

MAINE STATE LEGISLATURE

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STATE OF MAINE
113TH LEGISLATURE

REPORT OF
THE JOINT STANDING COMMITTEE
on
TAXATION

REGARDING
TAX EXPENDITURE REVIEW
SALES TAX EXEMPTIONS
December 1987

MEMBERS:

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TAX EXEMPTION REVIEW

Title 36 MRSA, Section 195 et seq., requires the Joint Standing Committee on Taxation to review the tax expenditures which are contained in 36 MRSA, §1760, sub-§11 to 30, inclusive. These sections deal specifically with sales tax exemptions and the Committee review must include a description of the purpose, the groups benefiting, the effectiveness and the estimated cost of continuing the exemptions. However, the statute also allows the Committee to include in its report only the information which has changed since its last report. A public hearing must be held and the Committee must submit any necessary implementing legislation along with the report.

The following is an updated list of the relevant exemptions subject to review. While neither the purpose nor the group benefiting has changed, these descriptions are included for the readers' benefit. Current estimated costs are also provided.

11. Sales of liquor. Repealed.

12. "Containers. Sales of returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling."

A. Purpose. This exemption was enacted without debate in 1951 as part of the original Sales Tax Law. The purpose was undoubtedly to relieve the administrative difficulties and the burden of multiple taxation of containers when sold and returned many times. Although, legally, the containers may have been sold, the transaction in most cases was seen as more of a loan.

B. Groups or individuals assisted by the exemption. Purchasers of products in returnable containers are the primary beneficiaries. Store owners and home delivery companies benefit to the extent that they did not have to calculate and collect tax on containers or to pay tax on containers returned.

C. Estimated "Cost" of Exemption

<u>FY 1987</u>	<u>FY 1988</u>	<u>FY 1989</u>
\$1,221,000	\$1,292,000	\$1,351,000

13. "Bibles. Sales of the Bible and also other books and literature and utensils of worship used in and by established churches for religious instruction and prayer."

A. Purpose. This exemption was enacted in 1951 as part of the original Sales Tax Law without substantive debate. The goal of the Legislature apparently was to ensure that religious organizations which have traditionally been exempt from all kinds of taxation would also be exempt from Sales Tax on religiously related purchases.

B. Groups or individuals assisted by the exemption. There are 2393 religious organizations which are assisted by this exemption. It is unclear whether those who benefit indirectly are persons who donate to the religious organization or those who benefit from their charitable activities.

C. Estimated "Cost" of Exemptions

<u>FY 1987</u>	<u>FY 1988</u>	<u>FY 1989</u>
\$28,800	\$29,700	\$30,500

14. "Publications. Sales of any publication regularly issued at average intervals not exceeding 3 months."

A. Purpose. This exemption was enacted without comment in 1951 as part of the original Sales Tax Law. The purpose of the exemption was probably to ensure that the enactment of a sales tax did not interfere with the free flow of information. There may also have been some concern for the administrative difficulty of calculating and collecting a sales tax from the newsstand operator, the home deliverer of periodicals, and the subscription sale.

B. Groups or individuals assisted by the exemption. Persons who buy and sell periodicals benefit from this exemption. It is difficult to determine the exact number of persons assisted, but nearly everyone reads or buys a newspaper or magazine occasionally.

C. Estimated "Cost" of Exemption

<u>FY 1987</u>	<u>FY 1988</u>	<u>FY 1989</u>
\$2,410,000	\$2,529,000	\$2,653,000

15. Unincorporated Hospital. Repealed.

16. "Hospitals, research centers, churches and schools.

Sales to incorporated hospitals, incorporated nonprofit nursing homes licenses by the Department of Human Services, incorporated nonprofit boarding care facilities licensed by the Department of Human Services, incorporated nonprofit home health care agencies certified under Title XVIII of the Social Security Act of 1965 as amended, incorporated nonprofit rural community health centers engaged in the delivery of comprehensive primary health care, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology or operating educational television or radio stations, schools and regularly organized churches or houses of religious worship, excepting sales, storage or uses in activities which are mainly commercial enterprises. 'Schools' means incorporated nonstock educational institutions, including institutions empowered to confer educational, literary or academic degrees, which have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, which keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual."

A. Purpose. This provision contains exemptions for several different categories of potential taxpayers. The exemptions for hospitals, nursing homes, home health centers, research centers and nonprofit rural community health centers were enacted to hold down the cost of medical care and to allow state and federal money spent on health care to be used for direct patient care costs rather than to pay state sales tax. The exemption for churches was enacted to avoid state taxation of religion and to facilitate the charitable work of such institutions. The exemption for schools was enacted to put them on an equal footing with public schools which provide the same benefit for the citizens of the state by educating children. The exemption for educational television and radio stations was enacted to provide the same tax exempt status as the schools which sponsor the stations.

B. Groups or individuals assisted by this exemption. Persons benefiting include persons obtaining medical care, parents of children in private schools, patrons of educational radio and television stations, persons who benefit from church programs, and persons who benefit from the activities of medical, biological or ecological research centers.

C. <u>Estimated "Cost" of Exemption</u>	<u>FY 1987</u>	<u>FY 1988</u>	<u>FY 1989</u>
Hospitals	\$7,822,000	\$8,028,000	\$8,341,000
Nursing Homes	132,600	137,900	143,000
Boarding Care Facilities			
Rural Community Health Cntrs.			
Dental Health Centers	1,090	1,140	1,190
Medical Research in Biology/Ecology	294,000	306,000	318,000
Educational TV and Radio	8,300	8,400	8,500
Regularly Operating Churches	693,000	702,000	712,000
Private Schools and Colleges	349,300	348,500	347,700

17. **"Camps.** Rental charged for living quarters, sleeping or housekeeping accommodations at camps entitled to exemption from property tax under section 652, subsection 1."

A. Purpose. The purpose of this exemption was to provide a sales tax exemption to camps which have a property tax exemption as benevolent and charitable organizations. The exemption was passed at the same time as an extension of the sales tax to cover rentals of less than 28 days. The Maine Supreme Judicial Court in 1960 in Camp Walden v. Johnson, 156 Me. 160 decided that the tax on rentals was not intended to cover charges for living accommodations at children's camps because no accommodation was made for itemizing such expenses from a lump sum fee for all services provided. Therefore, it is unlikely that these services would be taxed even in the absence of this exemption.

B. Groups or individuals assisted by this exemption.

Persons who benefit are those who pay for living quarters, sleeping or housekeeping accommodations at qualified camps.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
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(Less than \$50,000 per year)

18. "Certain institutions. Rental charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings."

A. Purpose. The purpose of this exemption was to reduce the cost of necessary hospital or nursing home care.

B. Groups or individuals assisted by this exemption.

Persons benefiting are those who pay for such services.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
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(Previous Court ruling indicates these services would be exempt anyway.)

18-A. "Other institutions. Sales to incorporated private nonprofit residential child caring institutions which are licensed by the Department of Health and Welfare as child caring institutions."

A. Purpose. The purpose of this exemption was to provide that all funds received by such institutions could be used to pay for the costs of child care services rather than to pay a state sales tax.

B. Groups or individuals affected by this exemption.
There are 17 institutions in Maine which are eligible under this exemption.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$24,500	\$26,200	\$27,900

19. "Schools". Rental charged for living quarters, sleeping or housekeeping accommodations to any student necessitated by attendance at a school as defined in subsection 16."

A. Purpose. This exemption was enacted to make it clear that this type of rental was not the kind intended to be taxed under the provision which taxes rental of living quarters in any hotel, rooming house, tourist or trailer camps.

B. Groups or individuals assisted by this exemption.
Persons assisted are those who pay for students who live away from, home attending private schools.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$1,372,000	\$1,439,000	\$1,500,000

20. "Continuous residence; refunds and credits. Rental charged to any person who resides continuously for 28 days at any one hotel, rooming house, tourist or trailer camp. Tax paid by such person to the retailer under section 1812 during the initial 28-day period shall be refunded by the retailer. Such tax reported and paid to the State by the retailer may be taken as a credit by the retailer on the report filed by him covering the month in which refund was made to such tenant."

A. Purpose. The purpose of this exemption was to exclude from taxation those rentals which are in the nature of permanent living accommodations.

B. Groups or individuals assisted by this exemption. Persons assisted are those who make their home for periods of at least 28 days in hotels, rooming houses, tourist or trailer camps. The Bureau of Taxation believes that the proper interpretation of the broad definitions of hotels, rooming houses, tourist camps and trailer camps would subject all rentals of housing accommodations to taxation in the absence of exemption. However, the legislation enacting the provision to tax certain rentals in 1959 was titled "AN ACT to Tax Transient Rentals". It taxed rentals shorter than 90 days and included a specific exclusion of apartment houses. In 1961, the exclusion for apartment houses was dropped when the time limitation

was lowered to 28 days. It would not appear that the Legislature intended to tax principal dwelling places regardless of the length of time they were occupied. This language of the current law is ambiguous and could stand amendment to clarify the status of rental property. Such amendment could be accomplished without affecting tax revenues.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$16,211,000	\$16,992,000	\$17,615,000

21. "Automobiles used in driver education program. Sales to automobile dealers, registered under section 1754, of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without consideration or for a consideration of not more than \$1 a year, and used exclusively by such schools in driver education programs."

A. Purpose. The exemption was enacted in 1953 without legislative debate. The most probable purpose of the exemption is to encourage automobile dealers to contribute cars for driver education programs. The cars would not be subject to taxation if purchased by the schools which use them. Dealers should not be required to pay a tax to the state when they are providing a public benefit by donating cars.

B. Groups or individuals assisted by the exemption. The Bureau of Taxation reports that 259 automobile dealers in the state benefit from this exemption. To the extent that the exemption encourages dealers to donate automobiles to driver education programs, students, schools, and taxpayers benefit.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$36,300	\$37,400	\$38,400

22. "Automobiles to amputee veterans. Sales of automobiles to veterans who are granted free registration of such vehicles by the Secretary of State under Title 29, section 251. Certificates of exemption or refunds of taxes paid shall be granted under such rules or regulations as the Tax Assessor may prescribe."

A. Purpose. The purpose of this exemption is to provide a benefit to those veterans who have lost the use of limbs in the armed services.

B. Groups or individuals assisted by this exemption. The Bureau of Taxation estimates that 40 veterans will take advantage of this exemption this year.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$28,300	\$20,900	\$19,000

23. "Motor vehicles. Motor vehicles purchased by a non-resident and intended to be driven or transported outside the state immediately upon delivery by the seller. If such motor vehicle is registered for use in Maine within 6 months of the date of purchase, the person seeking registration shall be liable for use tax on the basis of the original price."

A. Purpose. The Commerce Clause of the United States Constitution has been interpreted to prohibit Maine from imposing a sales tax on items sold in Maine to a non-resident and delivered outside the state. Non-residents purchasing such articles in Maine could avoid the tax by accepting delivery out-of-state. In order to avoid this otherwise unnecessary delivery requirement, sales of such articles to non-residents have been exempted.

B. Groups or individuals assisted by this exemption. Groups and individuals benefited are non-residents who do not have to arrange for out-of-state delivery and Maine dealers who may experience increased sales to non-residents as a result of the exemption.

C. Estimated "Cost" of Exemption

FY 87

FY 88

FY 89

(Less than \$50,000 per year)

23-A. "Truck bodies and trailers. Truck bodies, semi-trailers and trailers, manufactured in Maine, except camper bodies and trailers, purchased by a non-resident who intends to remove them immediately from the state upon delivery by the seller. If the truck body, semi-trailer or trailer is returned to Maine for an otherwise taxable use in Maine within 6 months of the date of purchase, the purchaser shall be liable for use tax, based on the original purchase price."

- A. Purpose. Same as subsection 23.
- B. Groups or individuals assisted by this exemption. Same as subsection 23.
- C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$30,400	\$28,000	\$25,300

24. "Funeral services. Sales of funeral services."

- A. Purpose. This exemption was enacted in 1955 without legislative debate. The purpose was probably to relieve the burden for families paying expensive funeral bills. However, it is unclear whether the impetus for the bill came from consumers or the funeral industry.

B. Groups or individuals assisted by the exemption.

Families paying funeral expenses are benefited. To the extent that the exemption permits the purchase of more expensive services, funeral directors benefits. 10,774 persons died in 1980.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$764,000	\$798,100	\$826,600

25. "Boats sold to non-residents. Sales in this state to non-residents of yachts and other pleasure boats and commercial vessels and boats actually registered for numbering, enrolled or documented under federal or foreign law in the appropriate customhouses or registry offices for location thereof or home ports therefor outside the state, when such crafts are either delivered outside the state or delivered in the state to be sailed or transported outside the state immediately upon delivery by the seller; and any sales to non-residents, under contracts for the construction of any such craft to be so delivered, or materials to be incorporated therein; and any sales to non-residents for the repair, alteration, refitting, reconstruction, overhaul and or restoration of any such craft to be so delivered, of materials to be

incorporated therein. If a craft is registered in Maine or documented with a home port in Maine, within 6 months of the date of purchase, the purchaser shall be liable for the use tax on the basis of the original price."

A. Purpose. The provision of this subsection which exempts sales to non-residents was enacted for substantially the same reason as subsection 23. The provisions exempting construction and repair were enacted in the '60's to assist the boat building and repair business in the state by enabling them to provide such services to non-residents without charging sales tax.

B. Groups or individuals assisted by this exemption. Groups benefiting are non-residents purchasing or repairing boats in Maine and businesses which experience increased sales or repair contracts as a result of this exemption.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
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(Less than \$50,000 per year)

26. "Volunteer ambulance corps and fire departments. Sales to incorporated volunteer fire departments and to incorporated volunteer nonprofit ambulance corps."

A. Purpose. The purpose of this exemption is to allow a sales tax for volunteer fire and rescue organizations which basically serve a public purpose and which receive most if not all of their funding from local government sources.

B. Groups or individuals assisted by this exemption.

According to the Bureau of Taxation there are 162 organizations which benefit from this exemption.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$86,500	\$90,000	\$93,600

27. "Aircraft purchased by a non-resident. Aircraft

purchased by a non-resident and intended to be driven or transported outside the state immediately upon delivery by the seller. If any such craft are registered for use in Maine within 6 months of the date of purchase, the person seeking registration shall be liable for use tax on the basis of the original purchase price."

A. Purpose. Same as subsection 23.

B. Groups or individuals assisted by this exemption.

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
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(Less than \$50,000 per year)

28. "Community mental health facilities and community mental

retardation facilities. Sales to mental health facilities and mental retardation facilities which receive support under the Federal Community Mental Health Centers Acts, as amended, or its successors, or from the Department of Mental Health and Corrections pursuant to Title 34, chapters 183 or 184-C."

A. Purpose. The reason for this exemption is that these facilities are substantially identical to other health care facilities such as hospitals, nursing homes and clinics which are exempt under other provisions of section 1760. In addition, much of the care provided at these facilities is paid for through government programs and all the money available should be used to provide services, not to pay taxes.

B. Groups or individuals assisted by this exemption. The Bureau of Taxation reports that there are 60 facilities that take advantage of this exemption.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$47,500	\$48,900	\$50,300

29. "Water pollution control facilities. Sales of any water pollution control facility, certified as such by the Environmental Improvement Commission, and any part or accessories thereof, or any materials for the construction, repair or maintenance of such facility. As use in this subsection:

A. 'Disposal system' means any system used primarily for disposing of or isolating industrial or other waste and includes thickeners, incinerators, pipelines or conduits, pumping stations, force mains and all

other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial or other waste to a point of disposal, treatment or isolation, except that which is necessary to the manufacturer of products.

- B. 'Facility' means any disposal system or any treatment works, appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing controlling or eliminating water pollution caused by industrial or other waste, except septic tanks and the pipelines and leach fields connected or appurtenant thereto.
- C. 'Industrial waste' means any liquid, gaseous or solid waste substance capable of polluting the waters of the state and resulting from any process, or the development of any process, of industry or manufacture."
- D. 'Treatment works' means any plant, pumping station, reservoir or other works used primarily for the purpose of treating, stabilizing, isolating or holding industrial or other wastes."

A. Purpose. This exemption was enacted in 1969 to ease the burden placed on industrial and agricultural facilities which were required to meet stricter water quality standards.

B. Groups or individuals assisted by this exemption. Groups benefiting are those purchasing qualified water pollution control facilities.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$166,100	\$142,400	\$142,400

30. "Air pollution control facilities. Sale of any air pollution control facility, certified as such by the Environmental Improvement Commission, and any part or accessories thereof, or any materials for the construction, repair or maintenance thereof. As used in this subsection:

A. 'Facility' means any appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling, eliminating or disposing of industrial or other air pollutants. Facilities such as air conditioners, dust collectors, fans and similar facilities designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of

such person, and facilities designed or installed for the reduction or control of automobile exhaust emissions shall not be deemed air pollution control facilities for purposes of this subsection."

A. Purpose. This exemption was enacted to ease the burden placed on industrial facilities which were required to meet stricter water quality standards.

B. Groups or individuals assisted by this exemption. Groups benefiting are those purchasing qualified air pollution facilities.

C. Estimated "Cost" of Exemption

<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
\$59,300	\$83,000	\$83,000

A public hearing regarding these tax expenditures was held on October 8, 1987. During this hearing and subsequent Committee work session, it was determined that no changes were necessary in the remaining subsections of 36 M RSA, section 1760 subject to review at this time. (Subsections 11 and 15 had been repealed by previous legislation.) Therefore, the Committee recommends retention of all these tax expenditures. However, during the course of this review, a separately convened panel was created by the Governor to study state tax policy. That Committee discussed extending the sales tax to certain services and implementing a sunset provision whereby

all exemptions would be eliminated periodically unless the Legislature chose to continue them. The legislative members of that study committee prevailed in dissuading the other members from making those recommendations due to the additional burdens that would be imposed. The Tax Policy Study Commission then recommended that the current process for reviewing tax exemptions (36 MRSA §195 et seq.) be retained, but be given higher visibility by holding the reviews during the legislative session rather than the interim. It was believed that "this change would encourage participation of interested parties in the review process (something which is currently lacking) and would allow exemptions to be reviewed in the context of spending and revenue decisions."

The Joint Standing Committee on Taxation concurs with this recommendation and will implement it during the Second Regular Session of the 113th Legislature. No statutory change is required because the existing language says the Committee must issue its reports by January 1 of the following year. Thus, for the next group of expenditures to be reviewed (see 35 MRSA §198), the report will be issued in April, 1988 rather than December, 1988. In either case, the report will have been issued by January 1, 1989 as required by law.