

STATE OF MAINE
KENNEBEC, ss.

MAINE BOARD OF TAX APPEALS
DOCKET NO. BTA-2021-10

[INDIVIDUAL TAXPAYER]
Petitioners

v.

DECISION

MAINE REVENUE SERVICES,
Respondent

[Individual Taxpayer] appeals from a decision on reconsideration issued by Maine Revenue Services (“MRS”) upholding a notice of assessment reversing a Maine Educational Opportunity Tax Credit (“EOTC”) for tax year [year] and assessing interest. Based on the evidence and the applicable law, we uphold the assessment in full.

I. Background

At all relevant times, the Taxpayer was a Maine resident individual. The Taxpayer earned a Bachelor of Science degree in Business Administration with a major in Management from a Maine institution of higher education, and they incurred a student loan debt in connection with that education. Their coursework taken towards their major included classes in economics, mathematics, statistics, and various business disciplines.

For tax year [year], the Taxpayer timely filed their Maine income tax return claiming an EOTC for the above referenced Bachelor of Science degree. Understanding that the Bachelor of Science degree in Business Administration with a major in Management was a degree in science, technology, engineering or mathematics (“STEM”), the Taxpayer claimed the value of the EOTC in excess of their tax liability as a refund, which MRS issued. Afterward, MRS determined that, although the Bachelor of Science degree qualified for the EOTC, it did not qualify for a

refundable portion of the EOTC as a STEM degree. Consequently, MRS issued an assessment against the Taxpayer of \$[amount], comprising \$[amount] for recoupment of the previously refunded tax and \$[amount] in interest. This appeal followed.

The Taxpayer argues that the assessment must be canceled because MRS erred in determining that the Bachelor of Science degree in question is not a STEM degree. It is the Taxpayers' burden to show that the assessment is incorrect. 36 M.R.S. § 151-D(10)(F). We consider the matter on appeal de novo as to both facts and law. *Id.* § 151(2)(G).

II. Discussion

Maine allows qualifying individuals to claim the EOTC against their Maine individual income tax liability for payments made in connection with the repayment of debts incurred to finance a post-secondary education. 36 MRS § 5217-D(2); *see also id.* § 5217-D(1), (4)-(5). Generally, the EOTC may not reduce a taxpayer's tax liability to less than zero resulting in a refund. *Id.* § 5217-D(2)(C). However, the EOTC may generate a refund "to the extent the credit is based on loans included in the financial aid package acquired to obtain a bachelor's degree or associate degree in a STEM discipline. *Id.* § 5217-D(3). Nowhere in the statute providing for the EOTC, or in any related statute, are STEM degrees defined.

MRS has adopted 18-125 C.M.R. ch. 812 ("Rule 812") for purposes of construing and clarifying section 5217-D. The current version of Rule 812 defines STEM degrees awarded prior to January 1, 2020, as follows:

- A. For degrees awarded prior to January 1, 2020, a STEM degree means an associate or bachelor's degree with a major (or if no major is awarded, an equivalent concentration) as recognized by the participant's accredited community college, college, or university limited to the following courses of study:

1. Animal, food, or plant science; archeology; biology; chemistry; computer and information sciences; environmental science; physics/physical, earth, or marine sciences; or registered nursing/nursing sciences;
2. Aeronautical engineering; architectural engineering technology; biotechnology; clinical or medical technologies; communications technology; computer technology; construction engineering technology; drafting and design technology; automotive technology; electrical and electrical engineering technology; electromechanical engineering technology; science technology; or telecommunications technology;
3. Chemical, civil, construction, electrical, forest, industrial, mechanical, naval, or surveying engineering;
4. Economics, mathematics, or statistics; or
5. Any degree listed on the United States Department of Homeland Security, Immigration and Customs Enforcement STEM Designated Degree Program List [“STEM Degree List”].¹

18-125 C.M.R. ch. 812, § 3

The degree in question in this case is a Bachelor of Science in Business Administration with a major in Management. The Taxpayer argues that said degree is a STEM degree because it contained significant coursework in economics, mathematics, and statistics and because it is similar to the degree of Management Science which appears upon the STEM Degree List.

¹ The STEM Degree list is available at: <https://www.ice.gov/sites/default/files/documents/stem-list.pdf>.

The STEM Degree List utilizes the Classification of Instructional Programs (“CIP”) numbering system developed by the National Center for Education Statistics (“NCES”).² The CIP number assigned to the degree in question by the awarding institution is 52.0201. The NCES describes degrees assigned CIP number 52.0201 as

A program that generally prepares individuals to plan, organize, direct, and control the functions and processes of a firm or organization. Includes instruction in management theory, human resources management and behavior, accounting and other quantitative methods, purchasing and logistics, organization and production, marketing, and business decision-making.³

The Taxpayers argue that the degree is similar to a degree in Management Science, which is assigned CIP number 52.1301 by NCES. The NCES describes degrees assigned CIP number 52.1301 as

A general program that focuses on the application of statistical modeling, data warehousing, data mining, programming, forecasting and operations research techniques to the analysis of problems of business organization and performance. Includes instruction in optimization theory and mathematical techniques, data mining, data warehousing, stochastic and dynamic modeling, operations analysis, and the design and testing of prototype systems and evaluation models.⁴

We narrowly construe tax credits. *See Warnquist v. State Tax Assessor*, 2019 ME 19, ¶ 15, 201 A.3d 602; *Goggin v. State Tax Assessor*, 2018 ME 111, ¶ 14, 191 A.3d 341. Rule 812 requires that a Taxpayer’s degree be one recognized by the awarding institution as having a major in one of the specifically listed courses of study appearing in Rule 812 or appearing upon the STEM degree list. Unfortunately for the Taxpayers, the institution of higher education did not characterize the Taxpayer’s major as one appearing upon the specific list of courses of study

² See National Center for Education Statistics, What is the CIP?, <https://nces.ed.gov/ipeds/cipcode> (last visited March 31, 2022).

³ See National Center for Education Statistics, Detail for CIP Code 52.0201, <https://nces.ed.gov/ipeds/cipcode/cipdetail.aspx?y=56&cid=91159> (last visited March 31, 2022).

⁴ See National Center for Education Statistics, Detail for CIP Code 52.1201, <https://nces.ed.gov/ipeds/cipcode/cipdetail.aspx?y=56&cid=52.1301> (last visited March 31, 2022).

under Rule 812 or assign to it a CIP number appearing upon the STEM degree list. Therefore, no adjustment to the assessment is warranted.

III. Decision

Based on the law and evidence presented, we find that the Bachelor of Science Degree in Business Administration with a major in Management awarded to the Taxpayer is not a STEM degree for the purposes of the EOTC. Therefore, the Taxpayer's claim of the value of the EOTC in excess of their tax liability was improper. We uphold the assessment and interest for tax year [year] in full.

The Board may, in limited circumstances, reconsider its decision on any appeal. If either party wishes to request reconsideration, that party must file a written request with the Board within 20 days of receiving this decision. Contact the Appeals Office at 207-287-2864 or see the Board's rules, available at <http://www.maine.gov/boardoftaxappeals/lawsrules/>, for more information on when the Board may grant reconsideration. If no request for reconsideration is filed within 20 days of the date of this proposed decision, it will become the Board's final administrative action. If either party wishes to appeal the Board's decision in this matter to the Maine Superior Court, that party must do so within 60 days of receiving this decision.

BY ORDER OF THE BOARD

Date: _____, Chair/Member