

MAINE STATE LEGISLATURE

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L.D. 1564

Date: 2/3/16

(Filing No. S- 351)

TAXATION

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STATE OF MAINE

SENATE

127TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 616, L.D. 1564, Bill, "An Act To Update References to the United States Internal Revenue Code of 1986 Contained in the Maine Revised Statutes"

Amend the bill by striking out all of section 2 and inserting the following:

Sec. 2. 36 MRSA §5122, sub-§1, ¶Q, as enacted by PL 2003, c. 20, Pt. II, §2, is repealed.

Sec. 3. 36 MRSA §5122, sub-§1, ¶II, as corrected by RR 2015, c. 1, §41, is amended to read:

II. For taxable years beginning in 2014:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-MM for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-MM; and

Sec. 4. 36 MRSA §5122, sub-§1, ¶JJ, as enacted by PL 2015, c. 267, Pt. DD, §8, is amended to read:

JJ. For tax years beginning on or after January 1, 2016, an amount equal to the taxpayer base multiplied by the following fraction:

(1) For single individuals and married persons filing separate returns, the numerator is the taxpayer's Maine adjusted gross income less \$70,000, except that the numerator may not be less than zero, and the denominator is \$75,000. In no case may the fraction contained in this subparagraph produce a result that is more than one. The \$70,000 amount used to calculate the numerator in this

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1 subparagraph must be adjusted for inflation in accordance with section 5403,
2 subsection 3;

3 (2) For individuals filing as heads of households, the numerator is the taxpayer's
4 Maine adjusted gross income less \$105,000, except that the numerator may not
5 be less than zero, and the denominator is \$112,500. In no case may the fraction
6 contained in this subparagraph produce a result that is more than one. The
7 \$105,000 amount used to calculate the numerator in this subparagraph must be
8 adjusted for inflation in accordance with section 5403, subsection 3; or

9 (3) For individuals filing married joint returns or surviving spouses, the
10 numerator is the taxpayer's Maine adjusted gross income less \$140,000, except
11 that the numerator may not be less than zero, and the denominator is \$150,000.
12 In no case may the fraction contained in this subparagraph produce a result that is
13 more than one. The \$140,000 amount used to calculate the numerator in this
14 subparagraph must be adjusted for inflation in accordance with section 5403,
15 subsection 3.

16 For purposes of this paragraph, "taxpayer base" means either the taxpayer's
17 applicable standard deduction amount for the taxable year determined under section
18 5124-B or, if itemized deductions are claimed, the taxpayer's itemized deductions
19 claimed for the taxable year determined under section 5125-; and

20 **Sec. 5. 36 MRSA §5122, sub-§1, ¶KK** is enacted to read:

21 KK. For taxable years beginning on or after January 1, 2015:

22 (1) An amount equal to the net increase in depreciation attributable to the
23 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
24 with respect to property placed in service in the State during the taxable year for
25 which a credit is claimed under section 5219-NN for that taxable year; and

26 (2) An amount equal to the net increase in depreciation attributable to the
27 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
28 with respect to property for which a credit is not claimed under section 5219-NN.

29 **Sec. 6. 36 MRSA §5122, sub-§2, ¶MM**, as amended by PL 2015, c. 1, §6, is
30 further amended to read:

31 MM. For taxable years beginning on or after January 1, 2014, an amount equal to the
32 net increase in the depreciation deduction allowable under the Code, Sections 167
33 and 168 that would have been applicable to that property had the depreciation
34 deduction under the Code, Section 168(k) not been claimed with respect to such
35 property placed in service during the taxable year beginning in 2013 for which an
36 addition was required under subsection 1, paragraph HH, subparagraph (2) for the
37 taxable year beginning in 2013.

38 Upon the taxable disposition of property to which this paragraph applies, the amount
39 of any gain or loss includable in federal adjusted gross income must be adjusted for
40 Maine income tax purposes by an amount equal to the difference between the
41 addition modification for such property under subsection 1, paragraph HH,

1 subparagraph (2) and the subtraction modifications allowed pursuant to this
2 paragraph.

3 The total amount of subtraction claimed under this paragraph for all tax years may
4 not exceed the addition modification under subsection 1, paragraph HH,
5 subparagraph (2) for the same property; ~~and~~

6 **Sec. 7. 36 MRSA §5122, sub-§2, ¶NN**, as enacted by PL 2015, c. 1, §7, is
7 amended to read:

8 NN. For taxable years beginning on or after January 1, 2015, an amount equal to the
9 net increase in the depreciation deduction allowable under the Code, Sections 167
10 and 168 that would have been applicable to that property had the depreciation
11 deduction under the Code, Section 168(k) not been claimed with respect to such
12 property placed in service during the taxable year beginning in 2014 for which an
13 addition was required under subsection 1, paragraph II, subparagraph (2) for the
14 taxable year beginning in 2014.

15 Upon the taxable disposition of property to which this paragraph applies, the amount
16 of any gain or loss includable in federal adjusted gross income must be adjusted for
17 Maine income tax purposes by an amount equal to the difference between the
18 addition modification for such property under subsection 1, paragraph II,
19 subparagraph (2) and the subtraction modifications allowed pursuant to this
20 paragraph.

21 The total amount of subtraction claimed under this paragraph for all tax years may
22 not exceed the addition modification under subsection 1, paragraph II, subparagraph
23 (2) for the same property; ~~and~~

24 **Sec. 8. 36 MRSA §5122, sub-§2, ¶OO** is enacted to read:

25 OO. For taxable years beginning on or after January 1, 2016, an amount equal to the
26 net increase in the depreciation deduction allowable under the Code, Sections 167
27 and 168 that would have been applicable to that property had the depreciation
28 deduction under the Code, Section 168(k) not been claimed with respect to such
29 property placed in service during the taxable year for which an addition was required
30 under subsection 1, paragraph KK, subparagraph (2) for the taxable year.

31 Upon the taxable disposition of property to which this paragraph applies, the amount
32 of any gain or loss includable in federal adjusted gross income must be adjusted for
33 Maine income tax purposes by an amount equal to the difference between the
34 addition modification for such property under subsection 1, paragraph KK,
35 subparagraph (2) and the subtraction modifications allowed pursuant to this
36 paragraph.

37 The total amount of subtraction claimed under this paragraph for all tax years may
38 not exceed the addition modification under subsection 1, paragraph KK,
39 subparagraph (2) for the same property.

40 **Sec. 9. 36 MRSA §5200-A, sub-§1, ¶AA**, as amended by PL 2015, c. 1, §9, is
41 further amended to read:

42 AA. For taxable years beginning in 2013:

COMMITTEE AMENDMENT

1 (1) An amount equal to the net increase in depreciation attributable to the
2 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
3 with respect to property placed in service in the State during the taxable year for
4 which a credit is claimed under section 5219-JJ for that taxable year; and

5 (2) An amount equal to the net increase in depreciation attributable to the
6 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
7 with respect to property for which a credit is not claimed under section 5219-JJ;
8 and

9 **Sec. 10. 36 MRSA §5200-A, sub-§1, ¶BB**, as enacted by PL 2015, c. 1, §10, is
10 amended to read:

11 BB. For taxable years beginning in 2014:

12 (1) An amount equal to the net increase in depreciation attributable to the
13 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
14 with respect to property placed in service in the State during the taxable year for
15 which a credit is claimed under section 5219-MM for that taxable year; and

16 (2) An amount equal to the net increase in depreciation attributable to the
17 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
18 with respect to property for which a credit is not claimed under section
19 5219-MM; and

20 **Sec. 11. 36 MRSA §5200-A, sub-§1, ¶CC** is enacted to read:

21 CC. For taxable years beginning on or after January 1, 2015:

22 (1) An amount equal to the net increase in depreciation attributable to the
23 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
24 with respect to property placed in service in the State during the taxable year for
25 which a credit is claimed under section 5219-NN for that taxable year; and

26 (2) An amount equal to the net increase in depreciation attributable to the
27 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
28 with respect to property for which a credit is not claimed under section 5219-NN.

29 **Sec. 12. 36 MRSA §5200-A, sub-§2, ¶Y**, as amended by PL 2015, c. 1, §12, is
30 further amended to read:

31 Y. For taxable years beginning on or after January 1, 2014, an amount equal to the
32 net increase in the depreciation deduction allowable under the Code, Sections 167
33 and 168 that would have been applicable to that property had the depreciation
34 deduction under the Code, Section 168(k) not been claimed with respect to such
35 property placed in service during the taxable year beginning in 2013 for which an
36 addition was required under subsection 1, paragraph AA, subparagraph (2) for the
37 taxable year beginning in 2013.

38 Upon the taxable disposition of property to which this paragraph applies, the amount
39 of any gain or loss includable in federal taxable income must be adjusted for Maine
40 income tax purposes by an amount equal to the difference between the addition

1 modification for such property under subsection 1, paragraph AA, subparagraph (2)
2 and the subtraction modifications allowed pursuant to this paragraph.

3 The total amount of subtraction claimed under this paragraph for all tax years may
4 not exceed the addition modification under subsection 1, paragraph AA,
5 subparagraph (2) for the same property; ~~and~~

6 **Sec. 13. 36 MRSA §5200-A, sub-§2, ¶Z**, as enacted by PL 2015, c. 1, §13, is
7 amended to read:

8 Z. For taxable years beginning on or after January 1, 2015, an amount equal to the
9 net increase in the depreciation deduction allowable under the Code, Sections 167
10 and 168 that would have been applicable to that property had the depreciation
11 deduction under the Code, Section 168(k) not been claimed with respect to such
12 property placed in service during the taxable year beginning in 2014 for which an
13 addition was required under subsection 1, paragraph BB, subparagraph (2) for the
14 taxable year beginning in 2014.

15 Upon the taxable disposition of property to which this paragraph applies, the amount
16 of any gain or loss includable in federal taxable income must be adjusted for Maine
17 income tax purposes by an amount equal to the difference between the addition
18 modification for such property under subsection 1, paragraph BB, subparagraph (2)
19 and the subtraction modifications allowed pursuant to this paragraph.

20 The total amount of subtraction claimed under this paragraph for all tax years may
21 not exceed the addition modification under subsection 1, paragraph BB, subparagraph
22 (2) for the same property; ~~and~~

23 **Sec. 14. 36 MRSA §5200-A, sub-§2, ¶AA** is enacted to read:

24 AA. For taxable years beginning on or after January 1, 2016, an amount equal to the
25 net increase in the depreciation deduction allowable under the Code, Sections 167
26 and 168 that would have been applicable to that property had the depreciation
27 deduction under the Code, Section 168(k) not been claimed with respect to such
28 property placed in service during the taxable year for which an addition was required
29 under subsection 1, paragraph CC, subparagraph (2) for the taxable year.

30 Upon the taxable disposition of property to which this paragraph applies, the amount
31 of any gain or loss includable in federal taxable income must be adjusted for Maine
32 income tax purposes by an amount equal to the difference between the addition
33 modification for such property under subsection 1, paragraph CC, subparagraph (2)
34 and the subtraction modifications allowed pursuant to this paragraph.

35 The total amount of subtraction claimed under this paragraph for all tax years may
36 not exceed the addition modification under subsection 1, paragraph CC, subparagraph
37 (2) for the same property.

38 **Sec. 15. 36 MRSA §5219-NN** is enacted to read:

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§5219-NN. Maine capital investment credit for 2015 and after

1. Credit allowed. A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during a taxable year that begins on or after January 1, 2015 is allowed a credit as follows:

A. A taxable corporation is allowed a credit against the taxes imposed by this Part in an amount equal to 9% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5200-A, subsection 1, paragraph CC, subparagraph (1) with respect to that property, except for excluded property under subsection 2; or

B. An individual is allowed a credit against the taxes imposed by this Part in an amount equal to:

(1) For taxable years beginning in 2015, 8% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2; and

(2) For taxable years beginning on or after January 1, 2016, 7% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

2. Certain property excluded. The following property is not eligible for the credit under this section:

A. Property owned by a public utility as defined by Title 35-A, section 102, subsection 13;

B. Property owned by a person that provides radio paging services as defined by Title 35-A, section 102, subsection 15;

C. Property owned by a person that provides mobile telecommunications services as defined by Title 35-A, section 102, subsection 9-A;

D. Property owned by a cable television company as defined by Title 30-A, section 2001, subsection 2;

E. Property owned by a person that provides satellite-based direct television broadcast services;

F. Property owned by a person that provides multichannel, multipoint television distribution services; and

G. Property that is not in service in the State for the entire 12-month period following the date it is placed in service in the State.

3. Limitations; carry-forward. The credit allowed under subsection 1 may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 20 years.

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1 **4. Recapture.** The credit allowed under this section must be fully recaptured to the
 2 extent claimed by the taxpayer if the property forming the basis of the credit is not used
 3 in the State for the entire 12-month period following the date it is placed in service in the
 4 State. The credit must be recaptured by filing an amended return in accordance with
 5 section 5227-A for the tax year in which that property was used to calculate the credit
 6 under this section. The amended return must reflect the credit disallowed and the income
 7 modifications required by section 5122, subsection 1, paragraph KK and section 5200-A,
 8 subsection 1, paragraph CC with respect to that property.

9 **Sec. 16. Application.** That section of this Act that amends the Maine Revised
 10 Statutes, Title 36, section 111, subsection 1-A applies to tax years beginning on or after
 11 January 1, 2015 and to any prior tax years as specifically provided by the United States
 12 Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2015.
 13 That section of this Act that repeals the Maine Revised Statutes, Title 36, section 5122,
 14 subsection 1, paragraph Q applies to tax years beginning on or after January 1, 2016.'

SUMMARY

15
 16 This amendment repeals, for taxable years beginning on or after January 1, 2016, the
 17 addition modification that decouples Maine's individual income tax law from the federal
 18 deduction for qualified tuition and related expenses under the United States Internal
 19 Revenue Code of 1986, Section 222.

20 This amendment decouples the Maine individual and corporate income taxes from the
 21 federal bonus depreciation deductions for taxable years beginning on or after January 1,
 22 2015. In addition, it provides a Maine capital investment credit for taxable years
 23 beginning on or after January 1, 2015 with respect to depreciable property placed in
 24 service in Maine. The credit is equal to 9% of the amount of the net increase in
 25 depreciation attributable to the depreciation deduction claimed by the taxpayer under the
 26 United States Internal Revenue Code of 1986, Section 168(k) with respect to property
 27 placed in service in the State during the taxable year for taxable corporations; for
 28 individuals the credit is 8% of such amount for tax years beginning in 2015 and is 7% for
 29 tax years beginning on or after January 1, 2016.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



127th MAINE LEGISLATURE

LD 1564

LR 2444(02)

**An Act To Update References to the United States Internal Revenue Code of 1986 Contained in the
Maine Revised Statutes**

Fiscal Note for Bill as Amended by Committee Amendment *"A" (S-351)*

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
General Fund	\$18,974,760	\$19,404,000	\$12,725,300	\$9,600,080
Revenue				
General Fund	(\$18,974,760)	(\$19,404,000)	(\$12,725,300)	(\$9,600,080)
Other Special Revenue Funds	(\$387,240)	(\$396,000)	(\$259,700)	(\$195,920)

Fiscal Detail and Notes

This legislation proposes to conform to certain federal tax laws for tax years beginning on or after January 1, 2015 and would result in a loss of General Fund revenue of \$18,974,760 in fiscal year 2015-16 and \$19,404,000 in fiscal year 2016-17. It would also result in a reduction in transfers to the Local Government Fund of \$387,240 in fiscal year 2015-16 and \$396,000 in fiscal year 2016-17.