Information to Support 2016 Expedited Reviews of Maine State Tax Expenditures

"Necessity of Life" Sales & Use Tax Exemptions

Prepared by

the Office of Program Evaluation and Government Accountability
Pursuant to Title 3 Section 1000 sub-section 2

Submitted to

Joint Standing Committee on Taxation
and
Government Oversight Committee

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Overview

The Office of Program Evaluation and Government Accountability (OPEGA) is tasked by 3 MRSA §1000 sub-section 2 with providing information to support the Legislature's Joint Standing Committee on Taxation in carrying out expedited reviews of certain Maine State tax expenditures[1]. The information OPEGA is required to provide includes:

- a description of the tax policy under review;
- descriptions of each tax expenditure associated with that policy, including the mechanism through which it is distributed and its intended beneficiaries;
- the legislative history of each tax expenditure; and
- the fiscal impact of the tax policy and each related tax expenditure, including past and future impacts.

As required by 3 MRSA §998, the Legislature's Government Oversight Committee (GOC), in consultation with the Taxation Committee, previously assigned each Maine State tax expenditure to one of three review categories: (a) full evaluation; (b) expedited review; (c) no review. Tax expenditures selected by the Committees for expedited review are those intended to implement broad tax policy goals that cannot be reasonably measured (see 3 MRSA §998 sub-section 1, paragraph B, in Appendix A). The 13 tax expenditures selected by the Committees for expedited review in 2016 are all sales and use tax exemptions under the tax policy area generally described as "Necessity of Life."

1. Grocery Staples
2. Meals Served to Patients in Hospitals and Nursing Homes
3. Fuels for Cooking and Heating Homes
4. Gas Used for Cooking and Heating in Residences
5. Water Used in Private Residences
6. Certain Residential Electricity
7. Rental Charges for Living Quarters in Nursing Homes and Hospitals
8. Rental Charges on Continuous Residence for More Than 28 Days
9. Prescription Drugs
10. Prosthetic Devices
11. Diabetic Supplies
12. Positive Airway Pressure (PAP) Equipment & Sales
13. Funeral Services

[1] As defined by 3 MRSA §992 and 5 MRSA §1666, "tax expenditures" means "those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability."

"Necessity of Life" Tax Policy Area: Definition

OPEGA found no definition of "Necessity of Life" as a sales tax exemption policy area that is generally used in Maine, among other states, or among the tax policy experts we consulted. Consequently, OPEGA suggests the Taxation Committee define a "Necessity of Life" as "any good necessary for health and welfare" in assessing whether the exemptions subject to expedited review in 2016 are consistent with the goals of this tax policy area. OPEGA's suggestion is based on a similar definition used by the State of Vermont.[2]

Fiscal Impact Estimates

The fiscal impact estimates presented in this report for the "Necessity of Life" sales tax exemptions represent estimated foregone revenue for the State. Maine Revenue Services (MRS) is required to prepare these estimates, based on current tax law, and presents them biennially in its Maine State Tax Expenditure Report as estimated General Fund revenue loss. MRS uses an economic microsimulation model to prepare the estimates for 10 of the 13 "Necessity of Life" tax expenditures. See Appendix C for more information about MRS' microsimulation model.

Table 1: Estimated Fiscal Impact of "Necessity of Life" Sales & Use Tax Exemptions in the State of Maine

Year	MRS Estimated Revenue Loss
FY12	$201,525,108
FY13	$205,011,807
FY14	$381,555,499
FY15	$406,299,170
FY16	$383,986,420
FY17	$400,557,367
FY18	$686,707,600
FY19	$719,017,799

Source: Estimates for FY12-FY13 were published in the 2014-2015 Maine State Tax Expenditure Report. Estimates for FY14-FY17 were published in the 2016-2017 Maine State Tax Expenditure Report. Estimates for FY18-FY19 were developed by MRS specifically for inclusion in this report.

Change in Maine's Sales Tax Rate

Effective October 2013, the Legislature enacted a temporary sales tax increase from 5 to 5.5 percent that was set to expire in FY15. This increase was extended, but MRS' assumptions for the FY16-FY17 revenue loss estimates were based on the lower tax rate, which they expected the State would revert back to. The FY16 and FY17 estimates, therefore, used a different tax rate than the actual tax for that period. Similarly, during this time period, the sales tax on lodging also increased from 7 to 8 percent, and then to 9 percent in 2016.

MRS estimates foregone revenue for the other three tax expenditures using various methods. The method used, and any additional context, is noted in the individual tax expenditure descriptions beginning on page 5.

Table 1 shows the total estimated fiscal impact of this group of 13 tax expenditures as reported by MRS. Appendix B shows the breakdown of individual "Necessity of Life" sales tax exemptions by year. These figures are also included in the individual tax expenditure descriptions.

[2] "Vermont Tax Expenditures 2015 Biennial Report," January 15, 2015.

There are substantial increases in the fiscal estimates for some exemptions between the years FY13 and FY14. MRS explained these changes as primarily due to a new sales and excise tax model that uses an updated base year for purchases data. Appendix C contains further explanation of the model and base year data changes. For some tax expenditures, the changes were also attributable to other external factors accounted for by the model, such as fuel prices or inflation.

At the time MRS prepared the estimates for FY14 – FY17, the anticipated general sales and use tax rate was 5.5% for FY14 and FY15 and 5% for FY16 and FY17. This accounts for the drop in estimated revenue loss between FY15 and FY16. It also partly explains the substantial increases in revenue loss estimates for some exemptions between the years FY17 and FY18 as the FY18 estimates produced for OPEGA are based on the current sales tax rate which is still 5.5%. According to MRS, the increases between FY17 and FY18 are also due to changes in the economic forecasts provided to MRS twice a year by the Consensus Economic Forecasting Commission.

Information on Individual Sales Tax Exemptions

The remainder of this report contains a series of tables summarizing the information OPEGA is required to provide under 3 MRSA §1000 for each individual "Necessity of Life" sales tax exemption. OPEGA gathered much of this information from the following sources:

- Sections of Maine statute pertaining to each exemption;
- MRS' Maine State Tax Expenditure Reports for 2016-2017 and 2014-2015; and
- MRS Sales and Use Tax Bulletins.

In addition, the legislative history summarized in this report was prepared by OPEGA in consultation with the Office of Fiscal and Program Review based on details researched and provided to OPEGA by the Law and Legislative Reference Library.

None of the sources we reviewed directly identified intended beneficiaries for these exemptions, so OPEGA has defined these based on our understanding of the exemptions.

MRS' biennial reports are the source of the fiscal impact estimates OPEGA has included in this report for Fiscal Years (FY) 2012 through 2017. The FY12 and FY13 estimates were published in the 2014 -2015 Maine State Tax Expenditure Report. The estimates for FY14 through FY17 were published in the 2016 - 2017 Maine State Tax Expenditure Report. The revenue loss for FY18 and FY19 was estimated by MRS specifically for inclusion in this report.

OPEGA recognizes that the changes to the microsimulation model, and its inputs, make it challenging to discern any trends or policy impacts over time using the revenue loss estimates published in the Maine State Tax Expenditures Reports. Estimates forecasted by the model for inclusion in the Reports are influenced by the anticipated tax rates; economic activity; policy changes; underlying changes to the model and base year data; and other factors. Consequently, MRS is unable to determine the amount of impact from each of these factors in a given year. Additionally, MRS explained that its process for producing model-generated estimates of foregone revenue for these biennial Reports does not consider expectations about consumer behavior (such as possible decreases in demand if sales tax is increased) or the State's ability to enforce compliance with tax law, factors that are considered when fiscal notes for specific bills are prepared. As such, the estimates in the MRS Reports do not give the Legislature a complete picture of how much revenue could be recouped if these items were taxed. MRS told OPEGA they do not use these estimates to look at trends; rather, the numbers are "frozen in time" based on the economic forecast using the best information available at the time.

Neither OPEGA nor MRS was able to identify any existing data that could be used to assess how closely MRS' estimates reflected actual forgone revenue, or that would better illustrate trends in fiscal impact. OPEGA gathered some general information about MRS' estimating process and the models used which is presented in Appendix C. However, it was beyond the scope and resources of our current project for OPEGA to delve any more deeply into the workings of the microsimulation model or more fully research other potential data sources. If the Legislature is interested in understanding fiscal impact trends and/or actual impacts from policy changes on "Necessity of Life" tax expenditures, we suggest the Joint Standing Committee on Taxation confer with Maine Revenue Services and the Office of Fiscal and Program Review on options for obtaining such analyses in the future.

Tax Expenditure	Grocery staples		
Statutory reference	36 MRSA §1760.3		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Grocery staples are exempted from the sales tax under 36 MRSA 1760.3 and are generally defined under 36 MRSA §1752.3-B as food products ordinarily consumed for human nourishment; some food items are taxed, including many snack foods and prepared foods.		
Intended beneficiaries	Purchasers of grocery staples		
Estimated fiscal impact	FY12	$78,299,000	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$79,980,500	
	FY14	$164,500,195	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$175,204,700	
	FY16	$164,901,000	
	FY17	$171,152,000	
	FY18	$184,100,000	*Source:* Developed by MRS for this report
	FY19	$191,130,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained the increase from FY13 to FY14 as primarily due to a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1951, c.250	Enactment of sales tax exemption for food products	
	PL 1953, c.54	Exempted meals served to patients and inmates of hospitals and other state institutions as food products.	
	PL 1961, c.87	Excluded from exemption “take out”(packaged or wrapped food taken from the premises).	
	PL 1977, c.443	Imposed sales tax at wholesale level for sales of food from vending machines, except in certain cases.	
	PL 1979, c.513	Removed exemption for hospital and certain other institutional meals as a “food product” under §1760.3 and created a new provision of law, §1760.6.B, exempting meals served to hospital patients from sales tax (see page 6).	
	PL 1985, c.783	Redefined “food products” qualifying for exemption; moved exemptions for all purchases with food stamps and for certain sales of food from vending machines to another section of law.	
	PL 1991, c.591	Redefined items eligible for exemption from “food products” to “grocery staples” and exempted fewer items. Most notably, taxes were extended to “snack foods”.	
	PL 1999, c.698	Redefined grocery staples, effectively exempting from sales tax all snack foods except for candy and confections.	
	PL 2015, c.267	Redefined grocery staples, expanding the types of foods subject to tax.	

Tax Expenditure	**Meals Served to Patients in Hospitals and Nursing Homes**		
Statutory reference	36 MRSA §1760.6.B		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Meals served to patients at hospitals, nursing homes, and similar institutions licensed by the State are exempted from sales tax.		
Intended beneficiaries	Patients in hospitals and nursing homes		
Estimated fiscal impact	FY12	$4,085,000	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$4,208,500	
	FY14	$8,314,970	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$8,903,400	
	FY16	$8,502,500	
	FY17	$8,987,000	
	FY18	$10,679,600	*Source:* Developed by MRS for this report
	FY19	$11,270,700	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model. FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1953, c.54	Added meals served to patients in hospitals and nursing homes licensed by the state to the list of non-taxable food products under what is now 36 MRSA §1760.3 (exemption for grocery staples).	
	PL 1979, c.513	Removed exemption for hospital meals as a “food product” from §1760.3 (see page 5) and created a new section of law, §1760.6.B, exempting meals served to hospital patients from sales tax.	

Tax Expenditure	Fuels for Cooking and Heating in Residences		
Statutory reference	36 MRSA §1760.9		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping are exempt from tax, with some limitations.		
Intended beneficiaries	Purchasers of fuels for cooking and heating in residences		
Estimated fiscal impact	FY12	$35,292,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$35,720,000	
	FY14	$70,308,357	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$73,933,750	
	FY16	$69,654,000	
	FY17	$73,207,000	
	FY18	$65,810,000	*Source:* Developed by MRS for this report
	FY19	$73,760,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1951, c.250	Enactment of sales tax exemption for coal, oil, wood and all other fuels, excluding gas and electricity, used for cooking or heating for domestic purposes.	
	PL 1953, c.401	Extended exemption to fuels purchased for cooking and heating in hotels.	
	PL 1977, c.686	Clarified that exemption applies to fuels purchased for cooking and heating in mobile homes.	
	PL 2007, c.438	Clarified that qualifying fuels are exempt when purchased for cooking or heating in any "buildings designed and used for both human habitation and sleeping".	
	PL 2007, c.675	Exempted kerosene purchases in tanks of 5 gallons or less when purchased for cooking or heating in qualifying building.	
	PL 2009, c.625	Exempted wood pellets or compressed wood product when purchased in a quantity of ≤ 200 pounds.	
	PL 2011, c.670	Increased the amount of wood pellets or compressed wood product eligible for exemption to ≤ 1000 pounds until September 30, 2013 and to "any amount" beginning October 1, 2013. Limited the exemption on cut wood to one cord.	
	PL 2015, c.300	Clarified exemptions for wood products and kerosene purchases at retail locations. Extended exemption on cut wood to any amount used for cooking or heating in qualifying building.	

Tax Expenditure	**Gas Used for Cooking and Heating in Residences**		
Statutory reference	36 MRSA §1760.9-C		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Sales of gas when bought for cooking and heating in buildings designed and used for both human habitation and sleeping, with the exception of hotels, are exempt from the sales and use tax.		
Intended beneficiaries	Purchasers of gas for cooking and heating in residences		
Estimated fiscal impact	FY12	$4,531,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$4,607,500	
	FY14	$13,232,289	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$14,441,900	
	FY16	$14,478,000	
	FY17	$15,318,750	
	FY18	$14,540,000	*Source:* Developed by MRS for this report
	FY19	$15,430,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1977, c.686	Exempted gas from sales tax when bought for cooking and heating in residences.	
	PL 2007, c.438	Clarified qualifying gas must be purchased for use in "buildings designed and used for both human habitation and sleeping".	

Tax Expenditure	**Water Used in Residences**		
Statutory reference	36 MRSA §1760.39		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Sales of water purchased for use in buildings designed and used for both human habitation and sleeping, with the exception of hotels, are exempt from the sales and use tax. (Does not include bottled water sold in retail stores, which is taxable.)		
Intended beneficiaries	Purchasers of water for use in residences (with the exception of bottled water purchases in retail stores)		
Estimated fiscal impact	FY12	$8,160,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$8,227,000	
	FY14	$20,919,570	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$22,279,400	
	FY16	$20,966,500	
	FY17	$21,755,000	
	FY18	$24,740,000	*Source:* Developed by MRS for this report
	FY19	$25,590,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1977, c.686	Enactment of sales tax exemption on water used in certain types of dwellings.	
	PL 2007, c.438	Clarified qualifying water must be purchased for use in "buildings designed and used for both human habitation and sleeping".	

<table>
<tr><th>Tax Expenditure</th><th colspan="3">Certain Residential Electricity</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.9-B</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Sale and delivery of the first 750 kilowatt hours of residential electricity per month is exempt from the sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of certain residential electricity</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$24,985,000</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$25,365,000</td></tr>
<tr><td>FY14</td><td>$23,122,834</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$25,129,533</td></tr>
<tr><td>FY16</td><td>$24,173,700</td></tr>
<tr><td>FY17</td><td>$25,784,045</td></tr>
<tr><td>FY18</td><td>$30,550,000</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$33,290,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model. FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.</td></tr>
<tr><td rowspan="5">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1977, c.686</td><td colspan="2">Enactment of exemption of first 750 kilowatt hours of residential electricity per month.</td></tr>
<tr><td>PL 1979, c.520</td><td colspan="2">Clarified that the exemption applies to each unit in a multiunit building even if the units are all supplied by one meter.</td></tr>
<tr><td>PL 2007, c.438</td><td colspan="2">Clarified qualifying electricity must be provided to "buildings designed and used for both human habitation and sleeping".</td></tr>
<tr><td>PL 2011, c.673</td><td colspan="2">Extended the exemption to off-peak residential electricity used for space and water heating by means of an electric thermal storage device.</td></tr>
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Tax Expenditure	**Rental Charges for Living Quarters in Nursing Homes and Hospitals**		
Statutory reference	36 MRSA §1760.18		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Rent charged for living or sleeping quarters in nursing homes and hospitals licensed by the State is exempted from sales tax.		
Intended beneficiaries	Patients in hospitals and nursing homes		
Estimated fiscal impact	FY12	$250,000 to $999,999	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$250,000 to $999,999	
	FY14	$250,000 to $999,999	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$250,000 to $999,999	
	FY16	$250,000 to $999,999	
	FY17	$250,000 to $999,999	
	FY18	$1,000,000 to $2,999,999	*Source:* Developed by MRS for this report
	FY19	$1,000,000 to $2,999,999	
Notes on estimated fiscal impact	According to MRS, this exemption is estimated as a range because they have too little data about the value of sales associated with the exemption to allow for calculation of a more precise estimate.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1959, c.350	Enactment of sales tax exemption on rent charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings.	

Tax Expenditure	**Rental Charges on Continuous Residence for More Than 28 Days**		
Statutory reference	36 MRSA §1760.20		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Rent charged to any person who resides continuously for 28 days or more at any one hotel, rooming house or camp is exempted from tax, with certain restrictions. This exemption includes all residential rentals.		
Intended beneficiaries	Occupants of long-term rentals		
Estimated fiscal impact	FY12	$20,624,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$20,767,000	
	FY14	$836,000	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$894,628	
	FY16	$806,284	
	FY17	$830,473	
	FY18	$259,260,000	*Source:* Developed by MRS for this report
	FY19	$268,180,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model. FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). The dramatic decrease from FY13 to FY14 reflects MRS' decision to remove rent paid on apartments from the estimate of taxable sales for FY14-FY17. MRS explained this change was made to reduce confusion about the potential for increasing State revenue through revisions to the exemption. Although this exemption includes apartment rentals, the statutory language does not clearly state this. Thus, the large amount of estimated foregone revenue often made this exemption a target for repeal until it was pointed out that most of the revenue loss was related to apartment rentals. MRS added apartment rentals back into the preliminary estimates they produced for OPEGA for FY18 and FY19, but MRS is uncertain yet whether they will be included in the estimates produced for future Maine State Tax Expenditure Reports. MRS attributed the more than 10-fold increase in the estimates between FY13 and FY18 to changes in the model.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1959, c.350	Enactment of sales tax exemption for rent charged to any person who has resided continuously for 3 months or 90 days at any one hotel, rooming house, tourist or trailer camp.	
	PL 1961, c.271	Amended language to require residing continuously for 28 days rather than "3 months or 90 days" to qualify for the exemption.	
	PL 1989, c.588	Narrowed eligibility for the exemption to individuals who do not maintain a primary residence at some other location; or those who are residing away from their primary residence in connection with employment or education.	

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<tr><th>Tax Expenditure</th><th colspan="3">Prescription Drugs</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.5</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Drugs sold for use by human beings with a doctor’s prescription are exempted from sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of prescription drugs</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$15,912,500</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$16,216,500</td></tr>
<tr><td>FY14</td><td>$66,715,538</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$71,039,100</td></tr>
<tr><td>FY16</td><td>$66,851,500</td></tr>
<tr><td>FY17</td><td>$69,369,000</td></tr>
<tr><td>FY18</td><td>$78,780,000</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$81,480,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.</td></tr>
<tr><td rowspan="4">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1951, c.250</td><td colspan="2">Enactment of sales tax exemption for medicines sold with a doctor’s prescription.</td></tr>
<tr><td>PL 1953, c.66</td><td colspan="2">Clarified the exemption applies only to medicines for human beings (i.e. not for pets or farm animals).</td></tr>
<tr><td>PL 2009, c.625</td><td colspan="2">Specified medical marijuana is not exempted under this section of law.</td></tr>
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Tax Expenditure	**Prosthetic Devices**		
Statutory reference	36 MRSA §1760.5-A		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Prosthetic and orthotic aids, hearing aids, eyeglasses and artificial devices to alleviate physical incapacity are exempted from sales tax.		
Intended beneficiaries	Purchasers of prosthetic devices		
Estimated fiscal impact	FY12	$4,778,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$4,921,000	
	FY14	$6,963,025	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$7,429,950	
	FY16	$7,011,000	
	FY17	$7,286,500	
	FY18	$8,400,000	*Source:* Developed by MRS for this report
	FY19	$8,760,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1973, c.573 & c.593	Enactment of sales tax exemption for prosthetic devices, including hearing aids.	
	PL 2015, c.495	Amended to apply to prosthetic or orthotic devices sold by prescription including repair and replacement parts effective October 1, 2016.	

<table>
<tr><td>Tax Expenditure</td><td colspan="3">Diabetic Supplies</td></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.33</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">All equipment and supplies used in the diagnosis or treatment of diabetes are exempt from sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of diabetic supplies</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$956,608</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$985,307</td></tr>
<tr><td>FY14</td><td>$1,185,614</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$1,255,421</td></tr>
<tr><td>FY16</td><td>$1,175,531</td></tr>
<tr><td>FY17</td><td>$1,210,797</td></tr>
<tr><td>FY18</td><td>$1,898,000</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$1,962,100</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">According to MRS, foregone revenue associated with this exemption is estimated as a percentage of exempt sales at drugstores.</td></tr>
<tr><td rowspan="3">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1973, c.148 & PL 1973, c.788</td><td colspan="2">Enactment of sales tax exemption for all medical equipment and supplies used by diabetics in the treatment of diabetes.</td></tr>
<tr><td>PL 1977, c.238</td><td colspan="2">Removed the requirement that equipment and supplies must be used by diabetics in order to be exempt.</td></tr>
</table>

<table>
<tr><th>Tax Expenditure</th><th colspan="3">Positive Airway Pressure (PAP) Equipment & Sales</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.94</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Positive airway pressure equipment and supplies sold or leased for personal use are exempt from sales and use tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of positive airway pressure equipment and supplies</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$0</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$0</td></tr>
<tr><td>FY14</td><td>$274,062</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$291,888</td></tr>
<tr><td>FY16</td><td>$274,905</td></tr>
<tr><td>FY17</td><td>$284,802</td></tr>
<tr><td>FY18</td><td>$350,000</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$365,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">According to MRS, the estimate for this exemption is based on the original fiscal note from when the legislation passed; it has been adjusted for inflation and sales tax rate. Future estimates will likely be a range because there is too little data about the value of sales associated with the exemption to allow for calculation of a more precise estimate.</td></tr>
<tr><td rowspan="2">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 2011, c.655</td><td colspan="2">Enactment of sales tax exemption for positive airway pressure equipment and supplies sold or leased for personal use.</td></tr>
</table>

<table>
<tr><td>Tax Expenditure</td><td colspan="3">Funeral Services</td></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.24</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Sales of goods necessary for the burial or cremation of a human body are exempt from sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of funeral services</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$3,524,500</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$3,638,500</td></tr>
<tr><td>FY14</td><td>$4,808,045</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$5,120,500</td></tr>
<tr><td>FY16</td><td>$4,816,500</td></tr>
<tr><td>FY17</td><td>$4,997,000</td></tr>
<tr><td>FY18</td><td>$5,600,000</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$5,800,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model. FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.</td></tr>
<tr><td rowspan="2">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1955, c.477</td><td colspan="2">Enactment of sales tax exemption for funeral services.</td></tr>
</table>

Appendix A: Selected Sections of Statute Relevant to Expedited Reviews of Tax Expenditures

3 MRSA §998. Process for review of tax expenditures[3]

1. Assignment of review categories. By October 1, 2015, the committee, in consultation with the policy committee, shall assign each tax expenditure to one of the following review categories:

> A. Full evaluation for tax expenditures that are intended to provide an incentive for specific behaviors, that provide a benefit to a specific group of beneficiaries or for which measurable goals can be identified;
>
> B. Expedited review for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and
>
> C. No review for tax expenditures with an impact on state revenue of less than $50,000 or that otherwise do not warrant either a full evaluation or expedited review.

2. Schedule. By October 1, 2015, the committee, in consultation with the policy committee, shall establish a schedule of ongoing review of the tax expenditures assigned to the full evaluation and expedited review categories pursuant to subsection 1, paragraphs A and B. To the extent practicable, the committee shall schedule the review of tax expenditures with similar goals during the same year.

3. Annual review of assignments and schedule. By October 1st of each year, beginning in 2016, the committee, in consultation with the policy committee, shall review and make any necessary adjustments to the review category assignments and schedule pursuant to subsections 1 and 2, including adjustments needed to incorporate tax expenditures enacted, amended or repealed during the preceding year.

4. Office responsibilities. The office shall maintain a current record of the review category assignments and the schedule under this section.

3 MRSA §1000. Expedited review of tax expenditures; Subsection 2

2. Action by the office. By July 1st of each year, beginning in 2016, the office shall collect, prepare and submit to the policy committee the following information to support the expedited reviews under subsection 1:

> A. A description of the tax policy under review;
>
> B. Summary information on each tax expenditure associated with the tax policy under review, including:
>
> > (1) A description of the tax expenditure and the mechanism through which the tax benefit is distributed;
> >
> > (2) The intended beneficiaries of the tax expenditure; and
> >
> > (3) A legislative history of the tax expenditure; and
>
> C. The fiscal impact of the tax policy and each related tax expenditure, including past and estimated future impacts.

[3] In these sections of law, "the office" refers to OPEGA; "the committee" refers to the Government Oversight Committee; "the policy committee" refers to the Taxation Committee.

Appendix B: Estimated Fiscal Impact of "Necessity of Life" Sales Tax Exemptions, FY12-FY19

Exemption	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Grocery Staples	$78,299,000	$79,980,500	$164,500,195	$175,204,700	$164,901,000	$171,152,000	$184,100,000	$191,130,000
Meals Served to Patients in Hospitals & Nursing Homes	$4,085,000	$4,208,500	$8,314,970	$8,903,400	$8,502,500	$8,987,000	$10,679,600	$11,270,700
Fuels for Cooking & Heating Homes	$35,292,500	$35,720,000	$70,308,357	$73,933,750	$69,654,000	$73,207,000	$65,810,000	$73,760,000
Gas Used for Cooking & Heating in Residences	$4,531,500	$4,607,500	$13,232,289	$14,441,900	$14,478,000	$15,318,750	$14,540,000	$15,430,000
Water Used in Private Residences	$8,160,500	$8,227,000	$20,919,570	$22,279,400	$20,966,500	$21,755,000	$24,740,000	$25,590,000
Certain Residential Electricity	$24,985,000	$25,365,000	$23,122,834	$25,129,533	$24,173,700	$25,784,045	$30,550,000	$33,290,000
Rental Charges for Living Quarters in Nursing Homes and Hospitals	$250,000 to $999,999	$250,000 to $999,999	$250,000 to $999,999	$250,000 to $999,999	$250,000 to $999,999	$250,000 to $999,999	$1,000,000 to $2,999,999	$1,000,000 to $2,999,999
Rental Charges on Continuous Residence for More Than 28 Days[4]	$20,624,500	$20,767,000	$836,000	$894,628	$806,284	$830,473	$259,260,000	$268,180,000
Prescription Drugs	$15,912,500	$16,216,500	$66,715,538	$71,039,100	$66,851,500	$69,369,000	$78,780,000	$81,480,000
Prosthetic Devices	$4,778,500	$4,921,000	$6,963,025	$7,429,950	$7,011,000	$7,286,500	$8,400,000	$8,760,000
Diabetic Supplies	$956,608	$985,307	$1,185,614	$1,255,421	$1,175,531	$1,210,797	$1,898,000	$1,962,100
Positive Airway Pressure Equipment & Sales	$0	$0	$274,062	$291,888	$274,905	$284,802	$350,000	$365,000
Funeral Services	$3,524,500	$3,638,500	$4,808,045	$5,120,500	$4,816,500	$4,997,000	$5,600,000	$5,800,000
TOTAL[5]	$201,525,108	$205,011,807	$381,555,499	$406,299,170	$383,986,420	$400,557,367	$686,707,600	$719,017,799
Source: Estimates for FY12-FY13 were published in the 2014-2015 Maine State Tax Expenditure Report. Estimates for FY14-FY17 were published in the 2016-2017 Maine State Tax Expenditure Report. Estimates for FY18-FY19 were developed by MRS specifically for inclusion in this report.								

[4] MRS told OPEGA that the change in the estimate for FY14-FY17 resulted from excluding rent paid on apartments when calculating taxable sales. According to MRS, this was added back into the FY18 and FY19 estimates produced for OPEGA.

[5] These totals use the mid-point of the estimated range for the fiscal impact of "Rental Charges for Living Quarters in Nursing Homes and Hospitals".

Appendix C: Additional Discussion of MRS' Microsimulation Model

How the Microsimulation Model Works

The estimated General Fund revenue loss MRS reports for many of the sales tax exemptions included in its biennial Maine State Tax Expenditures Report is produced using a microsimulation model. MRS' microsimulation model estimates the foregone revenue based on the estimated value of sales of exempted items and the tax rate that would otherwise be applied to those exempted items for the year being estimated at the time the estimate is being produced.

Estimating the value of purchases for each exempted product or service in each year begins with a base year of sales data developed by the contractors who created the model by scaling national spending patterns down to Maine levels. The base year represents an estimate of sales for a single, past year in various categories, such as groceries or pharmaceuticals. The model adjusts the base year data to reflect current economic conditions based on the forecast from Maine's Consensus Economic Forecasting Committee and forecasts for fuel and auto sales from financial and economic analysis entities (including Global Insight or Moody's Corporation), which change year to year. After the base year has been adjusted to estimate the value of sales in a future year, the model then applies the appropriate Maine sales tax rate to estimate the foregone State revenue associated with those sales.

As a final step MRS assesses the reasonableness of model estimates based on staff judgement and, as necessary, other sources of information including federal statistics and data from others such as retailers, auditors, and tax experts within their organization. MRS stresses that creating some estimates is an art rather than a science due to the limitations of the model, which may not sufficiently disaggregate data, and therefore may require further tweaking and refinement by MRS.

Because the base year data is the starting point for MRS' microsimulation model estimates, updates to the base year data can cause significant changes in the estimates produced by the model. This was apparent in the fiscal estimates OPEGA gathered for this report and the significant variance between many of the exemptions' estimates from FY13 to FY14. The estimates for FY12 and FY13 were generated with a microsimulation model using 2000 as the base year. The estimates for FY14 through FY17 were generated with a new model using 2009 as the base year. The change in estimated sales between the two models was substantial for some tax expenditures as shown in the table below.

Tax Expenditures with Increases in Estimated Fiscal Impact from FY13 to FY14 Primarily Due to Base Year Data Updates to the Microsimulation Model

Exemption	Estimated Purchases of:	Base Year 2000	Base Year 2009
Grocery Staples	Food off-premise	$1,868,420,000	$3,617,912,000
Fuels for Cooking & Heating Homes	Fuel Oil and Other Fuels, Except Gas	$487,470,000	$856,393,000
Gas Used for Cooking & Heating in Residences	Natural Gas	$73,420,000	$258,549,000
Water Used in Private Residences	Residential Water	$157,110,000	$349,982,000
Prescription Drugs	Prescription Drugs	$428,990,000	$1,125,652,000
Prosthetic Devices	Therapeutics, eye glasses, etc.	$70,640,000	$159,453,000

Source: Maine Revenue Services

Appendix C: Additional Discussion of MRS' Microsimulation Model

History of Updates to MRS' Microsimulation Model

The sales and excise tax model is one of several microsimulation models MRS uses to forecast state revenues, to estimate the impact of proposed changes to state and local tax laws, and to develop a distributional analysis of Maine's state and local tax systems. The complete system of tax models also includes models for individual income tax, corporate income tax, property tax, and multi-tax incidence. The models are developed by contractors selected by MRS through a competitive bid process.

MRS has had three sales and excise tax models since 1999 and has a goal of updating the model every five years. MRS is currently in contract negotiations for a new system of models and the project is scheduled to begin with the new fiscal year. The details on models used to date are:

> Model I: Contracted with KPMG, LLP in 1998. Models were completed by end of 1999 and used for fiscal note purposes beginning with the 2000 legislative session. The FY02/03 biennial budget was the first time the models were used for tax expenditure estimates (January 2001).
>
> Model II: Contracted with Barents Group, LLC (at that time a subsidiary of KPMG) in 2002. Models were completed by the end of 2004 and used for fiscal note purposes beginning with the 2005 legislative session. The FY06/07 biennial budget was the first time the models were used for tax expenditure estimates (January 2005). Base year data in this model was for the year 2000. This model was used for fiscal estimates in the 2014-2015 Maine State Tax Expenditure Report.
>
> Model III: Contracted with Chainbridge, LLC in 2011. Models were completed by the end of 2011 and used for fiscal note purposes beginning with the 2012 legislative session. The FY14/15 biennial budget was the first time the models were used for tax expenditure estimates (January 2013). Base year data in this model is for the year 2009. This model was used for fiscal estimates in the 2016-2017 Maine State Tax Expenditure Report.