ENACTED TAX LEGISLATION – 2021 SESSION

1st Regular Session general (non-emergency) effective date: June 29, 2021
1st Special Session general (non-emergency) effective date: October 18, 2021

(Includes legislation enacted in prior sessions that becomes effective beginning in 2021)

All references to the CARES Act are to the federal Coronavirus Aid, Relief, and Economic Security Act. Public Law 116-136.

1) Administrative Provisions

Loring Job Increment Financing Fund. The law is changed to allow an estimated advance payment of employment tax increment funds to the Loring Development Authority at any time during the 12-month period preceding the statutorily required payment date of July 31, 2021, if directed by the Governor or if recommended by the Commissioner of the Department of Economic and Community Development (DECD) and approved by the Commissioner of the Department of Administrative and Financial Services (DAFS). The advance payment cannot exceed the greater of the expected payment amount for the year or the amount paid during July 2020. Any underpayment resulting from the advance payment must be added to the annual payment due July 31, 2021 and any overpayment must be subtracted from the payment due July 31, 2022. Effective March 17, 2021. 5 M.R.S. § 13080-S(3)(B); L.D. 22; P.L. 2021, c. 18.

Medical Marijuana Fund reports and transfers. The requirement that the Medical Use of Marijuana Fund reimburse the State's General Fund by June 1st annually to cover the loss in Maine income tax revenue associated with the tax deductions claimed for medical marijuana business expenses under 36 M.R.S. §§ 5122(2)(PP) and 5200-A(2)(BB) during the prior calendar year, and for the cost of the Bureau of Revenue Services to administer the deductions, is repealed. 20-A M.R.S. 2430(3); L.D. 1216; P.L. 2021, c. 181, Pt. A, § 2.

Legislative reporting requirements for the Educational Opportunity Tax Credit Program. The date by which the DAFS, Office of Tax Policy is required to report to the joint standing committees of the Legislature having jurisdiction over education and cultural affairs and over taxation matters on the implementation of the educational opportunity tax credit is extended from March 1, 2021 to February 1, 2022. Likewise, the date by which each accredited Maine community college, college, and university must report promotional and training efforts to the Department of Education (Department) and the Department reporting date to the Legislature is also extended to February 1, 2022. 20-A M.R.S. § 12545; L.D. 1216; P.L. 2021, c. 181, Pt. A, § 1.

Disclosure of tax information. The following changes were made regarding disclosure of certain confidential tax information:

- The State Tax Assessor is authorized to disclose to the DECD information regarding the usage of the biofuel commercial production and commercial use tax credit under 36

M.R.S. § 5219-X to assist the DECD in preparing a combined report for that credit and the renewable chemicals credit under 36 M.R.S. § 5219-XX. The report must be submitted to the joint standing committees of the Legislature having jurisdiction over taxation matters and over innovation, development, economic advancement and business matters by February 1, 2024. Effective October 18, 2021. L.D. 1216; P.L. 2021, c. 181, Pt. A, § 15.

- An exception to the general confidentiality laws is added to allow the State Tax Assessor to disclose information to the Finance Authority of Maine necessary for the administration of the seed capital investment tax credit under 36 M.R.S. § 5216-B. Effective October 18, 2021. 36 M.R.S. § 191(2)(MMM); L.D. 141; P.L. 2021, c. 253, Pt. A, § 1.

- An exception to the general confidentiality laws is added to allow the State Tax Assessor to disclose information to the Supreme Judicial Court necessary for the Court to report information on the Access to Justice income tax credit to the joint standing committee of the Legislature having jurisdiction over taxation matters. Effective October 18, 2021. 36 M.R.S. § 191(2)(MMM); L.D. 978; P.L. 2021, c. 473.

Tax Expenditure Review. The date by which the joint standing committee of the Legislature having jurisdiction over taxation matters must review the educational opportunity tax credit under 36 M.R.S. § 5217-D to determine whether the credit should be retained, repealed, or modified, is extended from June 1, 2021 to June 1, 2022. 36 M.R.S. § 199-C(3); L.D. 1216; P.L. 2021, c. 181, Pt. A, § 3.

COVID Disaster Relief Payment Program. The COVID Disaster Relief Payment Program is established to promote the general welfare by providing a relief payment to eligible Maine citizens in order to offset some of the expenses that have been incurred as a result of the COVID-19 pandemic, including, without limitation, personal, family, living or funeral expenses. The payment amount must be computed by dividing the funding ($149.8 million) by the number of eligible recipients. The State Tax Assessor must make COVID disaster relief payments, up to a maximum of $300, by December 31, 2021, to eligible Maine citizens who:

- Filed a Maine individual income tax return as a full-year resident for tax year 2020 no later than October 31, 2021.

- Had federal adjusted gross income for tax year 2020 that was less than:
    - $150,000 if married filing a joint return or surviving spouses permitted to file a joint return;
    - $112,500 if filing as head of household; or
    - $75,000 if single or married filing separately.

- Received wages, salaries, tips, or other taxable employee pay during tax year 2020.

- Was not claimed as a dependent on another person’s tax year 2020 income tax return.

The COVID disaster relief payments are exempt from Maine income tax and may not be setoff against other debts owed to Maine Revenue Services (MRS) or to other state agencies.

Effective July 1, 2021. L.D. 221; P.L. 2021, c. 398, Pt. HHHH.

Study – Global intangible low-taxed income (GILTI) deduction add-back. MRS is required to conduct a study of the Maine income addition modification required by 36 M.R.S. § 5200-A(1)(FF) as it relates to the federal foreign-derived intangible income (FDII) deduction under the Internal Revenue Code, Section 250(a)(1)(B). MRS must determine whether the federal deduction is being used by any Maine-based businesses, the effectiveness of the deduction in meeting the goal of encouraging corporations to file their taxes domestically, the annual cost in revenue to the State for that deduction, the annual revenue that would be generated by decoupling from the deduction, and whether there is another deduction or incentive that would fulfill the purpose of the deduction in a more effective or efficient manner. MRS is required to report, with suggested legislation, to the Joint Standing Committee on Taxation no later than January 15, 2022. Effective March 17, 2021. L.D. 220; P.L. 2021, c. 1, Pt. EE.

2) General

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 April 30, 2021. Applies to tax years beginning on or after January 1, 2021 and to any prior tax year as specifically provided by the United States Internal Revenue Code of 1986 as amended except that amendments to that Code made by Section 9042 (unemployment compensation) of the federal American Rescue Plan Act of 2021, Public Law 117-2 do not apply to any tax year beginning after December 31, 2019 and before January 1, 2021. 36 M.R.S. § 111(1-A); L.D. 220, P.L. 2021, c. 1, Pt. B; L.D. 221, P.L. 2021, c. 398, Pt. H, §§ 1 and 9.

Disaster period. The definition of disaster period included in the Maine Revised Statutes, Title 36 is changed to align with the definition of the same term included in Title 10, § 9902. Currently, the provision defines disaster period as "the period of time that begins no later than 10 days following the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or emergency, whichever occurs first, and that extends for a period of 60 calendar days following the end of the declared disaster or emergency as proclaimed by the Governor pursuant to Title 37-B, section 743 or the President of the United States or pursuant to law, whichever occurs first." Effective October 18, 2021. 36 M.R.S. §§ 1760(45)(A-4) and 5102(6-C); L.D. 1216; P.L. 2021, c. 181, Pt. D, §§ 1 and 2.

Information returns. Any person who is required to file an information return in accordance with 36 M.R.S. § 5242 and who fails to do so on or after January 31, 2022, or who willfully furnishes a false or fraudulent return of information, is subject to a penalty of $50 for each such failure. Generally, returns of information include Forms W-2, Forms 1099, and other similar forms containing tax information necessary for filing Maine income tax returns. 36 M.R.S. § 5242; L.D. 1216; P.L. 2021, c. 181, Pt. A, § 14.

3) Individual Income Tax

<u>Changes applicable to tax years beginning 2018 (retroactively)</u>

Net operating loss addition/subtraction income modifications (80% federal taxable income limitation). For tax years beginning on or after January 1, 2018, Maine law is changed to conform to the federal tax treatment of net operating loss (NOL) carryforward deductions allowed under Internal Revenue Code, Section 172(a)(2). Under that provision, the NOL carryforward deduction for tax years beginning on or after January 1, 2021 with respect to NOLs arising in tax years beginning after December 31, 2017 is limited to 80% of federal taxable income. The 80% limitation does not apply to NOL deductions claimed for tax years beginning in 2018, 2019, and 2020, nor does it apply to NOL deductions that are claimed for tax years beginning after 2020 if the deduction is associated with an NOL arising in tax years beginning prior to January 1, 2018. Effective March 17, 2021. 36 M.R.S. §§ 5122(1)(LL) and 5122(2)(TT); L.D. 220; P.L. 2021, c. 1, Pt. H, §§ 1, 2 and 5.

Excess business loss addition modification. For tax years beginning after December 31, 2017 and before January 1, 2021, an addition modification is required for federal excess business losses allowed to non-corporate taxpayers pursuant to the federal CARES Act that are disallowed for Maine tax purposes. The amount of the excess business loss disallowed for Maine tax purposes may be carried forward to subsequent tax years to the extent the carryforward amount has not been previously used to offset Maine taxable income. See 'excess business loss subtraction modification' below for more information. Effective March 17, 2021. 36 M.R.S. § 5122(1)(MM); L.D. 220; P.L. 2021, c. 1, Pt. D, § 1.

Maine capital investment credit. The law clarifies that qualified improvement property placed in service after December 31, 2017 and before January 1, 2020, may not be included for purposes of calculating the Maine Capital Investment Credit. Effective March 17, 2021. 36 M.R.S. § 5219-NN(2)(H); L.D. 220; P.L. 2021, c. 1, Pt. F.

Employer credit for family and medical leave. For tax years beginning on or after January 1, 2018, the law clarifies that for purposes of the employer credit for family and medical leave, the term "employees based in this state" means employees that perform more than 50% of employee-related activities for an employer at a location in Maine. Effective October 18, 2021. 36 M.R.S. § 5219-UU; L.D. 141; P.L. 2021, c. 253, Pt. A, § 6.

<u>Changes applicable to tax years beginning 2019 (retroactively)</u>

Business interest deduction addition modification. For tax years beginning after December 31, 2018 and before January 1, 2021, an addition modification is required for the federal business interest deduction that exceeds 30% of federal adjusted taxable income pursuant to the federal CARES Act that is disallowed for Maine tax purposes. The amount of the business interest deduction disallowed for Maine tax purposes may be carried forward to certain subsequent tax years. See the 'business interest deduction subtraction modification' below for more information. Effective March 17, 2021. 36 M.R.S. § 5122(1)(NN); L.D. 220; P.L. 2021, c. 1, Pt. E, § 1.

Excess business loss subtraction modification. The amount of excess business loss previously disallowed for Maine tax purposes and required to be added-back under 36 M.R.S. § 5122(1)(MM) may be recaptured in subsequent tax years to the extent that Maine taxable income is not reduced to less than zero, the amount has not been previously used to offset Maine taxable income, and the amount is not included when computing any net operating loss carry-back or carry-over pursuant to the Internal Revenue Code, Section 172 for federal tax purposes. Effective March 17, 2021. 36 M.R.S. § 5122(2)(UU); L.D. 220; P.L. 2021, c. 1, Pt. D, § 2.

Changes applicable to tax years beginning 2020 (retroactively)

Credit for income tax paid to other taxing jurisdictions. For tax years beginning in 2020 and 2021, a Maine resident who began teleworking in Maine due to the COVID-19 pandemic and who was performing the same services from a location outside of Maine immediately prior to the COVID-19 state of emergency declared by the Governor, or declared by the jurisdiction where the employee was performing the services, is allowed to claim the tax credit for income tax paid to an other jurisdiction to the extent that:

- The services were performed during 2020 or 2021 during the state of emergency period.
- The other jurisdiction is asserting the income is sourced to that jurisdiction.
- The employee does not qualify for an income tax credit in that jurisdiction for Maine income taxes paid as a result of the compensation.

L.D. 220; P.L. 2021, c. 1, Pt. I, § 1; L.D. 1216; P.L. 2021, c. 181, Pt. D, § 4.

Educational opportunity tax credit. For tax years beginning in 2020, Maine residents who were employed in Maine prior to, or during, the COVID-19 pandemic and who became unemployed as a result of COVID-19 may be eligible for the educational opportunity tax credit, to the extent otherwise qualified. Effective March 17, 2021. L.D. 220; P.L. 2021, c. 1, Pt. I, § 2.

Unemployment compensation subtraction modification. For tax years beginning in 2020, unemployment compensation, up to $10,200, is exempt from Maine income tax for taxpayers whose federal adjusted gross income is less than $150,000. In the case of a joint return, up to $10,200 of unemployment compensation received by each spouse is exempt. The exempt amount may be deducted on the Maine income tax return to the extent included in federal adjusted gross income. Effective March 17, 2021. 36 M.R.S. § 5122(2)(WW); L.D. 220; P.L. 2021, c. 1, Pt. Z.

Changes applicable to tax years beginning 2021

COVID disaster relief payment subtraction modification. For tax years beginning on or after January 1, 2021 but not later than December 31, 2022, the amount of COVID disaster relief payment received is deductible in calculating Maine taxable income, to the extent the payment is included in federal adjusted gross income. Effective July 1, 2021. L.D. 221; P.L. 2021, c. 398, Pt. HHHH, § 4.

Maine Seed Capital Tax Credit Program. The Seed Capital Tax Credit Program is changed to clarify that the aggregate investment eligible for tax credits made with respect to a business approved by the Finance Authority of Maine before April 1, 2020 may not exceed $5,000,000 and that, with respect to that business, the $2,000,000 annual limitation does not apply. In addition, the law reduces the annual aggregate credits that may be issued under the program during calendar years 2021 and 2022 from $15,000,000 to $13,500,000. Effective October 18, 2021. 10 M.R.S. §§ 1100-T(2)(C), 1100-T(2-C)(C), 1100-T(2-C)(D), and 1100-T(4); L.D. 229; P.L. 2021, c. 412.

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.

Business meals deduction addition modification. For tax years beginning on or after January 1, 2021, Maine taxable income must be increased by the amount of any increase in the business meals deduction allowed for federal income tax purposes pursuant to the federal Consolidated Appropriations Act, 2021. Effective March 17, 2021. 36 M.R.S. § 5122(1)(OO); L.D. 220; P.L. 2021, c. 1, Pt. X, § 1.

Bonus depreciation subtraction modification. The law clarifies that an individual taxpayer may subtract an amount that was previously added back to federal taxable income by a corporation of which the taxpayer is a shareholder and by which, absent an S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to 36 M.R.S. § 5200-A(2)(FF), relating to bonus depreciation. Effective October 18, 2021. 36 M.R.S. § 5122(2)(X); L.D. 1216; P.L. 2021, c. 181, Pt. A, § 5.

Business interest deduction subtraction modification. For tax years beginning on or after January 1, 2021, the amount of business interest deduction previously disallowed for Maine tax purposes and required to be added-back under 36 M.R.S. § 5122(1)(NN) may be recaptured, up to 25% per taxable year, to the extent that Maine taxable income is not reduced below zero and the amount has not been previously used to reduce Maine taxable income. Effective March 17, 2021. 36 M.R.S. § 5122(2)(VV); L.D. 220; P.L. 2021, c. 1, Pt. E, § 2.

Earned income tax credit. For tax years beginning in 2021, the earned income tax credit has been amended. Effective July 1, 2021. 36 M.R.S. § 5219-S; L.D. 221; P.L. 2021, c. 398, Pt. H.

Additionally, the Maine earned income tax credit is extended to individuals who file a federal income tax return using a federal individual taxpayer identification number assigned by the Internal Revenue Service on or before the due date for filing the return, to the extent the taxpayer is otherwise qualified for the earned income tax credit. 36 M.R.S. § 5219-S(7); L.D. 1651; P.L. 2021, c. 479, § 1.

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. Taxpayers claiming the credit must, for each credit claimed, report to the DECD the dollar amount of the tax credit, the number of direct manufacturing jobs created, and the dollar amount of capital investment in manufacturing. Legislative reporting requirements apply. 36 M.R.S. §§ 5219-X(5) and 5219-X(6); L.D. 1698, P.L. 2019, c. 628, § 2; L.D. 1216; P.L. 2021, c. 181, Pt. A, §§ 12 and 15.

Property tax fairness credit. For tax years beginning in 2021, the maximum property tax fairness credit is increased to $1,000 ($1,500 for individuals 65 years of age or older). Effective July 1, 2021. 36 M.R.S. § 5219-KK(2-C); L.D. 221; P.L. 2021, c. 398, Pt. H, § 7.

Credit for affordable housing. A taxpayer receiving a tax credit certificate for the taxable year from the Maine State Housing Authority ("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.

The law is changed to allow the MSHA to reduce the amount of the Maine tax credit allowed for an affordable housing project to less than the credit available under the federal low-income housing tax credit to avoid a reduction in the federal credit otherwise available. Effective March 17, 2021. 36 M.R.S. §§ 5219-WW(2)(A) and 5219-WW(4)(C); L.D. 220; P.L. 2021, c. 1, Pt. Y.

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.

The credit is amended to: 1) require a taxpayer that is claiming the renewable chemicals tax credit to provide information to the assessor regarding the renewable chemicals being produced, including the weight of renewable chemicals produced during the tax year, the type of renewable biomass used, and any other information required by the assessor necessary to determine eligibility for the credit; 2) requires the assessor to adopt rules requiring third-party testing of the renewable chemicals to ensure the accuracy of the reported information; and 3) clarifies the term renewable chemical by: a) tying it to the term as defined in 7 U.S. Code, Section 8101(14); b) including cellulose nanomaterial as a renewable chemical; and c) clarifying that the renewable chemicals may not be sold as food, feed, or fuel (including biofuel). The bill further clarifies that the renewable chemicals must be produced in Maine. The bill also removes the indirect jobs created from the taxpayer's reporting requirement to DECD. Effective October 18, 2021. 36 M.R.S. § 5219-XX; L.D. 1216; P.L. 2021, c. 181, Pt. A, § 13.

Changes applicable to tax years beginning 2022

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by two years. Businesses may not be certified for the program after December 31, 2023 and benefits will cease on December 31, 2033, including the tax credits for income tax, franchise tax, and insurance premiums tax; sales and use tax exemptions for tangible personal property and transmission/distribution of electricity; and employee withholding tax reimbursement, up to 80%, under the Employment Tax Increment Financing program. Effective July 1, 2021. 30-A M.R.S. § 5250-J; L.D. 221; P.L. 2021, c. 398, Pt. IIII.

Property tax fairness credit. For tax years beginning on or after January 1, 2022, the property tax fairness credit is increased to 100% of the benefit base that is greater than 4% (previously 5%) of the individual's income, up to $750 ($1,200 for individuals 65 years of age or older). Effective July 1, 2021.

Also beginning in 2022, property tax amounts paid on the taxpayer's behalf during the tax year by the State to a municipality under the Property Tax Deferral Program may be included in the benefit base for purposes of calculating the property tax fairness credit.

36 M.R.S. §§ 5219-KK(1)(A-1) and 5219-KK(2-D); L.D. 221; P.L. 2021, c. 398, Pt. H, § 8; L.D. 1733; P.L. 2021, c. 483, Pt. AA, § 1.

Access to justice income tax credit. The access to justice income tax credit is enacted to encourage attorneys to practice law in underserved areas of Maine. To qualify for the credit, the eligible attorney must be certified by the Supreme Judicial Court as eligible for the credit and must; 1) agree to practice law in an underserved area for at least five years; 2) be rostered by the Maine Commission on Indigent Legal Services to accept court appointments to represent clients in an underserved area; and 3) agree to perform pro bono legal services in an underserved area. The court may certify up to five eligible attorneys each year from 2022 through 2027. The credit, up to $6,000, may be claimed in the first year that the eligible attorney meets the conditions of eligibility for at least six months and in each of the four subsequent years. The credit may not reduce the tax otherwise due to less than zero. The court must decertify individuals who cease to meet the conditions of eligibility. Legislative reporting requirements apply. 36 M.R.S. § 5219-YY; L.D. 978, P.L. 2021, c. 473.

Voluntary income tax checkoff for the emergency Food Assistance Program Fund. For tax years beginning on or after January 1, 2022, a new voluntary contribution check-off is added to the Maine individual income tax form, Schedule CP, for the Emergency Food Assistance

Program Fund. The purpose of this fund is to support the emergency food assistance program administered by the Department of Agriculture, Conservation and Forestry. 36 M.R.S. §§ 5283-A and 5293; L.D. 1046; P.L. 2021, c. 437.

Changes applicable to tax years beginning 2024

Income tax credit for paper manufacturing facility investment. A refundable income tax credit may be claimed by a paper manufacturer certified by DECD as a qualified applicant. The applicant must make a qualified investment of at least $15,000,000 to modernize or improve a paper making facility. The credit is equal to 4% of the certified applicant's qualified investment claimed over a period of 10 years beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2024, whichever is later. DECD may, for purposes of the credit, certify up to $40,000,000 of qualified investments in the aggregate. Qualified investments must be made after December 31, 2018 and no later than December 31, 2023. Cumulative credits claimed by all certified applicants may not exceed $1,600,000 per year and $16,000,000 in the aggregate. Additional restrictions and recapture provisions apply.

By March 1st of each year, a certified applicant must file a report with DECD that includes the number of qualified employees on the last day of the report year and the incremental amount of qualified investment made in the report year. At the time the report is received, DECD must provide copies to the State Tax Assessor and to the joint standing Committee of the Legislature having jurisdiction over taxation matters.

By April 1st of each year, DECD must submit a report to the Joint Standing Committee of the Legislature having jurisdiction over taxation matters that includes aggregate data on employment levels and qualified investment amounts with respect to taxpayers receiving a certificate of approval.

By December 31st of each year, beginning in 2025, the State Tax Assessor must report the revenue loss associated with each taxpayer credit claim. To accommodate the assessor's reporting requirement, an exception to the general confidentiality laws authorizes MRS to divulge to the Joint Standing Committee on Taxation the revenue loss attributable to each taxpayer claiming the credit and information to the DECD necessary for the administration of the credit.

Effective January 1, 2024.

36 M.R.S. § 5219-YY; L.D. 1713; P.L. 2021, c. 482; L.D. 1737; P.L. 2021, c. 485.

4) Fiduciary Income Tax

<u>Changes applicable to tax years beginning 2018 (retroactively)</u>

Net operating loss addition/subtraction income modifications (80% federal taxable income limitation). For tax years beginning on or after January 1, 2018, Maine law is changed to conform to the federal tax treatment of net operating loss (NOL) carryforward deductions allowed under Internal Revenue Code, Section 172(a)(2). Under that provision, the NOL carryforward deduction for tax years beginning on or after January 1, 2021 with respect to NOLs arising in tax years beginning after December 31, 2017 is limited to 80% of federal taxable income. The 80% limitation does not apply to NOL deductions claimed for tax years beginning in 2018, 2019, and 2020, nor does it apply to NOL deductions that are claimed for tax years beginning after 2020 if the deduction is associated with an NOL arising in tax years beginning prior to January 1, 2018. Effective March 17, 2021. 36 M.R.S. §§ 5122(1)(LL) and 5122(2)(TT); L.D. 220; P.L. 2021, c. 1, Pt. H, §§ 1, 2 and 5.

Excess business loss addition modification. For tax years beginning after December 31, 2017 and before January 1, 2021, an addition modification is required for federal excess business losses allowed to non-corporate taxpayers pursuant to the federal CARES Act that are disallowed for Maine tax purposes. The amount of the excess business loss disallowed for Maine tax purposes may be carried forward to subsequent tax years to the extent the carryforward amount has not been previously used to offset Maine taxable income. See 'excess business loss subtraction modification' below for more information. Effective March 17, 2021. 36 M.R.S. § 5122(1)(MM); L.D. 220; P.L. 2021, c. 1, Pt. D, § 1.

Maine capital investment credit. The law clarifies that qualified improvement property placed in service after December 31, 2017 and before January 1, 2020, may not be included for purposes of calculating the Maine Capital Investment Credit. Effective March 17, 2021. 36 M.R.S. § 5219-NN(2)(H); L.D. 220; P.L. 2021, c. 1, Pt. F.

Employer credit for family and medical leave. For tax years beginning on or after January 1, 2018, the law clarifies that for purposes of the employer credit for family and medical leave, the term "employees based in this state" means employees that perform more than 50% of employee-related activities for an employer at a location in Maine. Effective October 18, 2021. 36 M.R.S. § 5219-UU; L.D. 141; P.L. 2021, c. 253, Pt. A, § 6.

Changes applicable to tax years beginning 2019 (retroactively)

Business interest deduction addition modification. For tax years beginning after December 31, 2018 and before January 1, 2021, an addition modification is required for the federal business interest deduction that exceeds 30% of federal adjusted taxable income pursuant to the federal CARES Act that is disallowed for Maine tax purposes. The amount of the business interest deduction disallowed for Maine tax purposes may be carried forward to certain subsequent tax years. See the 'business interest deduction subtraction modification' below for more information. Effective March 17, 2021. 36 M.R.S. § 5122(1)(NN); L.D. 220; P.L. 2021, c. 1, Pt. E, § 1.

Excess business loss subtraction modification. The amount of excess business loss previously disallowed for Maine tax purposes and required to be added-back under 36 M.R.S. § 5122(1)(MM) may be recaptured in subsequent tax years to the extent that Maine taxable income is not reduced to less than zero, the amount has not been previously used to offset Maine taxable income, and the amount is not included when computing any net operating loss carry-back or carry-over pursuant to the Internal Revenue Code, Section 172 for federal tax purposes. Effective March 17, 2021. 36 M.R.S. § 5122(2)(UU); L.D. 220; P.L. 2021, c. 1, Pt. D, § 2.

Changes applicable to tax years beginning 2021

Maine Seed Capital Tax Credit Program. The Seed Capital Tax Credit Program is changed to clarify that the aggregate investment eligible for tax credits made with respect to a business approved by the Finance Authority of Maine before April 1, 2020 may not exceed $5,000,000 and that, with respect to that business, the $2,000,000 annual limitation does not apply. In addition, the law reduces the annual aggregate credits that may be issued under the program during calendar years 2021 and 2022 from $15,000,000 to $13,500,000. Effective October 18, 2021. 10 M.R.S. §§ 1100-T(2)(C), 1100-T(2-C)(C), 1100-T(2-C)(D), and 1100-T(4); L.D. 229; P.L. 2021, c. 412.

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.

Business meals deduction addition modification. For tax years beginning on or after January 1, 2021, Maine taxable income must be increased by the amount of any increase in the business meals deduction allowed for federal income tax purposes pursuant to the federal Consolidated Appropriations Act, 2021. Effective March 17, 2021. 36 M.R.S. § 5122(1)(OO); L.D. 220; P.L. 2021, c. 1, Pt. X, § 1.

Bonus depreciation subtraction modification. The law clarifies that an individual taxpayer may subtract an amount that was previously added back to federal taxable income by a corporation of which the taxpayer is a shareholder and by which, absent an S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to 36 M.R.S. § 5200-A(2)(FF), relating to bonus depreciation. Effective October 18, 2021. 36 M.R.S. § 5122(2)(X); L.D. 1216; P.L. 2021, c. 181, Pt. A, § 5.

Business interest deduction subtraction modification. For tax years beginning on or after January 1, 2021, the amount of business interest deduction previously disallowed for Maine tax purposes and required to be added-back under 36 M.R.S. § 5122(1)(NN) may be recaptured, up to 25% per taxable year, to the extent that Maine taxable income is not reduced below zero and the amount has not been previously used to reduce Maine taxable income. Effective March 17, 2021. 36 M.R.S. § 5122(2)(VV); L.D. 220; P.L. 2021, c. 1, Pt. E, § 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. Taxpayers claiming the credit must, for each credit claimed, report to the DECD the dollar amount of the tax credit, the number of direct manufacturing jobs created, and the dollar amount of capital investment in manufacturing. Legislative reporting requirements apply. 36 M.R.S. §§ 5219-X(5) and 5219-X(6); L.D. 1698, P.L. 2019, c. 628, § 2; L.D. 1216; P.L. 2021, c. 181, Pt. A, §§ 12 and 15.

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.

The law is changed to allow the MSHA to reduce the amount of the Maine tax credit allowed for an affordable housing project to less than the credit available under the federal low-income housing tax credit to avoid a reduction in the federal credit otherwise available. Effective March 17, 2021. 36 M.R.S. §§ 5219-WW(2)(A) and 5219-WW(4)(C); L.D. 220; P.L. 2021, c. 1, Pt. Y.

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.

The credit is amended to: 1) require a taxpayer that is claiming the renewable chemicals tax credit to provide information to the assessor regarding the renewable chemicals being produced, including the weight of renewable chemicals produced during the tax year, the type of renewable biomass used, and any other information required by the assessor necessary to determine eligibility for the credit; 2) requires the assessor to adopt rules requiring third-party testing of the renewable chemicals to ensure the accuracy of the reported information; and 3) clarifies the term renewable chemical by: a) tying it to the term as defined in 7 U.S. Code, Section 8101(14); b) including cellulose nanomaterial as a renewable chemical; and c) clarifying that the renewable chemicals may not be sold as food, feed, or fuel (including biofuel). The bill further clarifies that the renewable chemicals must be produced in Maine. The bill also removes the indirect jobs created from the taxpayer's reporting requirement to DECD. Effective October 18, 2021. 36 M.R.S. § 5219-XX; L.D. 1216; P.L. 2021, c. 181, Pt. A, § 13.

Nonresident estates and trusts. The law clarifies that a nonresident estate or trust that does not have Maine taxable income or a Maine income tax liability must file a Maine income tax return if the estate or trust has distributable net income derived from or connected with sources in

Maine and has gross income of $10,000 or more. Effective October 18, 2021. 36 M.R.S. § 5220(4)(B); L.D. 141; P.L. 2021, c. 253, Pt. A, § 7.

Changes applicable to tax years beginning 2022

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by two years. Businesses may not be certified for the program after December 31, 2023 and benefits will cease on December 31, 2033, including the tax credits for income tax, franchise tax, and insurance premiums tax; sales and use tax exemptions for tangible personal property and transmission/distribution of electricity; and employee withholding tax reimbursement, up to 80%, under the Employment Tax Increment Financing program. Effective July 1, 2021. 30-A M.R.S. § 5250-J; L.D. 221; P.L. 2021, c. 398, Pt. IIII.

Changes applicable to tax years beginning 2024

Income tax credit for paper manufacturing facility investment. A refundable income tax credit may be claimed by a paper manufacturer certified by DECD as a qualified applicant. The applicant must make a qualified investment of at least $15,000,000 to modernize or improve a paper making facility. The credit is equal to 4% of the certified applicant's qualified investment claimed over a period of 10 years beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2024, whichever is later. DECD may, for purposes of the credit, certify up to $40,000,000 of qualified investments in the aggregate. Qualified investments must be made after December 31, 2018 and no later than December 31, 2023. Cumulative credits claimed by all certified applicants may not exceed $1,600,000 per year and $16,000,000 in the aggregate. Additional restrictions and recapture provisions apply.

By March 1st of each year, a certified applicant must file a report with DECD that includes the number of qualified employees on the last day of the report year and the incremental amount of qualified investment made in the report year. At the time the report is received, DECD must provide copies to the State Tax Assessor and to the joint standing Committee of the Legislature having jurisdiction over taxation matters.

By April 1st of each year, DECD must submit a report to the Joint Standing Committee of the Legislature having jurisdiction over taxation matters that includes aggregate data on employment levels and qualified investment amounts with respect to taxpayers receiving a certificate of approval.

By December 31st of each year, beginning in 2025, the State Tax Assessor must report the revenue loss associated with each taxpayer credit claim. To accommodate the assessor's reporting requirement, an exception to the general confidentiality laws authorizes MRS to divulge to the Joint Standing Committee on Taxation the revenue loss attributable to each taxpayer claiming the credit and information to the DECD necessary for the administration of the credit.

Effective January 1, 2024.

36 M.R.S. § 5219-YY; L.D. 1713; P.L. 2021, c. 482; L.D. 1737; P.L. 2021, c. 485.

5) Corporate Income Tax

Changes applicable to tax years beginning 2018 (retroactively)

Net operating loss addition/subtraction income modifications (80% federal taxable income limitation). For tax years beginning on or after January 1, 2018, Maine law is changed to conform to the federal tax treatment of net operating loss (NOL) carryforward deductions allowed under Internal Revenue Code, Section 172(a)(2). Under that provision, the NOL carryforward deduction for tax years beginning on or after January 1, 2021 with respect to NOLs arising in tax years beginning after December 31, 2017 is limited to 80% of federal taxable income. The 80% limitation does not apply to NOL deductions claimed for tax years beginning in 2018, 2019, and 2020, nor does it apply to NOL deductions that are claimed for tax years beginning after 2020 if the deduction is associated with an NOL arising in tax years beginning prior to January 1, 2018. Effective March 17, 2021. 36 M.R.S. §§ 5200-A(1)(DD) and 5200-A(2)(GG); L.D. 220; P.L. 2021, c. 1, Pt. H, §§ 3, 4, and 5.

Maine capital investment credit. The law clarifies that qualified improvement property placed in service after December 31, 2017 and before January 1, 2020, may not be included for purposes of calculating the Maine Capital Investment Credit. Effective March 17, 2021. 36 M.R.S. § 5219-NN(2)(H); L.D. 220; P.L. 2021, c. 1, Pt. F.

Employer credit for family and medical leave. For tax years beginning on or after January 1, 2018, the law clarifies that for purposes of the employer credit for family and medical leave, the term "employees based in this state" means employees that perform more than 50% of employee-related activities for an employer at a location in Maine. Effective October 18, 2021. 36 M.R.S. § 5219-UU; L.D. 141; P.L. 2021, c. 253, Pt. A, § 6.

Changes applicable to tax years beginning 2019 (retroactively)

Business interest deduction addition modification. For tax years beginning after December 31, 2018 and before January 1, 2021, an addition modification is required for the federal business interest deduction that exceeds 30% of federal adjusted taxable income pursuant to the federal CARES Act that is disallowed for Maine tax purposes. The amount of the business interest deduction disallowed for Maine tax purposes may be carried forward to certain subsequent tax years. See the 'business interest deduction subtraction modification' below for more information. Effective March 17, 2021. 36 M.R.S. § 5200-A(1)(GG); L.D. 220; P.L. 2021, c. 1, Pt. E, § 3.

Charitable contributions addition modification. For tax years beginning after January 1, 2019 and before January 1, 2020, an addition modification is required for the additional charitable contribution deduction allowed to corporations pursuant to the federal CARES Act that is disallowed for Maine tax purposes. The amount of charitable contributions disallowed for Maine tax purposes may be carried forward to tax years beginning after January 1, 2020 and before

January 1, 2025 to the extent that Maine taxable income is not reduced below zero and the amount has not been previously used to reduce Maine taxable income. See the 'charitable contributions subtraction modification' below for more information. Effective March 17, 2021. 36 M.R.S. § 5200-A(1)(HH); L.D. 220; P.L. 2021, c. 1, Pt. G, § 1.

Changes applicable to tax years beginning 2020 (retroactively)

Charitable contributions subtraction modification. For tax years beginning after January 1, 2020 and before January 1, 2025, the amount of charitable contribution deductions previously disallowed for Maine tax purposes and required to be added-back under 36 M.R.S. § 5200-A(1)(HH) may be recaptured to the extent that Maine taxable income is not reduced below zero and the amount has not been previously used to reduce Maine taxable income. Effective March 17, 2021. 36 M.R.S. § 5200-A(2)(II); L.D. 220; P.L. 2021, c. 1, Pt. G, § 2.

Foreign derived intangible income deduction addition modification. For tax years beginning on or after January 1, 2020, taxpayers must increase Maine taxable income by the amount of the foreign derived intangible income deduction claimed in accordance with the Internal Revenue Code, Section 250(a). Effective March 17, 2021. 36 M.R.S. § 5200-A(1)(FF); L.D. 220; P.L. 2021, c. 1, Pt. U.

Changes applicable to tax years beginning 2021

Maine Seed Capital Tax Credit Program. The Seed Capital Tax Credit Program is changed to clarify that the aggregate investment eligible for tax credits made with respect to a business approved by the Finance Authority of Maine before April 1, 2020 may not exceed $5,000,000 and that, with respect to that business, the $2,000,000 annual limitation does not apply. In addition, the law reduces the annual aggregate of credits that may be issued under the program during calendar years 2021 and 2022 from $15,000,000 to $13,500,000. Effective October 18, 2021. 10 M.R.S. §§ 1100-T(2)(C), 1100-T(2-C)(C), 1100-T(2-C)(D), and 1100-T(4); L.D. 229; P.L. 2021, c. 412.

Business meals deduction addition modification. For tax years beginning on or after January 1, 2021, Maine taxable income must be increased by the amount of any increase in the business meals deduction allowed for federal income tax purposes pursuant to the federal Consolidated Appropriations Act, 2021. Effective March 17, 2021. 36 M.R.S. § 5200-A(1)(KK); L.D. 220; P.L. 2021, c. 1, Pt. X, § 2.

Business interest deduction subtraction modification. For tax years beginning on or after January 1, 2021, the amount of business interest deduction previously disallowed for Maine tax purposes and required to be added-back under 36 M.R.S. § 5200-A(1)(GG) may be recaptured, up to 25% per taxable year, to the extent that Maine taxable income is not reduced below zero and the amount has not been previously used to reduce Maine taxable income. Effective March 17, 2021. 36 M.R.S. § 5200-A(2)(HH); L.D. 220; P.L. 2021, c. 1, Pt. E, § 4.

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. Taxpayers claiming the credit must, for each credit claimed, report to the DECD the dollar amount of the tax credit, the number of direct manufacturing jobs created, and the dollar amount of capital investment in manufacturing. Legislative reporting requirements apply. 36 M.R.S. §§ 5219-X(5) and 5219-X(6); L.D. 1698, P.L. 2019, c. 628, § 2; L.D. 1216; P.L. 2021, c. 181, Pt. A, §§ 12 and 15.

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.

The law is changed to allow the MSHA to reduce the amount of the Maine tax credit allowed for an affordable housing project to less than the credit available under the federal low-income housing tax credit to avoid a reduction in the federal credit otherwise available. Effective March 17, 2021. 36 M.R.S. §§ 5219-WW(2)(A) and 5219-WW(4)(C); L.D. 220; P.L. 2021, c. 1, Pt. Y.

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.

The credit is amended to: 1) require a taxpayer that is claiming the renewable chemicals tax credit to provide information to the assessor regarding the renewable chemicals being produced, including the weight of renewable chemicals produced during the tax year, the type of renewable biomass used, and any other information required by the assessor necessary to determine eligibility for the credit; 2) requires the assessor to adopt rules requiring third-party testing of the renewable chemicals to ensure the accuracy of the reported information; and 3) clarifies the term renewable chemical by: a) tying it to the term as defined in 7 U.S. Code, Section 8101(14); b) including cellulose nanomaterial as a renewable chemical; and c) clarifying that the renewable chemicals may not be sold as food, feed, or fuel (including biofuel). The bill further clarifies that the renewable chemicals must be produced in Maine. The bill also removes the indirect jobs created from the taxpayer’s reporting requirement to DECD. Effective October 18, 2021. 36 M.R.S. § 5219-XX; L.D. 1216; P.L. 2021, c. 181, Pt. A, § 13.

Changes applicable to tax years beginning 2022

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by two years. Businesses may not be certified for the program after December 31, 2023 and benefits will cease on December 31, 2033, including the tax credits for income tax, franchise tax, and insurance premiums tax; sales and use tax exemptions for tangible personal property and transmission/distribution of electricity; and employee withholding tax reimbursement, up to 80%, under the Employment Tax Increment Financing program. Effective July 1, 2021. 30-A M.R.S. § 5250-J; L.D. 221; P.L. 2021, c. 398, Pt. IIII.

Factor presence / economic / corporate income tax nexus. The corporate income tax law is simplified by establishing clearly defined, objective nexus thresholds as a practical structure for the current general "economic nexus" standard. These so-called factor presence thresholds clarify the minimum thresholds that, when exceeded by a corporation, subject that corporation to the Maine corporate income tax. The new thresholds create a safe harbor for corporations with little activity within the State that nonetheless have nexus under current law due to a small, but greater than de minimis, physical presence in Maine. Under the new law, a corporation has nexus with Maine if the corporation is organized or commercially domiciled in Maine or if, in Maine, any of the following thresholds are exceeded: $250,000 of property, $250,000 in payroll, $500,000 in sales in Maine, or 25% of the corporation’s total property, payroll, or sales is in Maine. The thresholds apply to tax years beginning on or after January 1, 2022. 36 M.R.S. §§ 5102(10), 5200-B, and 5211(14); L.D. 1216; P.L. 2021, c. 181, Pt. E.

Changes applicable to tax years beginning 2024

Income tax credit for paper manufacturing facility investment. A refundable income tax credit may be claimed by a paper manufacturer certified by DECD as a qualified applicant. The applicant must make a qualified investment of at least $15,000,000 to modernize or improve a paper making facility. The credit is equal to 4% of the certified applicant’s qualified investment claimed over a period of 10 years beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2024, whichever is later. DECD may, for purposes of the credit, certify up to $40,000,000 of qualified investments in the aggregate. Qualified investments must be made after December 31, 2018 and no later than December 31, 2023. Cumulative credits claimed by all certified applicants may not exceed $1,600,000 per year and $16,000,000 in the aggregate. Additional restrictions and recapture provisions apply.

By March 1st of each year, a certified applicant must file a report with DECD that includes the number of qualified employees on the last day of the report year and the incremental amount of qualified investment made in the report year. At the time the report is received, DECD must provide copies to the State Tax Assessor and to the joint standing Committee of the Legislature having jurisdiction over taxation matters.

By April 1st of each year, DECD must submit a report to the Joint Standing Committee of the Legislature having jurisdiction over taxation matters that includes aggregate data on employment levels and qualified investment amounts with respect to taxpayers receiving a certificate of approval.

By December 31st of each year, beginning in 2025, the State Tax Assessor must report the revenue loss associated with each taxpayer credit claim. To accommodate the assessor's reporting requirement, an exception to the general confidentiality laws authorizes MRS to divulge to the Joint Standing Committee on Taxation the revenue loss attributable to each taxpayer claiming the credit and information to the DECD necessary for the administration of the credit.

Effective January 1, 2024.

36 M.R.S. § 5219-YY; L.D. 1713; P.L. 2021, c. 482; L.D. 1737; P.L. 2021, c. 485.

6) Franchise Tax

Changes applicable to tax years beginning 2018 (retroactively)

Maine capital investment credit. The law clarifies that qualified improvement property placed in service after December 31, 2017 and before January 1, 2020, may not be included for purposes of calculating the Maine Capital Investment Credit. Effective March 17, 2021. 36 M.R.S. § 5219-NN(2)(H); L.D. 220; P.L. 2021, c. 1, Pt. F.

Employer credit for family and medical leave. For tax years beginning on or after January 1, 2018, the law clarifies that for purposes of the employer credit for family and medical leave, the term "employees based in this state" means employees that perform more than 50% of employee-related activities for an employer at a location in Maine. Effective October 18, 2021. 36 M.R.S. § 5219-UU; L.D. 141; P.L. 2021, c. 253, Pt. A, § 6.

Changes applicable to tax years beginning 2021

Maine Seed Capital Tax Credit Program. The Seed Capital Tax Credit Program is changed to clarify that the aggregate investment eligible for tax credits made with respect to a business approved by the Finance Authority of Maine before April 1, 2020 may not exceed $5,000,000 and that, with respect to that business, the $2,000,000 annual limitation does not apply. In addition, the law reduces the annual aggregate credits that may be issued under the program during calendar years 2021 and 2022 from $15,000,000 to $13,500,000. Effective October 18, 2021. 10 M.R.S. §§ 1100-T(2)(C), 1100-T(2-C)(C), 1100-T(2-C)(D), and 1100-T(4); L.D. 229; P.L. 2021, c. 412.

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. Taxpayers claiming the credit must, for each credit claimed, report to the DECD the dollar amount of the tax credit, the number of direct manufacturing jobs created, and the dollar amount of capital investment in manufacturing. Legislative reporting requirements apply. 36 M.R.S. §§ 5219-X(5) and 5219-X(6); L.D. 1698, P.L. 2019, c. 628, § 2; L.D. 1216; P.L. 2021, c. 181, Pt. A, §§ 12 and 15.

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.

The law is changed to allow the MSHA to reduce the amount of the Maine tax credit allowed for an affordable housing project to less than the credit available under the federal low-income housing tax credit to avoid a reduction in the federal credit otherwise available. Effective March 17, 2021. 36 M.R.S. §§ 5219-WW(2)(A) and 5219-WW(4)(C); L.D. 220; P.L. 2021, c. 1, Pt. Y.

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.

The credit is amended to: 1) require a taxpayer that is claiming the renewable chemicals tax credit to provide information to the assessor regarding the renewable chemicals being produced, including the weight of renewable chemicals produced during the tax year, the type of renewable biomass used, and any other information required by the assessor necessary to determine eligibility for the credit; 2) requires the assessor to adopt rules requiring third-party testing of the renewable chemicals to ensure the accuracy of the reported information; and 3) clarifies the term renewable chemical by: a) tying it to the term as defined in 7 U.S. Code, Section 8101(14); b) including cellulose nanomaterial as a renewable chemical; and c) clarifying that the renewable chemicals may not be sold as food, feed, or fuel (including biofuel). The bill further clarifies that the renewable chemicals must be produced in Maine. The bill also removes the indirect jobs created from the taxpayer's reporting requirement to DECD. Effective October 18, 2021. 36 M.R.S. § 5219-XX; L.D. 1216; P.L. 2021, c. 181, Pt. A, § 13.

Changes applicable to tax years beginning 2022

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by two years. Businesses may not be certified for the program after December 31, 2023 and benefits will cease on December 31, 2033, including the tax credits for income tax, franchise tax, and insurance premiums tax; sales and use tax exemptions for tangible personal property and transmission/distribution of electricity; and employee withholding tax reimbursement, up to 80%, under the Employment Tax Increment Financing program. Effective July 1, 2021. 30-A M.R.S. § 5250-J; L.D. 221; P.L. 2021, c. 398, Pt. IIII.

Changes applicable to tax years beginning 2024

Credit for paper manufacturing facility investment. A refundable income tax credit may be claimed by a paper manufacturer certified by DECD as a qualified applicant. The applicant must make a qualified investment of at least $15,000,000 to modernize or improve a paper making facility. The credit is equal to 4% of the certified applicant's qualified investment claimed over a period of 10 years beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2024, whichever is later. DECD may, for purposes of the credit, certify up to $40,000,000 of qualified investments in the aggregate. Qualified investments must be made after December 31, 2018 and no later than December 31, 2023. Cumulative credits claimed by all certified applicants may not exceed $1,600,000 per year and $16,000,000 in the aggregate. Additional restrictions and recapture provisions apply.

By March 1st of each year, a certified applicant must file a report with DECD that includes the number of qualified employees on the last day of the report year and the incremental amount of qualified investment made in the report year. At the time the report is received, DECD must provide copies to the State Tax Assessor and to the joint standing Committee of the Legislature having jurisdiction over taxation matters.

By April 1st of each year, DECD must submit a report to the Joint Standing Committee of the Legislature having jurisdiction over taxation matters that includes aggregate data on employment levels and qualified investment amounts with respect to taxpayers receiving a certificate of approval.

By December 31st of each year, beginning in 2025, the State Tax Assessor must report the revenue loss associated with each taxpayer credit claim. To accommodate the assessor's reporting requirement, an exception to the general confidentiality laws authorizes MRS to divulge to the Joint Standing Committee on Taxation the revenue loss attributable to each taxpayer claiming the credit and information to the DECD necessary for the administration of the credit.

Effective January 1, 2024.

36 M.R.S. § 5219-YY; L.D. 1713; P.L. 2021, c. 482; L.D. 1737; P.L. 2021, c. 485.

7) Pass-through Entities

Partnership Audit Adjustments. The law clarifies that the Maine reporting and tax payment requirements related to federal partnership adjustments under the new federal centralized partnership audit rules includes negative federal adjustments arising from Internal Revenue Service partnership audits and administrative adjustment requests filed with the Internal Revenue Service, and amends the requirements to allow a refund directly to the partnership in lieu of a refund to the affected partners to the extent that negative adjustments exceed positive adjustments. The law also clarifies that the Maine reporting and tax payment requirements related to federal partnership adjustments under the new federal partnership audit rules also apply to a partnership that has filed an administrative adjustment request with the federal Internal Revenue Service. Effective October 18, 2021. L.D. 1216; P.L. 2021, c. 181, Pt. A, §§ 6 through 11.

8) Withholding Tax

Information returns. Any person who is required to file an information return in accordance with 36 M.R.S. § 5242 and who fails to do so on or after January 31, 2022, or who willfully furnishes a false or fraudulent return of information, is subject to a penalty of $50 for each such failure. Generally, returns of information include Forms W-2, Forms 1099, and other similar forms containing tax information necessary for filing Maine income tax returns. 36 M.R.S. § 5242; L.D. 1216; P.L. 2021, c. 181, Pt. A, § 14.

9) Insurance Premiums Tax

Travel insurance. The law clarifies the payment of the Maine insurance premiums tax on travel insurance premiums paid by primary policyholders and certificate holders who are residents of Maine or by a blanket travel insurance policyholder that is a resident of Maine or that has its principal place of business in Maine. With respect to blanket travel insurance, certain apportionment or allocation rules may apply to the insurer across multiple taxing jurisdictions in a reasonable and equitable manner as determined by the State Tax Assessor. Effective October 18, 2021. LD 1563; P.L. 2021, c. 354, § 18.

Pine Tree Development Zones. The Pine Tree Development Zone certification and benefits are extended by two years. Businesses may not be certified for the program after December 31, 2023 and benefits will cease on December 31, 2033, including the tax credits for income tax, franchise tax, and insurance premiums tax; sales and use tax exemptions for tangible personal property and transmission/distribution of electricity; and employee withholding tax reimbursement, up to 80%, under the Employment Tax Increment Financing program. Effective July 1, 2021. 30-A M.R.S. § 5250-J; L.D. 221; P.L. 2021, c. 398, Pt. IIII.

Retaliatory tax. The law clarifies that insurance companies doing business in Maine that are incorporated in the District of Columbia or a possession of the United States are also subject to the insurance premiums retaliatory tax. Effective October 18, 2021. 36 M.R.S. § 2519; LD 1216; P.L. 2021, c. 181, Pt. A, § 4.

Employer credit for family and medical leave. For tax years beginning on or after January 1, 2018, the law clarifies that for purposes of the employer credit for family and medical leave, the term "employees based in this state" means employees that perform more than 50% of employee-related activities for an employer at a location in Maine. Effective October 18, 2021. 36 M.R.S. § 2536; L.D. 141; P.L. 2021, c. 253, Pt. A, § 2.

10) Sales, Use and Service Provider Taxes

Definitions Updated:

In this State or in the State. The definition for "in this State or in the State" was amended to include sales of tangible personal property and taxable services that are sourced to this State pursuant to Title 36, section 1819. 36 M.R.S. § 1752(5); L.D. 1216, P.L. 2021, c. 181, Pt. B, § 1 and affected by § 7. Effective January 1, 2022.

Exclusion from retail sale – purchase of a pickup truck or van for short term rental. The exclusion from retail sale for automobiles purchased by a person engaged in the business of renting automobiles for a period of less than one year was amended to clarify and reformat the exclusion for the purchase of pickup trucks or vans with a gross vehicle weight of less than 26,000 pounds by a person primarily engaged in the business of renting automobiles for a period of less than one year. 36 M.R.S. § 1752(11)(B)(3); 36 M.R.S. § 1752(11)(B)(3-A); L.D. 1216, P.L. 2021, c. 181, Pt. B, §§ 2 and 3 and affected by § 7. Effective January 1, 2022.

Registration Requirements and Sourcing Statutes Updated:

Persons presumptively required to register. The law providing a rebuttable presumption of nexus for persons presumed to be engaged in the business of selling tangible personal property or taxable services in the State has been repealed, effective January 1, 2022. 36 M.R.S. § 1754-B(1-A); L.D. 1216, P.L. 2021, c. 181, Pt. B, § 4 and affected by § 7. Effective January 1, 2022.

Registration requirements for sellers. Title 36, section 1754-B, subsection 1-B, which governs the registration of sellers doing business in this State, has been repealed and replaced to correct a conflict between dually enacted statues. Additionally, the 200-transaction thresholds for establishing nexus for both remote sellers and marketplace facilitators have been repealed, effective January 1, 2022. 36 M.R.S. § 1754-B(1-B); L.D. 1216, P.L. 2021, c. 181, Pt. B, § 5 and affected by § 7. Effective January 1, 2022.

Sourcing rules for sales of tangible personal property and taxable services. The sourcing provision for sales made in the State was amended by removing the word "retail," in order to ensure all sales made in the State are sourced according to this section of law. 36 M.R.S. § 1819(2); L.D. 1216, P.L. 2021, c. 181, Pt. B, § 6 and affected by § 7. Effective January 1, 2022.

COVID-19 Related Updates:

Machinery or equipment used in production. The definition of "primarily" found in the Maine Revised Statues, Title 36, section 1752, subsection 9-A is modified by replacing "time" with "days in use" if the 2-year period described in that definition includes any portion of the state of emergency declared by the Governor due to the COVID-19 pandemic. 36 M.R.S. § 1752(9-A); L.D. 1216, P.L. 2021, c. 181, Pt. D, § 3. Effective October 18, 2021.

Sales tax exemption for certain property purchased outside the State. The sales tax exemption for property brought into the State solely to conduct activities directly related to a declared state of disaster or emergency was amended to align the definition of "disaster period" with the definition found in Title 10, section 9902 of the Maine Revised Statutes. 36 M.R.S. § 1760(45)(A-4); L.D. 1216, P.L. 2021, c. 181, Pt. D, § 1. Effective October 18, 2021.

Exemptions Updated:

Sales tax exemption for diabetic supplies. The sales tax exemption for diabetic supplies has been amended to specify the diabetic supplies must be used by the purchaser in order to qualify for exemption. 36 M.R.S. § 1760(33); L.D. 141, P.L. 2021, c. 253, Pt. B, § 1. Effective October 18, 2021.

Pine Tree Development Zone reimbursement program extended. The Pine Tree Development Zone ("PTDZ") program has been extended. Certification of new businesses will continue through December 31, 2023, and qualified PTDZ businesses will be able to receive certain PDTZ benefits through December 31, 2033. 36 M.R.S. § 1760(87); L.D. 221, P.L. 2021, c. 398, Pt. IIII. Effective July 1, 2021.

Sales tax exemption for certain nonprofit worldwide charitable organizations. The sales tax exemption for nonprofit worldwide charitable organizations was repealed and replaced to clarify the exemption is intended for the local, community-based branches of the worldwide nonprofit charitable organizations. 36 M.R.S. § 1760(106); L.D. 141, P.L. 2021, c. 253, Pt. B, § 4 and affected by § 9. Effective retroactive to June 16, 2020.

New Sales Tax Exemptions:

New sales tax exemption for menstrual products. Beginning October 1, 2021, sales of menstrual products will be exempt from the sales tax. 36 M.R.S. § 1760(107); L.D. 221, P.L. 2021, c. 398, Pt. H, § 2.

New sales exemption for area agencies on aging. Beginning January 1, 2022, sales to area agencies on aging designated under Title 22, section 5116, subsection 1, paragraph B or sales to a public or nonprofit private agency that is operating under grants authorized by Title 22 chapter 1457 that is providing social services in order to secure and maintain maximum independence and dignity in a home environment for older people capable of self-care with appropriate supportive services will be exempt from the sales tax. 36 M.R.S. § 1760(107); L.D. 86, P.L. 2021. c. 399, § 1.

New sales tax exemption for nonprofit cemeteries. Beginning January 1, 2022, sales to a cemetery company that is exempt from federal income tax under Section 501(c)(13) of the Code will be exempt from the sales tax. 36 M.R.S. § 1760(107); L.D. 401, P.L. 2021, c. 416, § 1 and affected by § 2.

New sales tax exemption for certain educational collaboratives. Beginning January 1, 2022, sales to an incorporated nonprofit collaborative whose members are regional school units and that is organized to assist those school units with professional development opportunities and services will be exempt from the sales tax. 36 M.R.S. § 1760(107); L.D. 435, P.L. 2021, c. 417, § 1.

New sales tax exemption for firearm safety devices. Beginning January 1, 2022, sales of a safe, lockbox, trigger lock or barrel lock that is specifically designed for securing firearms will be exempt from the sales tax. 36 M.R.S. § 1760(107); L.D. 1140, P.L. 2021, c. 440, § 1.

Other:

ATV Recreational Management Fund. Beginning January 1, 2022, 90% of the sales tax revenue collected from the rental of all-terrain vehicles formerly transferred to the Multimodal Transportation Fund will be transferred to the ATV Recreational Management Fund. 36 M.R.S. § 1820; L.D. 1468, P.L. 2021, c. 446, §§ 1 and 2.

11) Hospital Tax

Municipally funded hospital. "Mayo Regional Hospital in Dover-Foxcroft" was removed from the definition of "municipally funded hospital." 36 M.R.S. § 2891(1-A); L.D. 141, P.L. 2021, c. 253, Pt. B, § 5. Effective October 18, 2021.

Update to a hospital's taxable year. For state fiscal years beginning on or after July 1, 2021, the hospital's taxable year is the hospital's fiscal year that ended during the calendar year 2018. 36 M.R.S. § 2892; L.D. 715; P.L. 2021, c. 29, Pt. M, § 2. Effective March 31, 2021.

12) Marijuana Excise Tax

New definitions for "wet marijuana flower" and "wet marijuana trim." The law enacts new definitions for "wet marijuana flower" and "wet marijuana trim" to differentiate between marijuana flower and marijuana trim, where the wet versions are not dried, cured, or otherwise prepared in any manner to reduce or eliminate any water weight. 36 M.R.S. §§ 4921(13) and (14); L.D. 871, P.L. 2021, c. 323, § 1. Effective June 22, 2021.

Tax rate on mature marijuana plants. Beginning on July 1, 2021, the law adjusts the excise tax rate imposed on mature marijuana plants from $335 per pound to $35 per mature plant. 36 M.R.S. § 4923(3-A); L.D. 871, P.L. 2021, c. 323, § 4. Effective July 1, 2021.

Taxation on wet marijuana flower and wet marijuana trim. The law provides an adjustment to the total weight of wet marijuana flower and wet marijuana trim for the purposes of calculating the excise tax due on those items. The total weight of the wet marijuana flower or wet marijuana trim is reduced by 75% before applying the appropriate excise tax rate. 36 M.R.S. § 4923-A; L.D. 871, P.L. 2021, c. 323, § 5. Effective June 22, 2021.

13) Property Tax

Tax Assistance

State property tax deferral program. The State's property tax deferral program, in effect for applications filed before April 1, 1991, is reinstated for property as of April 1, 2022. The program allows a qualified individual who is at least 65 years old or unable to work due to disability to defer the property taxes assessed on the individual's primary residence. Effective for the April 1, 2022, tax year. L.D. 1733; P.L. 2021, c. 483, Part AA.

Municipal program for veterans. This law authorizes municipalities to adopt, by ordinance, a program that provides benefits to veterans and their eligible family members who own or rent a homestead in the municipality. The benefit for owners is based on the difference between the full amount of the applicable veteran exemption under section 653(1)(E) and the exemption amount actually received as a result of the municipality assessing property below market value. The benefit for renters is $100. Effective October 18, 2021. L.D. 191; P.L. 2021, c. 69.

Motor vehicle excise tax. The law provides a motor vehicle excise tax exemption for veterans who are receiving benefits based on total, service-connected disability. 36 M.R.S. § 6271. Effective October 18, 2021. L.D. 1193; P.L. 2021, c. 240.

Municipal property tax deferral program. This law allows municipalities to charge an interest rate lower than that charged for delinquent taxes for property enrolled in a municipal property tax deferral program under 36 M.R.S. § 6271. Effective October 18, 2021. L.D. 897; P.L. 2021, c. 120.

Development Districts

Tax increment financing expenditures. This law permits tax increment financing to be used by a municipality to cover costs associated with the development and operation of affordable housing even if the district is not organized as an affordable housing development district. Effective October 18, 2021. L.D. 953; P.L. 2021, c. 261.

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 2021 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 8, 2021. L.D. 1209; P.L. 2021, c. 93.

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 29, 2021. L.D. 146; Resolves 2021, c. 8.

Exemptions

Homestead Exemption program. Beginning with the April 1, 2022 property tax year, the law increases the municipal reimbursement percentage for the revenue lost due to the Maine Homestead Exemption program by 3 percentage points each year until the State reimbursement reaches 100%. Just value must be adjusted accordingly for purposes of calculating state valuation and for determining municipal tax rate. Effective July 1, 2021. L.D. 221; P.L. 2021, c. 398, Part PPPP.

Central labor councils. The law provides a property tax exemption for real estate and personal property owned and occupied or used solely for their own purposes by an association or network of labor unions. Effective October 18, 2021. L.D. 198; P.L. 2021, c. 410.

State Valuation

Declared ratio accuracy. The law lowers the declared ratio accuracy threshold stated in 36 M.R.S. § 383 from within 20% to within 10% of the state valuation ratio last determined to align with the accuracy requirement provided for state reimbursement for the homestead exemption. Effective October 18, 2021. L.D. 1216, Part C; P.L. 2021, c. 181.

Miscellaneous

Energy efficiency property. Maine Revenue Services is required to convene a stakeholder group to review assessment policies regarding energy efficiency property to determine the most appropriate property tax assessment method. MRS must issue a report to the Legislature by December 1, 2021. Effective October 18, 2021. L.D. 179; Resolves 2021, c. 93.

Abandoned property. The law establishes a process for municipalities to declare tax acquired residential property as abandoned. For tax liens recorded after December 31, 2021, a municipality may clear title of tax-acquired abandoned residential property within six months of the acquisition rather than the existing wait of 5 years. This law also directs municipalities to provide information about abandoned residential properties to the Maine State Housing Authority for use in determining opportunities for redevelopment, programs supporting first-time home buyers and similar programs, and data analysis. Effective October 18, 2021. L.D. 1132; P.L. 2021, c. 127.