenditures of a qualified applicant and other entities, whether or not incorporated, that are part of a single business enterprise must be aggregated to determine whether a qualified investment has been made;
- An applicant's headquarters and facility must be located in the State and the annual income derived from employment with the applicant of at least 75% of the applicant's employees must exceed the most recent annual per capita personal income in the county in which the facility is located in order to qualify for a certificate of completion and the credit;
- The jobs that must be added in order to qualify for the credit must be added since the first day of the year in which the certificate of approval was issued;

- The cumulative credit for a single certificate is limited to \$30,600,000;
- The certified applicant's annual reporting requirement must include the number of the applicant's full-time employees based in the State as of the last day of the report year;
- An applicant whose certificate of approval or certificate of completion has been revoked is no longer eligible for the credit beginning with the year during which the certificate is revoked and any subsequent year; and
- The requirement that the amount of credit be repaid within 60 days following the revocation of a certificate of approval or certificate of completion is repealed. Credit amounts required to be repaid are subject to the collection and enforcement provisions of Title 36.

Effective June 16, 2020. 36 M.R.S. § 5219-VV; L.D. 2047; P.L. 2019, c. 659., Pt. H.

5) Corporate Income Tax

Changes applicable to tax years beginning 2020

Bonus depreciation / Maine capital investment credit. For property placed in service during a tax year beginning on or after January 1, 2020, the bonus depreciation addition modification with respect to property for which the Maine capital investment credit is claimed (36 M.R.S. § 5200-A(1)(CC)(1)) may be recaptured in future tax years over the life of the asset. Thus, affected property may, for Maine tax purposes, qualify for both regular depreciation and the Maine capital investment credit. See below for changes made to the Maine capital investment credit. See 36 M.R.S. §§ 5200-A(2)(FF) and 5219-NN; L.D. 1671; P.L. 2019, c. 527, Pt. A, § 4.

Maine capital investment credit. For property placed in service in Maine during a tax year beginning on or after January 1, 2020, the Maine capital investment credit is reduced to 1.2% of the bonus depreciation addition modification required with respect to that property under 36 M.R.S. § 5200-A(1)(CC)(1). See discussion above regarding the recapture of the bonus depreciation addition modification in future tax years. 36 M.R.S. § 5219-NN; L.D. 1671, P.L. 2019, c. 527, Pt. A, § 6.

Maine Seed Capital Tax Credit Program. The Seed Capital Tax Credit Program is changed relative to investments in an eligible business made on or after April 1, 2020 as follows:

- The credit certificate amount available to an investor is reduced from 50% to 40% of the amount of cash actually invested in an eligible business in a calendar year;
- Expands the definition of an eligible business to include a business that provides a product that is sold or rendered predominantly outside of Maine;

- Reduces the aggregate investment eligible for credit for any one business from \$5,000,000 to \$3,500,000 (from \$4,000,000 to \$3,500,000 for investments made by a private venture capital fund);
- Limits the total aggregate investment eligible for any one business in any calendar year to \$2,000,000; and
- Increases the total annual aggregate amount of credits that may be issued under the program from \$5,000,000 to \$15,000,000 for investments made in calendar years 2020 to 2026. The aggregate amount of credits that may be issued for investments made in calendar years beginning after 2026 reverts back to no more than \$5,000,000.

Effective March 18, 2020. 10 M.R.S. § 1100-T and 36 M.R.S. § 5216-B; L.D. 2126, P.L. 2019, c. 616, Pt. LL.

Credit for rehabilitation of historic properties after 2007. The credit for rehabilitation of historic properties is extended to include qualified rehabilitation expenditures, if:

- 1) with respect to expenditures for which the federal credit under Internal Revenue Code, Section 47 is claimed, the United States Department of the Interior, National Park Service issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior’s standards for rehabilitation, with or without conditions; or
- 2) with respect to expenditures for which the federal credit under Internal Revenue Code, Section 47 is not claimed, the Maine Historic Preservation Commission issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior’s standards for rehabilitation, with or without conditions.

Previously, the credit could not be claimed for expenditures incurred after 2023. Expenditures incurred prior to 2008 do not qualify for the credit. Effective June 16, 2020. 36 M.R.S. § 5219-BB(1)(C); L.D. 2047, P.L. 2019, c. 659, Pt. J.

Fiscal year tax determination. The provision of law that requires the calculation of income tax using blended tax rates for fiscal year filers when there is a change in tax rates that are effective on a date other than the first day of the taxable year is repealed. Effective June 16, 2020. 36 M.R.S. § 5234; L.D. 2008; P.L. 2019, c. 607, Pt. C, § 8.

Changes applicable to tax years beginning 2021

Credit for biofuel commercial production. For tax years beginning on or after January 1, 2021, the nonrefundable tax credit for biofuel commercial production and commercial use is reinstated. 36 M.R.S. § 5219-X(5); L.D. 1698, P.L. 2019, c. 628, § 2.

Credit for affordable housing. A taxpayer receiving a tax credit certificate for the taxable year from the MSHA for an affordable housing project located in Maine may claim a refundable income tax credit for that taxable year. Generally, the total amount that may be allocated by MSHA each calendar year for tax credit certificates is limited to \$10,000,000. MSHA may make an allocation only during a calendar year beginning in 2021 through 2028. The credit is equal to either (1) the total federal low-income housing tax credit claimed under Internal Revenue Code, Section 42 using the entire federal credit period for all buildings in a qualified Maine project, or (2) an amount equal to the lesser of \$500,000 or 50% of the qualified basis of an affordable housing project that incurs at least \$100,000 includible in eligible basis in the construction or rehabilitation of an affordable housing project for which a federal low-income housing tax credit is not claimed under Section 42 of the Code with respect to those expenditures. Other allocation, recapture, and reporting provisions apply. 36 M.R.S. § 5219-WW; L.D. 1645, P.L. 2019, c. 555, § 6.

Renewable chemicals tax credit. For tax years beginning on or after January 1, 2021, a taxpayer engaged in the production of renewable chemicals in Maine may claim a credit equal to 8¢ per pound of the renewable chemicals produced. The credit may only be used to reduce the Maine tax imposed on income derived during the taxable year from the production of renewable chemicals. Unused credit amounts may be carried forward for up to ten taxable years. Eligible taxpayers must demonstrate to DECD that at least 75% of the employees of the contractors hired or retained to harvest renewable biomass used in the production of the renewable chemicals meet the eligibility conditions specified in the Employment Security Law. Taxpayer and legislative reporting requirements apply. 36 M.R.S. § 5219-XX; L.D. 1698, P.L. 2019, c. 628, § 3.

Changes applicable to tax years beginning 2022

Tax credit for major food processing and manufacturing facility expansions. The following clarifications are made with respect to the tax credit for major food processing and manufacturing facility expansions:

- The requirement for a facility to process, produce, and manufacture food from agricultural products primarily grown and harvested in the State is an ongoing requirement;
- The expenditures of a qualified applicant and other entities, whether or not incorporated, that are part of a single business enterprise must be aggregated to determine whether a qualified investment has been made;
- An applicant's headquarters and facility must be located in the State and the annual income derived from employment with the applicant of at least 75% of the applicant's employees must exceed the most recent annual per capita personal income in the county in which the facility is located in order to qualify for a certificate of completion and the credit;
- The jobs that must be added in order to qualify for the credit must be added since the first day of the year in which the certificate of approval was issued;

- The cumulative credit for a single certificate is limited to \$30,600,000;
- The certified applicant's annual reporting requirement must include the number of the applicant's full-time employees based in the State as of the last day of the report year;
- An applicant whose certificate of approval or certificate of completion has been revoked is no longer eligible for the credit beginning with the year during which the certificate is revoked and any subsequent year; and
- The requirement that the amount of credit be repaid within 60 days following the revocation of a certificate of approval or certificate of completion is repealed. Credit amounts required to be repaid are subject to the collection and enforcement provisions of Title 36.

Effective June 16, 2020. 36 M.R.S. § 5219-VV; L.D. 2047; P.L. 2019, c. 659., Pt. H.

6) Franchise Tax

Changes applicable to tax years beginning 2020

Net operating loss credit. The law clarifies that the book net operating loss credit under the financial institutions franchise tax is computed by multiplying Maine net income by the applicable franchise tax rate. Effective June 16, 2020. 36 M.R.S. § 5206; L.D. 2008, P.L. 2019, c. 607, Pt. C, § 4.

Maine capital investment credit. For property placed in service in Maine during a tax year beginning on or after January 1, 2020, the Maine capital investment credit is reduced to 1.2% of the bonus depreciation addition modification required with respect to that property under 36 M.R.S. § 5200-A(1)(CC)(1). See discussion above regarding the recapture of the bonus depreciation addition modification in future tax years. 36 M.R.S. § 5219-NN; L.D. 1671, P.L. 2019, c. 527, Pt. A, § 6.

Maine Seed Capital Tax Credit Program. The Seed Capital Tax Credit Program is changed relative to investments in an eligible business made on or after April 1, 2020 as follows:

- The credit certificate amount available to an investor is reduced from 50% to 40% of the amount of cash actually invested in an eligible business in a calendar year;
- Expands the definition of an eligible business to include a business that provides a product that is sold or rendered predominantly outside of Maine;
- Reduces the aggregate investment eligible for credit for any one business from \$5,000,000 to \$3,500,000 (from \$4,000,000 to \$3,500,000 for investments made by a private venture capital fund);

- Limits the total aggregate investment eligible for any one business in any calendar year to \$2,000,000; and
- Increases the total annual aggregate amount of credits that may be issued under the program from \$5,000,000 to \$15,000,000 for investments made in calendar years 2020 to 2026. The aggregate amount of credits that may be issued for investments made in calendar years beginning after 2026 reverts back to no more than \$5,000,000.

Effective March 18, 2020. 10 M.R.S. § 1100-T and 36 M.R.S. § 5216-B; L.D. 2126, P.L. 2019, c. 616, Pt. LL.

Credit for rehabilitation of historic properties after 2007. The credit for rehabilitation of historic properties is extended to include qualified rehabilitation expenditures, if:

- 1) with respect to expenditures for which the federal credit under Internal Revenue Code, Section 47 is claimed, the United States Department of the Interior, National Park Service issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior’s standards for rehabilitation, with or without conditions; or
- 2) with respect to expenditures for which the federal credit under Internal Revenue Code, Section 47 is not claimed, the Maine Historic Preservation Commission issues a determination on or before December 31, 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior’s standards for rehabilitation, with or without conditions.

Previously, the credit could not be claimed for expenditures incurred after 2023. Expenditures incurred prior to 2008 do not qualify for the credit. Effective June 16, 2020. 36 M.R.S. § 5219-BB(1)(C); L.D. 2047, P.L. 2019, c. 659, Pt. J.

Fiscal year tax determination. The provision of law that requires the calculation of income tax using blended tax rates for fiscal year filers when there is a change in tax rates that are effective on a date other than the first day of the taxable year is repealed. Effective June 16, 2020. 36 M.R.S. § 5234; L.D. 2008; P.L. 2019, c. 607, Pt. C, § 8.

Changes applicable to tax years beginning 2021

Credit for biofuel commercial production. For tax years beginning on or after January 1, 2021, the nonrefundable tax credit for biofuel commercial production and commercial use is reinstated. 36 M.R.S. § 5219-X(5); L.D. 1698, P.L. 2019, c. 628, § 2.

Credit for affordable housing. A taxpayer receiving a tax credit certificate for the taxable year from the MSHA for an affordable housing project located in Maine may claim a refundable income tax credit for that taxable year. Generally, the total amount that may be allocated by MSHA each calendar year for tax credit certificates is limited to \$10,000,000. MSHA may make

an allocation only during a calendar year beginning in 2021 through 2028. The credit is equal to either (1) the total federal low-income housing tax credit claimed under Internal Revenue Code, Section 42 using the entire federal credit period for all buildings in a qualified Maine project, or (2) an amount equal to the lesser of \$500,000 or 50% of the qualified basis of an affordable housing project that incurs at least \$100,000 includible in eligible basis in the construction or rehabilitation of an affordable housing project for which a federal low-income housing tax credit is not claimed under Section 42 of the Code with respect to those expenditures. Other allocation, recapture, and reporting provisions apply. 36 M.R.S. § 5219-WW; L.D. 1645, P.L. 2019, c. 555, § 6.

Renewable chemicals tax credit. For tax years beginning on or after January 1, 2021, a taxpayer engaged in the production of renewable chemicals in Maine may claim a credit equal to 8¢ per pound of the renewable chemicals produced. The credit may only be used to reduce the Maine tax imposed on income derived during the taxable year from the production of renewable chemicals. Unused credit amounts may be carried forward for up to ten taxable years. Eligible taxpayers must demonstrate to DECD that at least 75% of the employees of the contractors hired or retained to harvest renewable biomass used in the production of the renewable chemicals meet the eligibility conditions specified in the Employment Security Law. Taxpayer and legislative reporting requirements apply. 36 M.R.S. § 5219-XX; L.D. 1698, P.L. 2019, c. 628, § 3.

7) Estate Tax

Exclusion amount inflation adjustment. Similar to IRS procedure, the law clarifies that the exclusion amount as annually adjusted for inflation must be rounded to the nearest \$10,000. 36 M.R.S. § 4119; L.D. 2008, P.L. 2019, c. 607, Pt. D, § 5.

8) Withholding Tax

Real estate withholding. The requirement that a buyer of Maine real property acquired from a nonresident of Maine withhold state income tax if the consideration paid for the property is \$50,000 or more is amended to require withholding only when the consideration paid is \$100,000 or more for sales occurring on or after January 1, 2021. Other exceptions to the Maine real estate withholding requirement apply. 36 M.R.S. § 5250-A(3)(C); L.D. 2047, P.L. 2019, c. 659, Pt. C, § 2.

9) Insurance Premiums Tax

Credit for affordable housing. A taxpayer receiving a tax credit certificate for the taxable year from the MSHA for an affordable housing project located in Maine may claim a refundable income tax credit for that taxable year. Generally, the total amount that may be allocated by MSHA each calendar year for tax credit certificates is limited to \$10,000,000. MSHA may make an allocation only during a calendar year beginning in 2021 through 2028. The credit is equal to either (1) the total federal low-income housing tax credit claimed under Internal Revenue Code, Section 42 using the entire federal credit period for all buildings in a qualified Maine project, or

(2) an amount equal to the lesser of \$500,000 or 50% of the qualified basis of an affordable housing project that incurs at least \$100,000 includible in eligible basis in the construction or rehabilitation of an affordable housing project for which a federal low-income housing tax credit is not claimed under Section 42 of the Code with respect to those expenditures. Other allocation, recapture, and reporting provisions apply. 36 M.R.S. §§ 2534 and 5219-WW; L.D. 1645, P.L. 2019, c. 555, §§ 5 and 6.

10) Sales/Use Tax

Tax exemption – nonprofit youth camps. The law provides a sales tax exemption for purchases made by a nonprofit youth camp as defined in Title 22, section 2491, subsection 16 that are licensed by the Department of Health and Human Services and receive an exemption from property tax under section 652, subsection 1. 36 M.R.S. § 1760(103); L.D. 1597, P.L. 2019, c. 550, §1. Effective June 16, 2020.

Tax exemption – pet food assistance organizations. The law provides a sales tax exemption for purchases made by an incorporated nonprofit organization that provides pet food and pet supplies at no charge to the owners of pets. 36 M.R.S. § 1760(103); L.D. 1718, P.L. 2019, c. 551, §1. Effective June 16, 2020.

Tax exemption – nonprofit worldwide charitable organizations. The law provides a sales tax exemption for purchases made by a nonprofit community-based worldwide charitable organization that provides financial support to other nonprofit charitable organizations in the community, such as food banks, homeless shelters or domestic violence shelters. 36 M.R.S. § 1760(103); L.D. 1808, P.L. 2019, c. 552, §1. Effective June 16, 2020.

Exclusion from retail sale – oxygen delivery equipment. The exclusion from retail sale for the sale of positive airway pressure equipment and supplies for rental for personal use to a person engaged in the business of renting positive airway pressure equipment was amended to include the sale of oxygen delivery equipment. 36 M.R.S. § 1752(11)(B)(15); L.D. 2008, P.L. 2019, c. 607, Pt. B, §1. Effective retroactively to sales on or after January 1, 2012.

Rental of motor vehicles for less than one year. The statute governing sales tax on the rental of motor vehicles for less than one year was amended to provide clarity on the three categories of motor vehicle rentals subject to the 10% sales tax rate. 36 M.R.S. § 1811; L.D. 2008, P.L. 2019, c. 607, Pt. B, §§ 2, 3, 4, and 5. Effective June 16, 2020.

11) Health Care Provider Tax

Monthly returns and payments. The law requiring the submission of a monthly return with a health care provider's estimated monthly payment has been repealed. The only return required is the annual reconciliation return. 36 M.R.S. § 2873(1); L.D. 2008, P.L. 2019, c. 607, Pt. B, §6. Effective June 16, 2020.

12) Hospital Tax

Update to a hospital's taxable year. For state fiscal years beginning on or after July 1, 2019, the hospital's taxable year is the hospital's fiscal year that ended during the calendar year 2016. 36 M.R.S. § 2892; L.D. 2126, P.L. 2019, c. 616, Pt. Y, §1. Effective June 16, 2020.

13) Pesticide Container Fee

Pesticide Fee. The law imposes a 15¢ fee on retail sales of containers of pesticide products registered with the Board of Pesticides Control. Three cents of the fee may be retained by the retailer to defray costs associated with collecting the fee. The fee is to be reported on the retailer's sales tax return. 36 M.R.S. § 4911; L.D. 1518, P.L. 2019, c. 548, §2. Effective June 16, 2020.

14) Property Tax

Tax Assistance

Business Equipment Tax Exemption (BETE). The law clarifies that equipment eligible for the BETE program specifically excludes property exempt under any other provision of law. Additionally, the law clarifies that property against which an excise tax has been assessed is not eligible for the BETE program. Effective June 16, 2020. L.D. 2047, P.L. 2019, c. 659, Pt. B.

Development Districts

Tax increment financing. The law provides that tax increment revenue may be used for certain child care and adult care facilities. Effective June 16, 2020. L.D. 1958, P.L. 2019, c. 604.

Tax increment financing. The law clarifies that unused tax increment financing revenue may still be transferred to a municipality's general fund after the tax increment financing district has expired. Effective June 16, 2020. L.D. 2008, P.L. 2019, c. 607.

Unorganized Territory

Municipal cost component. The law is part of the 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 2020 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 March 18, 2020. L.D. 2161, P.L. 2019, c. 675.

Conveyance of state interest in certain real estate in the unorganized territory. The resolve authorizes the State Tax Assessor to sell certain tax-acquired parcels located in the unorganized territory. Effective June 16, 2020. L.D. 2012, Resolves, 2019, c. 119.

Tax liens. The law provides that property tax liens and the associated lien releases filed by the State Tax Assessor do not have to be signed by a notary public. Effective June 16, 2020. L.D. 2008, P.L. 2019, c. 607.

State Valuation

Proposed state valuation. The law updates the noticing provisions for the proposed state valuation numbers. The State Tax Assessor will now send the proposed state valuation numbers to municipal officers, who are the parties authorized to appeal the State's assessment. Effective June 16, 2020. L.D. 2008, P.L. 2019, c. 607.

Real Estate Transfer Tax

Real Estate Transfer Tax Declarations. The law provides that signatures of the transferor and transferee are no longer required on the Real Estate Transfer Tax Declaration or the Controlling Interest Transfer Tax Return/Declaration of Value. Effective June 16, 2020. L.D. 2008, P.L. 2019, c. 607.

Miscellaneous

Municipal functions. The law affects several areas of Title 36 to make allowances for changes in municipal functions due to a declaration of a state of emergency regarding the COVID-19 virus, including:

- If a budget meeting is not held or is delayed, a municipality may apply the previous year's budget to the current year.
- A municipal treasurer may disburse funds on authority of a warrant signed by a majority of the municipal officers outside of a public meeting.
- A school board may delay a budget meeting beyond the July 1 statutory deadline if state aid for education is not determined by June 1.
- All motor vehicle and trailer registrations, liquor licenses, and dog licenses that expire during the COVID-19 virus state of emergency are deemed valid until 30 days after the state of emergency termination.
- Municipalities may, under certain circumstances, conduct remote access public meetings.

Effective March 18, 2020. L.D. 2167, P.L. 2019, c. 617.