

# MAINE STATE LEGISLATURE

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SAC  
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L.D. 1216

Date: 6/1/21

(Filing No. H- 269)

TAXATION

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 891, L.D. 1216, "An Act To Amend the State Tax Laws"

Amend the bill by striking out all of the emergency preamble.

Amend the bill in Part A by inserting after section 2 the following:

'Sec. A-3. 36 MRSA §199-C, sub-§3, as amended by PL 2015, c. 328, §2, is further amended to read:

3. **Specific tax expenditure review.** By June 1, 2021 2022, the committee shall review the income tax credit under section 5217-D to determine whether the credit should be retained, repealed or modified. The committee shall consider information provided by the Office of Tax Policy within the bureau and the Department of Education pursuant to Title 20-A, section 12545.'

Amend the bill in Part A by inserting after section 3 the following:

'Sec. A-4. 36 MRSA §5122, sub-§2, ¶X, as amended by PL 2017, c. 170, Pt. D, §3, is further amended to read:

X. The taxpayer's pro rata share of an amount that was previously added back to federal taxable income pursuant to section 5200-A, subsection 1, paragraph N; section 5200-A, subsection 1, paragraph T; section 5200-A, subsection 1, paragraph Y, subparagraph (2); section 5200-A, subsection 1, paragraph AA, subparagraph (2); section 5200-A, subsection 1, paragraph BB; or section 5200-A, subsection 1, paragraph CC, subparagraph (2) 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 section 5200-A, subsection 2, paragraph M, R, V, Y, Z or FF; AA or FF.'

Amend the bill in Part A by striking out all of section 11 and inserting the following:

'Sec. A-11. 36 MRSA §5219-XX, as enacted by PL 2019, c. 628, §3, is amended to read:

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§5219-XX. Renewable chemicals tax credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Biobased content" means the total mass of organic carbon derived from renewable biomass, expressed as a percentage, determined by testing representative samples using the ASTM International D6866 standard test methods.

A-1. "Cellulose nanomaterial" means any cellulose-based material, extracted from trees, plants, aquaculture sources or by-products from their manufacturing using either a chemical, mechanical or enzymatic process or a combination of these processes, that has at least one external dimension in the range of one to 100 nanometers.

B. "Renewable biomass" has the same meaning as in 7 United States Code, Section 8101(13).

C. "Renewable chemical" means a ~~substance, compound or mixture~~ renewable chemical, as defined in 7 United States Code, Section 8101(14), that:

(1) Is the product of, or reliant upon, biological conversion, thermal conversion or a combination of biological and thermal conversion of renewable biomass or is a cellulose nanomaterial;

(2) Is sold or used by the taxpayer:

(a) For the production of ~~chemical products~~ chemicals, polymers, plastics or formulated products; or

(b) As a chemical, polymer, plastic or formulated product;

(3) Is not less than 95% biobased content, as determined by testing representative samples using the ASTM International D6866 standard test methods; and

(4) Is not sold or used for production of any, or sold as, food, feed or fuel, including any biofuel as defined under section 5219-X, subsection 1, except that "renewable chemical" may include:

(a) Cellulosic sugars used to produce aquaculture feed; and

(b) A food additive, supplement, vitamin, nutraceutical or pharmaceutical that does not provide caloric value and is not considered food or feed.

2. Credit allowed. A taxpayer engaged in the production of renewable chemicals in the State who has complied with subsection 5 and the rules adopted under that subsection is allowed a credit against the tax imposed by this Part on income derived during the taxable year from the production of renewable chemicals in the amount of 8¢ per pound of renewable chemical produced in the State as long as the taxpayer demonstrates to the Department of Economic and Community Development 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.

If the taxpayer does not contract directly with those hired or retained to harvest the renewable biomass, the taxpayer may obtain the necessary documentation under this subsection from the landowner or other entity that contracts directly.

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**3. Reporting.** A taxpayer allowed a credit under subsection 2 shall report to the Department of Economic and Community Development, for each tax credit awarded, the dollar amount of the tax credit, the number of direct manufacturing jobs created, ~~the number of related indirect jobs created~~ and the dollar amount of capital investment in manufacturing. ~~Indirect jobs include but are not limited to jobs in logging and support services.~~

**4. Limitation.** A person entitled to a tax credit under this section for any taxable year may carry over and apply the portion of any unused credits to the tax liability on income derived from the production of renewable chemicals for any one or more of the next succeeding 10 taxable years. The credit allowed, including carryovers, may not reduce the tax otherwise due under this Part to less than zero.

**5. Information reporting and 3rd-party testing; rules.** A taxpayer engaged in the production of renewable chemicals that is claiming a credit under subsection 2 shall 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 to determine compliance with this section. The assessor shall adopt rules requiring 3rd-party testing of the renewable chemicals to ensure the accuracy of the reported information. Rules adopted pursuant to this subsection are routine technical rules as provided in Title 5, chapter 375, subchapter 2-A.

This section applies to tax years beginning on or after January 1, 2021.'

Amend the bill in Part A by striking out all of section 14.

Amend the bill in Part B by inserting after section 1 the following:

**'Sec. B-2. 36 MRSA §1752, sub-§11, ¶B,** as amended by PL 2019, c. 607, Pt. B, §1, is further amended by amending subparagraph (3) to read:

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

**Sec. B-3. 36 MRSA §1752, sub-§11, ¶B,** as amended by PL 2019, c. 607, Pt. B, §1, is further amended by enacting a new subparagraph (3-A) to read:

(3-A) The sale, to a person primarily engaged in the business of renting automobiles, of pickup trucks or vans with a gross vehicle weight of less than 26,000 pounds, integral parts of such vehicles or accessories for such vehicles, for rental or for use in such a vehicle rented for a period of less than one year;'

Amend the bill in Part B by striking out all of section 6.

Amend the bill in Part C by striking out all of section 7.

Amend the bill in Part D by striking out all of section 3.

Amend the bill in Part D by striking out all of section 5 and inserting the following:

**'Sec. D-5. Credit for income tax paid to other taxing jurisdictions.** For tax years beginning in 2021, when determining whether compensation for personal services

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performed as an employee working remotely from a location in this State is derived from sources in another jurisdiction for purposes of the credit for income tax paid to other taxing jurisdictions, allowed pursuant to the Maine Revised Statutes, Title 36, section 5217-A, notwithstanding section 5142, the compensation is sourced to that jurisdiction if:

1. The employee was engaged in performing services from a location outside of this State immediately prior to a state of emergency declared by the Governor due to the pandemic related to coronavirus disease 2019, referred to in this section as COVID-19, or declared by the jurisdiction where the employee was engaged in performing those services;

2. The employee commenced working remotely from this State, as to those services or proportion of services referred to in subsection 1, due to the COVID-19 pandemic and during either this State's or the other jurisdiction's state of emergency related to the COVID-19 pandemic;

3. The services were performed prior to January 1, 2022 and during either this State's or the other jurisdiction's state of emergency;

4. The compensation is sourced by that jurisdiction as derived from or connected with sources in that jurisdiction under the law of that jurisdiction; and

5. The employee does not qualify for an income tax credit in that jurisdiction for Maine income taxes paid as a result of the compensation.

The State Tax Assessor may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A as necessary to implement this section.'

Amend the bill in Part E by striking out all of section 5.

Amend the bill by striking out all of Part F.

Amend the bill by striking out all of the emergency clause.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment does the following:

1. It strikes the emergency preamble, emergency clause and nonemergency effective dates;

2. It delays the deadline for the review of the income tax credit for educational opportunity by the joint standing committee of the Legislature having jurisdiction over taxation matters from June 1, 2021 to June 1, 2022;

3. It clarifies several definitions in the renewable chemicals income tax credit and it defines and specifically includes cellulose nanomaterial in the definition of "renewable chemical";

4. It provides an individual taxpayer with a subtraction modification for income tax purposes for amounts related to the depreciation of business property 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 the Maine Revised Statutes, Title 36, section 5200-A, subsection 2, paragraph FF;

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5. It clarifies the exclusion from the definition of "retail sale" for the purposes of the sales and use tax laws of pickup trucks and vans with a gross vehicle weight of less than 26,000 pounds when purchased by a person primarily engaged in the business of renting automobiles;

6. It strikes Part F of the bill, concerning the service provider tax law and consumer purchases of digital media;

7. It strikes the temporary changes in the bill to the educational opportunity income tax credit; and

8. It applies the temporary changes in the bill to the credit for income tax paid to other taxing jurisdictions to tax year 2021 instead of tax year 2020.

**FISCAL NOTE REQUIRED**

(See attached)



# 130th MAINE LEGISLATURE

LD 1216

LR 494(02)

An Act To Amend the State Tax Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-269)

Committee: Taxation

Fiscal Note Required: Yes

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## Fiscal Note

Minor revenue impact - General Fund

Minor cost increase - General Fund

### Fiscal Detail and Notes

The bill eliminates a current law transfer from the Medical Use of Marijuana Fund to the General Fund. While this transfer has been made by the State Controller as recently as fiscal year 2019-20, the transfer was not reflected in the most recent General Fund revenue forecast of the Revenue Forecasting Committee and therefore eliminating the transfer would have no fiscal impact on the General Fund revenue budget for fiscal year 2021-22 and for subsequent fiscal years.

Additional costs to the Department of Education, the University of Maine System, the Maine Community College System and Maine Maritime Academy to implement the requirements of this legislation can be absorbed within existing budgeted resources.