mcl R. of S.

L.D. 1655

Date: 4/17/18 Majority (Filing No. S-476)

TAXATION

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

128TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 612, L.D. 1655, 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 the title and substituting the following:

'An Act To Conform to the United States Internal Revenue Code of 1986 and Provide Tax Relief to Maine Families'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'PART A

Sec. A-1. 36 MRSA §111, sub-§1-A, as amended by PL 2017, c. 24, §1, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of ~~December 31, 2016~~ March 23, 2018.

Sec. A-2. Application. This Part applies to tax years beginning on or after January 1, 2017 and to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of March 23, 2018.

PART B

Sec. B-1. 36 MRSA §5125, sub-§3, ¶A-1 is enacted to read:

A-1. Increased by the amount of property taxes not claimed under the Code, Section 164(a)(1) and (2) as a result of the limitation under the Code, Section 164(b)(6)(B);

Sec. B-2. 36 MRSA §5213-A, sub-§1, ¶A, as amended by PL 2015, c. 328, §4, is further amended to read:

A. ~~"Base~~ For tax years beginning before January 1, 2018, "base credit" means:

(1) For an individual income tax return claiming one personal exemption, $100 for tax years beginning in 2016 and $125 for tax years beginning on or after January 1, 2017;

(2) For an individual income tax return claiming 2 personal exemptions, $140 for tax years beginning in 2016 and $175 for tax years beginning on or after January 1, 2017;

(3) For an individual income tax return claiming 3 personal exemptions, $160 for tax years beginning in 2016 and $200 for tax years beginning on or after January 1, 2017; and

(4) For an individual income tax return claiming 4 or more personal exemptions, $180 for tax years beginning in 2016 and $225 for tax years beginning on or after January 1, 2017.

For the purposes of this paragraph, personal exemption does not include a personal exemption for an individual who is incarcerated.

Sec. B-3. 36 MRSA §5213-A, sub-§1, ¶A-1 is enacted to read:

<u>A-1. For tax years beginning on or after January 1, 2018, "base credit" means:</u>

<u>(1) For single individuals, $125;</u>

<u>(2) For individuals filing joint returns or as heads of households, $175 plus an additional amount equal to:</u>

<u>(a) For individuals filing joint returns, $25 if they can claim the federal child tax credit pursuant to the Code, Section 24 for no more than one qualifying child or dependent or $50 if they can claim the credit for more than one qualifying child or dependent; or</u>

<u>(b) For individuals filing as heads of households, $25 if they can claim the federal child tax credit pursuant to the Code, Section 24 for 2 qualifying children or dependents or $50 if they can claim the credit for more than 2 qualifying children or dependents;</u>

Sec. B-4. 36 MRSA §5213-A, sub-§1, ¶B, as enacted by PL 2015, c. 267, Pt. DD, §19, is amended to read:

B. "Income" means federal adjusted gross income increased by the following amounts:

(1) Trade or business losses; capital losses; any net loss resulting from combining the income or loss from rental real estate and royalties, the income or loss from partnerships and S corporations, the income or loss from estates and trusts, the income or loss from real estate mortgage investment conduits and the net farm rental income or loss; any loss associated with the sale of business property; and farm losses included in federal adjusted gross income;

(2) Interest received to the extent not included in federal adjusted gross income;

R. of S.

(3) Payments received under the federal Social Security Act and railroad retirement benefits to the extent not included in federal adjusted gross income; and

(4) The following amounts deducted in arriving at federal adjusted gross income:

(a) Educator expenses pursuant to the Code, Section 62(a)(2)(D);

(b) Certain business expenses of performing artists pursuant to the Code, Section 62(a)(2)(B);

(c) Certain business expenses of government officials pursuant to the Code, Section 62(a)(2)(C);

(d) Certain business expenses of reservists pursuant to the Code, Section 62(a)(2)(E);

(e) Health savings account deductions pursuant to the Code, Section 62(a)(16) and Section 62(a)(19);

(f) Moving expenses pursuant to the Code, Section 62(a)(15);

(g) The deductible part of self-employment tax pursuant to the Code, Section 164(f);

(h) The deduction for self-employed SEP, SIMPLE and qualified plans pursuant to the Code, Section 62(a)(6);

(i) The self-employed health insurance deduction pursuant to the Code, Section 162(l);

(j) The penalty for early withdrawal of savings pursuant to the Code, Section 62(a)(9);

(k) Alimony paid pursuant to the Code, Section 62(a)(10);

(l) The IRA deduction pursuant to the Code, Section 62(a)(7);

(m) The student loan interest deduction pursuant to the Code, Section 62(a)(17); <u>and</u>

(n) The tuition and fees deduction pursuant to the Code, Section 62(a)(18)~~;~~ ~~and~~<u>.</u>

~~(o) The domestic production activities deduction pursuant to the Code, Section 199.~~

Sec. B-5. 36 MRSA §5213-A, sub-§6, as corrected by RR 2015, c. 1, §42, is amended to read:

6. Limitations. The following individuals do not qualify for the credit under this section:

A. Married taxpayers filing separate returns; ~~or~~

B. Individuals who do not qualify as resident individuals because they do not meet the requirements of section 5102, subsection 5, paragraph A~~.~~; or

C. Individuals who can be claimed as a dependent on another taxpayer's return.

Sec. B-6. 36 MRSA §5219-KK, sub-§1, ¶A, as amended by PL 2017, c. 211, Pt. D, §6, is further amended to read:

A. ~~"Benefit~~ For tax years beginning before January 1, 2018, "benefit base" means property taxes paid by a resident individual during the tax year on the resident individual's homestead in this State or rent constituting property taxes paid by the resident individual during the tax year on a homestead in the State not exceeding the following amounts:

(1) For persons filing as single individuals, $2,000;

(2) For persons filing joint returns or as heads of households that claim no more than 2 personal exemptions, $2,600; and

(3) For persons filing joint returns or as heads of households that claim 3 or more personal exemptions, $3,200.

Sec. B-7. 36 MRSA §5219-KK, sub-§1, ¶A-1 is enacted to read:

A-1. For tax years beginning on or after January 1, 2018, "benefit base" means property taxes paid by a resident individual during the tax year on the resident individual's homestead in this State or rent constituting property taxes paid by the resident individual during the tax year on a homestead in the State not exceeding the following amounts:

(1) For persons filing as single individuals, $2,050;

(2) For persons filing as heads of households that can claim the federal child tax credit pursuant to the Code, Section 24 for no more than one qualifying child or dependent or for persons filing joint returns, $2,700; and

(3) For persons filing as heads of households that can claim the federal child tax credit pursuant to the Code, Section 24 for more than one qualifying child or dependent or for persons filing joint returns that can claim the federal child tax credit pursuant to the Code, Section 24 for at least one qualifying child or dependent, $3,300.

Sec. B-8. 36 MRSA §5219-KK, sub-§1, ¶D, as enacted by PL 2013, c. 551, §3, is amended to read:

D. "Income" means federal adjusted gross income increased by the following amounts:

(1) Trade or business losses; capital losses; any net loss resulting from combining the income or loss from rental real estate and royalties, the income or loss from partnerships and S corporations, the income or loss from estates and trusts, the income or loss from real estate mortgage investment conduits and the net farm rental income or loss; any loss associated with the sale of business property; and farm losses included in federal adjusted gross income;

(2) Interest received to the extent not included in federal adjusted gross income;

(3) Payments received under the federal Social Security Act and railroad retirement benefits to the extent not included in federal adjusted gross income; and

(4) The following amounts deducted in arriving at federal adjusted gross income:

(a) Educator expenses pursuant to the Code, Section 62(a)(2)(D);

(b) Certain business expenses of performing artists pursuant to the Code, Section 62(a)(2)(B);

(c) Certain business expenses of government officials pursuant to the Code, Section 62(a)(2)(C);

(d) Certain business expenses of reservists pursuant to the Code, Section 62(a)(2)(E);

(e) Health savings account deductions pursuant to the Code, Section 62(a)(16) and Section 62(a)(19);

(f) Moving expenses pursuant to the Code, Section 62(a)(15);

(g) The deductible part of self-employment tax pursuant to the Code, Section 164(f);

(h) The deduction for self-employed SEP, SIMPLE and qualified plans pursuant to the Code, Section 62(a)(6);

(i) The self-employed health insurance deduction pursuant to the Code, Section 162(1);

(j) The penalty for early withdrawal of savings pursuant to the Code, Section 62(a)(9);

(k) Alimony paid pursuant to the Code, Section 62(a)(10);

(l) The IRA deduction pursuant to the Code, Section 62(a)(7);

(m) The student loan interest deduction pursuant to the Code, Section 62(a)(17); and

(n) The tuition and fees deduction pursuant to the Code, Section 62(a)(18)~~;~~ ~~and~~.

~~(o) The domestic production activities deduction pursuant to the Code, Section 199.~~

Sec. B-9. 36 MRSA §5219-KK, sub-§2, as amended by PL 2017, c. 211, Pt. D, §7, is further amended to read:

2. Credit prior to 2018. ~~A~~ For property tax years beginning before January 1, 2018, a resident individual is allowed a credit against the taxes imposed under this Part in an amount equal to 50% of the amount by which the benefit base for the resident individual exceeds 6% of the resident individual's income. The credit may not exceed $600 for resident individuals under 65 years of age as of the last day of the taxable year or $900 for resident individuals 65 years of age and older as of the last day of the taxable year. In the case of married individuals filing a joint return, only one spouse is required to be 65 years of age or older to qualify for the $900 credit limitation. Married taxpayers filing separate returns do not qualify for the credit under this section.

Sec. B-10. 36 MRSA §5219-KK, sub-§2-A is enacted to read:

2-A. Credit in 2018 and after. For tax years beginning on or after January 1, 2018, a resident individual is allowed a credit against taxes imposed under this Part calculated as follows:

A. The credit is equal to the greater of:

(1) The amount by which the benefit base for the resident individual exceeds 4% of the resident individual's income; and

(2) The amount of the benefit base, up to $400, for a resident individual who is 65 years of age or older as of the last day of the taxable year and whose income does not exceed $20,000.

B. The credit calculated pursuant to paragraph A, subparagraph (1) may not exceed $750 for a resident individual under 65 years of age as of the last day of the taxable year or $1,000 for a resident individual 65 years of age or older as of the last day of the taxable year.

C. In the case of married individuals filing a joint return, only one spouse is required to be 65 years of age or older to qualify for the $1,000 credit limitation. Pursuant to paragraph A, subparagraph (1) or the $400 credit limitation pursuant to paragraph A, subparagraph (2).

Sec. B-11. 36 MRSA §§5219-SS and 5219-TT are enacted to read:

§5219-SS. Dependent exemption tax credit

1. Resident taxpayer. A resident individual is allowed a credit against the tax otherwise due under this Part equal to $300 for each qualifying child and dependent of the taxpayer for whom the federal child tax credit pursuant to the Code, Section 24 was claimed for the same taxable year.

2. Nonresident taxpayer. A nonresident individual is allowed a credit against the tax otherwise due under this Part equal to $300 for each qualifying child and dependent of the taxpayer for whom the federal child tax credit pursuant to the Code, Section 24 was claimed for the same taxable year, multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income as modified by section 5122.

3. Part-year resident taxpayer. An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part equal to $300 for each qualifying child and dependent of the taxpayer for whom the federal child tax credit pursuant to the Code, Section 24 was claimed for the same taxable year, multiplied by a fraction, the numerator of which is the individual's

R. of S.

Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph A, for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income as modified by section 5122.

4. Limitation. The credit allowed by this section may not reduce the tax otherwise due under this Part to less than zero. If the taxpayer's federal child tax credit is zero for the taxable year, the credit under this section for the same taxable year is zero.

§5219-TT. Tax filer exemption credit

1. Resident taxpayers. Resident individuals are allowed a credit against the tax otherwise due under this Part in the amount of $300 for each of the 2 individuals filing a married joint return and $300 for an individual filing an individual income tax return other than a married joint return.

2. Nonresident taxpayer. A nonresident individual is allowed a credit against the tax otherwise due under this Part equal to the applicable amount for resident individuals under subsection 1 multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income as modified by section 5122.

3. Part-year resident taxpayer. An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part equal to the applicable amount specified in subsection 1 multiplied by a fraction, the numerator of which is the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph A, for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income as modified by section 5122.

4. Limitation. The credit allowed by this section may not reduce the tax otherwise due under this Part to less than zero. If the taxpayer's Maine adjusted gross income is at least $480,000 in the case of a married joint return or $240,000 in the case of an individual filing an individual income tax return other than a married joint return, the credit under this section is zero. If an individual can be claimed as a dependent on another taxpayer's return, the credit under this section is zero. Except in the case of a married joint return where only one spouse may be claimed as a dependent on another taxpayer's return, in which case the credit under this section is $300.

Sec. B-12. 36 MRSA §5403, sub-§5, ¶A, as enacted by PL 2015, c. 267, Pt. DD, §33, is amended to read:

A. Beginning in ~~2017~~ 2018 and each year thereafter, by the base credit ~~amount~~ amounts in section 5213-A, subsection 1, paragraph ~~A~~ A-1, including the additional amounts in subparagraph ~~(1)~~ (2), divisions (a) and (b), except that for the purposes of this paragraph, notwithstanding section 5402, subsection 1-B, the "cost-of-living adjustment" is the Chained Consumer Price Index for the 12-month period ending

June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, ~~2016~~ 2017. If the base credit amount, adjusted by application of the cost-of-living adjustment, is not a multiple of $5, any increase must be rounded to the next lowest multiple of $5;

Sec. B-13. 36 MRSA §5403, sub-§5, ¶B, as enacted by PL 2015, c. 267, Pt. DD, §33, is repealed.

Sec. B-14. 36 MRSA §5403, sub-§6, as enacted by PL 2015, c. 267, Pt. DD, §33, is amended to read:

6. Property tax fairness credit. Beginning in ~~2015~~ 2018 and each year thereafter, the benefit base amounts in section 5219-KK, subsection 1, paragraph ~~A~~ A-1, except that for the purposes of this subsection, notwithstanding section 5402, subsection 1-B, the "cost-of-living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2017.

Sec. B-15. 36 MRSA §5403, 2nd ¶, as enacted by PL 2015, c. 267, Pt. DD, §33, is amended to read:

Except for subsection 5, ~~paragraphs~~ paragraph A ~~and B~~, if the dollar amount of each item, adjusted by the application of the cost-of-living adjustment, is not a multiple of $50, any increase must be rounded to the next lowest multiple of $50.

Sec. B-16. Application. Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 5213-A, subsection 1, paragraph B; section 5213-A, subsection 6; and section 5219-KK, subsection 1, paragraph D and that enact Title 36, sections 5219-SS and 5219-TT apply to tax years beginning on or after January 1, 2018.

PART C

Sec. C-1. 36 MRSA §5122, sub-§1, ¶X, as amended by PL 2007, c. 539, Pt. CCC, §2, is further amended to read:

X. ~~An~~ For tax years beginning on or after January 1, 2005 but before January 1, 2018, an amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the federal American Jobs Creation Act of 2004, Public Law 108-357;

Sec. C-2. 36 MRSA §5122, sub-§2, ¶PP is enacted to read:

PP. For purposes of the Maine capital investment credit claimed pursuant to section 5219-NN:

(1) For property placed in service after September 27, 2017 and before January 1, 2018, an amount equal to 50% of the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph KK, subparagraph (1) for the taxable year.

Upon the taxable disposition of property to which this subparagraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between 50% of the addition modification for such property under subsection 1, paragraph KK, subparagraph (1) and the subtraction modifications allowed pursuant to this subparagraph;

The total amount of subtraction claimed under this subparagraph for all tax years may not exceed 50% of the addition modification under subsection 1, paragraph KK, subparagraph (1) for the same property;

(2) For property placed in service in 2018, an amount equal to 60% of the net increase in the depreciation deductions allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph KK, subparagraph (1) for the taxable year.

Upon the taxable disposition of property to which this subparagraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between 60% of the addition modification for such property under subsection 1, paragraph KK, subparagraph (1) and the subtraction modifications allowed pursuant to this subparagraph.

The total amount of subtraction claimed under this subparagraph for all tax years may not exceed 60% of the addition modification under subsection 1, paragraph KK, subparagraph (1) for the same property; and

(3) For property placed in service in 2019, an amount equal to 70% of the net increase in the depreciation deductions allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph KK, subparagraph (1) for the taxable year.

Upon the taxable disposition of property to which this subparagraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between 70% of the addition modification for such property under subsection 1, paragraph KK, subparagraph (1) and the subtraction modifications allowed pursuant to this subparagraph.

The total amount of subtraction claimed under this subparagraph for all tax years may not exceed 70% of the addition modification under subsection 1, paragraph KK, subparagraph (1) for the same property.

Sec. C-3. 36 MRSA §5164, sub-§1, as amended by PL 2011, c. 548, §26 and affected by §35, is further amended to read:

1. Fiduciary adjustment defined. The fiduciary adjustment is the net amount of the modifications described in section 5122, including subsection 3 if the estate or trust is a beneficiary of another estate or trust, that relates to items of income or deduction of an estate or trust. ~~Income~~ The following items, to the extent that they were deducted in calculating federal taxable income, must be added back to the fiduciary adjustment: income taxes imposed by this State or any other taxing jurisdiction; the amount of the qualified business income deduction determined under the Code, Section 199A; and interest or expenses incurred in the production of income exempt from tax under this Part ~~that were deducted in arriving at federal taxable income must be added back to the fiduciary adjustment~~. Interest or expenses incurred in the production of income taxable under this Part but exempt from federal income tax must be subtracted from the fiduciary adjustment.

Sec. C-4. 36 MRSA §5200-A, sub-§1, ¶S, as amended by PL 2007, c. 700, Pt. B, §1, is further amended to read:

S. ~~An~~ For tax years beginning on or after January 1, 2005 but before January 1, 2018, an amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the federal American Jobs Creation Act of 2004, Public Law 108-357;

Sec. C-5. 36 MRSA §5200-A, sub-§2, ¶BB is enacted to read:

BB. For purposes of the Maine capital investment credit claimed pursuant to section 5219-NN:

(1) For property placed in service after September 27, 2017 and before January 1, 2018, an amount equal to 50% of the net increase in the depreciation deductions allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph CC, subparagraph (1) for the taxable year.

Upon the taxable disposition of property to which this subparagraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between 50% of the addition modification for such property under subsection 1, paragraph CC, subparagraph (1) and the subtraction modifications allowed pursuant to this subparagraph;

The total amount of subtraction claimed under this subparagraph for all tax years may not exceed 50% of the addition modification under subsection 1, paragraph CC, subparagraph (1) for the same property;

(2) For property placed in service in 2018, an amount equal to 60% of the net increase in the depreciation deductions allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such

property placed in service during the taxable year for which an addition was required under subsection 1, paragraph CC, subparagraph (1) for the taxable year.

Upon the taxable disposition of property to which this subparagraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between 60% of the addition modification for such property under subsection 1, paragraph CC, subparagraph (1) and the subtraction modifications allowed pursuant to this subparagraph.

The total amount of subtraction claimed under this subparagraph for all tax years may not exceed 60% of the addition modification under subsection 1, paragraph CC, subparagraph (1) for the same property; and

(3) For property placed in service in 2019, an amount equal to 70% of the net increase in the depreciation deductions allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph CC, subparagraph (1) for the taxable year.

Upon the taxable disposition of property to which this subparagraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between 70% of the addition modification for such property under subsection 1, paragraph CC, subparagraph (1) and the subtraction modifications allowed pursuant to this subparagraph.

The total amount of subtraction claimed under this subparagraph for all tax years may not exceed 70% of the addition modification under subsection 1, paragraph CC, subparagraph (1) for the same property.

Sec. C-6. 36 MRSA §5203-C, sub-§1, ¶C-1 is enacted to read:

C-1. "Code," notwithstanding section 111, subsection 1-A and except as otherwise provided in this section, means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2016.

Sec. C-7. 36 MRSA §5219-NN, as repealed and replaced by PL 2017, c. 211, Pt. D, §8, is amended to read:

§5219-NN. Maine capital investment credit in 2015 to 2019

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 but before January 1, 2020 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)~~ credit base 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 but before January 1, 2020, 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)~~ credit base with respect to that property, except for excluded property under subsection 2.

1-A. Credit base. For the purposes of this section, "credit base" means:

A. For property placed in service before September 28, 2017, 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) or section 5200-A, subsection 1, paragraph CC, subparagraph (1);

B. For property placed in service after September 27, 2017 and before January 1, 2018, 50% 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) or section 5200-A, subsection 1, paragraph CC, subparagraph (1);

C. For property placed in service in 2018, 40% 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) or section 5200-A, subsection 1, paragraph CC, subparagraph (1); and

D. For property placed in service in 2019, 30% 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) or section 5200-A, subsection 1, paragraph CC, subparagraph (1).

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;

R. of S.

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.

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

Sec. C-8. Application. That section of this Part that amends the Maine Revised Statutes, Title 36, section 5164, subsection 1 applies to tax years beginning on or after January 1, 2018. That section that enacts the Maine Revised Statutes, Title 36, section 5203-C, subsection 1, paragraph C-1 applies to tax years beginning on or after January 1, 2018.

PART D

Sec. D-1. 36 MRSA §5200-A, sub-§1, ¶¶DD and EE are enacted to read:

DD. An amount equal to the taxpayer's deduction claimed in accordance with the Code, Section 965(c);

EE. An amount equal to the taxpayer's global intangible low-taxed income deduction claimed in accordance with the Code, Section 250(a)(1)(B);

Sec. D-2. 36 MRSA §5200-A, sub-§2, ¶G, as amended by PL 1997, c. 746, §10 and affected by §24, is further amended to read:

G. Fifty percent of the apportionable dividend income, net of related expenses and other related deductions deducted in computing federal taxable income, the taxpayer received during the taxable year from an affiliated corporation that is not included with the taxpayer in a Maine combined report~~, except that this modification must be phased in over 5 years in accordance with the following schedule:~~ . Dividend income does not include subpart F income, as defined in the Code, Section 952, income included in accordance with the Code, Section 951A or income included in federal taxable income in accordance with the Code, Section 965. Any amount subtracted from federal taxable income under this paragraph must be excluded from the sales factor of any apportionment formula employed to attribute income to this State;

~~Taxable year beginning in:~~	~~Subtractable dividend income:~~
~~1989~~	~~10%~~
~~1990~~	~~20%~~
~~1991~~	~~30%~~
~~1992~~	~~40%~~
~~1993 or thereafter~~	~~50%;~~

Sec. D-3. 36 MRSA §5200-A, sub-§2, ¶¶BB, CC and DD are enacted to read:

<u>BB. An amount equal to 50% of the apportionable subpart F income, as defined in the Code, Section 952, net of related expenses and other related deductions deducted in computing federal taxable income, that the taxpayer included in federal gross income during the taxable year. Any amount subtracted from federal taxable income under this paragraph must be excluded from the sales factor of any apportionment formula employed to attribute income to this State.</u>

<u>CC. An amount equal to 80% of the apportionable deferred foreign income that the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 965(a) as adjusted by Section 965(b). Any amount subtracted from federal taxable income under this paragraph must be excluded from the sales factor of any apportionment formula employed to attribute income to this State.</u>

<u>DD. An amount equal to 50% of the apportionable global intangible low-taxed income that the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 951A, net of related expenses and other related deductions deducted in computing federal taxable income. The amount included in the sales factor of any apportionment formula employed to attribute apportionable income to this State the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 951A is 50% of the amount included in federal gross income.</u>

Sec. D-4. Application. This Part applies to tax years beginning on or after January 1, 2017, except those sections of this Part that enact the Maine Revised Statutes, Title 36, section 5200-A, subsection 1, paragraph EE and subsection 2, paragraph DD apply to tax years beginning on or after January 1, 2018.

PART E

Sec. E-1. 36 MRSA §4102, sub-§5, as amended by PL 2015, c. 267, Pt. I, §1, is further amended to read:

5. Maine exclusion amount. For estates of decedents dying on or after January 1, 2013, but before January 1, 2016, "Maine exclusion amount" means $2,000,000. For estates of decedents dying on or after January 1, 2016, <u>but before January 1, 2018,</u> "Maine exclusion amount" means the basic exclusion amount determined for the calendar year in accordance with the Code, Section 2010(c)(3). <u>For estates of decedents dying on or after January 1, 2018, "Maine exclusion amount" means $5,600,000.</u>

PART F

Sec. F-1. 36 MRSA §5122, sub-§1, ¶LL is enacted to read:

LL. For tax years beginning on or after January 1, 2018, the amount excluded from federal adjusted gross income as a result of the Code, Section 529(c)(7).

Sec. F-2. 36 MRSA §5122, sub-§2, ¶J, as amended by PL 2003, c. 390, §33, is further amended to read:

J. To the extent included in federal adjusted gross income, any amount constituting a qualified distribution from an account established pursuant to Title 20-A, chapter 417-E and used for paying ~~higher education~~ expenses for postsecondary education of the designated beneficiary of that account;

PART G

Sec. G-1. 36 MRSA §2536 is enacted to read:

§2536. Employer credit for family and medical leave

For tax years beginning on or after January 1, 2018, a person is allowed a credit against the tax otherwise due under this chapter in an amount equal to the federal employer credit for paid family and medical leave allowed to that person under the Code, Section 45S as a result of wages paid to employees based in the State during the taxable year.

The credit allowed under this section may not reduce the tax otherwise due under this chapter to less than zero. The credit may not be carried forward or carried back to any other tax year.

Sec. G-2. 36 MRSA §5219-UU is enacted to read:

§5219-UU. Employer credit for family and medical leave

For tax years beginning on or after January 1, 2018, a person is allowed a credit against the tax otherwise due under this Part in an amount equal to the federal employer credit for paid family and medical leave allowed to that person under the Code, Section 45S as a result of wages paid to employees based in the State during the taxable year.

The credit allowed under this section may not reduce the tax otherwise due under this Part to less than zero. The credit may not be carried forward or carried back to any other tax year.

PART H

Sec. H-1. 36 MRSA §5219-S, sub-§§1 to 3, as amended by PL 2009, c. 213, Pt. BBBB, §16, are further amended to read:

1. Resident taxpayer. A resident individual is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year, except that for tax years beginning in 2009 and 2010, the applicable percentage is 4% and for tax years beginning on or after January 1, 2018, the applicable percentage is 15%.

2. Nonresident taxpayer. A nonresident individual is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year, except that for tax years beginning in 2009 and 2010, the applicable percentage is 4% and for tax years beginning on or after January 1, 2018, the applicable percentage is 15%, multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122.

3. Part-year resident taxpayer. An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year, except that for tax years beginning in 2009 and 2010, the applicable percentage is 4% and for tax years beginning on or after January 1, 2018, the applicable percentage is 15%, multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122.

PART I

Sec. I-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services, Bureau of 0002

Initiative: Provides funding for 3 Tax Examiner positions and related All Other and computer programming costs.

GENERAL FUND	**2017-18**	**2018-19**
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	$0	$117,618
All Other	$0	$597,287
GENERAL FUND TOTAL	$0	$714,905

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill and does the following.

Part A updates references to the United States Internal Revenue Code of 1986 contained in the Maine Revised Statutes, Title 36 to refer to the United States Internal Revenue Code of 1986 as amended through March 23, 2018 for tax years beginning on or after January 1, 2017 and for any prior tax years as specifically provided by the United States Internal Revenue Code of 1986, as amended. Part A primarily affects the State's income and estate tax laws.

Part B makes the following changes to the individual income tax.

1. It increases Maine itemized deductions by the amount of real and personal property taxes not claimed for federal income tax purposes as a result of the $10,000 limitation, which is $5,000 in the case of a married individual filing a separate return, applicable to the aggregate of state, local and foreign income taxes, or state and local general sales taxes in lieu of state and local income taxes, and property taxes. Both the federal limitation and the increase in Maine itemized deductions apply to tax years beginning on or after January 1, 2018.

2. It amends the sales tax fairness credit and the property tax fairness credit by replacing references to the number of exemptions claimed on the taxpayer's return with references to dependents claimed under the federal child tax credit and removing the requirement to add the federal domestic production activities deduction to income for purposes of the credits in response to federal tax changes made in the federal Tax Cuts and Jobs Act of 2017. It also provides for the adjustment for inflation of the sales tax fairness credit and the property tax fairness credit.

3. It increases the maximum credit under the property tax fairness credit from $900 to $1,000 for an individual who is 65 years of age or older and from $600 to $750 for other individuals and provides a minimum credit of $400 for persons who are 65 years of age or older with income that does not exceed $20,000.

4. It establishes a new credit equal to $600 for married persons filing jointly and $300 for other filing statuses.

5. It establishes a new tax credit equal to $300 for each qualifying child and dependent of the taxpayer for whom the federal child tax credit pursuant to the Internal Revenue Code, Section 24 is claimed for the same taxable year. The new credit is available for tax years beginning on or after January 1, 2018.

Part C makes the following changes to the individual and corporate income taxes.

1. It repeals Maine's domestic production activities deduction income modification. The related federal deduction is repealed for tax years beginning on or after January 1, 2018.

2. It does not conform to new federal treatment of bonus depreciation. It maintains Maine's current law requiring the addback federal bonus depreciation and retains the compensating Maine capital investment credit through 2019 as provided under current Maine law.

3. It requires that any amount claimed as a special deduction provided by the Internal Revenue Code, Section 199A must be added back to federal taxable income for purposes of calculating income tax liability of estates and trusts under the Maine Revised Statutes, Title 36, chapters 809 and 811. Individual taxpayers are not allowed the special

deduction provided by the Internal Revenue Code, Section 199A in calculating Maine taxable income; this section provides similar treatment to estates and trusts.

4. It amends the corporate alternative minimum tax for tax years beginning after December 31, 2017 to provide that the tax is based on the Internal Revenue Code and amendments to the Code on December 31, 2016.

5. It maintains the addback of bonus depreciation as expanded under the federal Tax Cuts and Jobs Act of 2017. It retains the application of the Maine capital investment credit for bonus depreciation addbacks at the same level as under current law and does not conform the credit to expansions of bonus depreciation under the federal Tax Cuts and Jobs Act of 2017.

Part D makes the following corporate income tax changes regarding the federal mandatory repatriation of deferred foreign income under the federal Tax Cuts and Jobs Act of 2017, the taxation of dividends, subpart F income as defined in Section 952 of the Internal Revenue Code, or "Code," and global intangible low-taxed income.

1. It creates an addition modification in the amount of the participation exemption claimed in accordance with the Code, Section 965(c). This provision applies to tax years beginning on or after January 1, 2017.

2. It creates an addition modification in the amount of the global intangible low-taxed income deduction claimed in accordance with the Code, Section 250(a)(1)(B). This provision applies to tax years beginning on or after January 1, 2018.

3. It makes technical clarifications, removing obsolete language from the existing dividends-received subtraction, clarifying netting and sales factor treatment consistent with administrative practice and excluding from dividend income subpart F income, global intangible low-taxed income included in federal taxable income in accordance with the Code, Section 951A and deferred foreign income included in federal taxable income in accordance with the Code, Section 965. This provision applies to tax years beginning on or after January 1, 2017.

4. It creates a subtraction modification for an amount equal to 50% of the apportionable subpart F income included in federal gross income by the taxpayer. This section codifies the longstanding administrative practice of applying the existing dividends-received subtraction to subpart F income as well as dividends. This provision applies to tax years beginning on or after January 1, 2017.

5. It creates a subtraction modification for an amount equal to 80% of the apportionable deferred foreign income included in federal gross income, pursuant to the Code, Section 965(a) and (b), by the taxpayer. This provision applies to tax years beginning on or after January 1, 2017.

6. It creates a subtraction modification for an amount equal to 50% of the apportionable global low-taxed intangible income included in federal gross income, pursuant to the Code, Section 951A, by the taxpayer. This provision applies to tax years beginning on or after January 1, 2018.

Part E retains the Maine exclusion amount under the estate tax at the amount in effect for deaths prior to January 1, 2018 and does not conform to the increases in the federal basic exclusion amount.

Part F maintains the deductibility of distributions from the Internal Revenue Code, Section 529 college savings accounts by not conforming to federal expansions that allow the funds to be used for elementary and secondary public, private or religious schools.

Part G provides a credit under the income tax and the insurance premium tax equal to the federal credit for employer-paid family and medical leave. The federal credit expires December 31, 2019.

Part H increases the earned income tax credit from 5% to 15% of the federal earned income tax credit for tax years beginning on or after January 1, 2018.

Part I adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

Revised: 04/13/18 mac

128th MAINE LEGISLATURE

LD 1655 **LR 2770(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-476)
Committee: Taxation
Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	$3,929,800	$48,274,305	$42,772,795	$41,923,950
Appropriations/Allocations				
General Fund	$0	$714,905	$260,045	$260,045
Revenue				
General Fund	($3,929,800)	($47,559,400)	($42,512,750)	($41,663,905)
Other Special Revenue Funds	($80,200)	($970,600)	($2,246,000)	($2,221,500)

Fiscal Detail and Notes

This bill provides tax conformity with certain portions of the Tax Cuts and Jobs Act (TCJA) and other tax changes passed by the federal government through March 23, 2018. It also makes various other changes to individual and corporate income tax laws. It would result in a loss of General Fund revenue of $3,929,800 in fiscal year 2017-18 and $47,559,400 in fiscal year 2018-19 and a loss of Local Government Fund revenue of $80,200 in fiscal year 2017-18 and $970,600 in fiscal year 2018-19. The bill includes a General Fund appropriation of $714,905 in fiscal year 2018-19 to the Department of Administrative and Financial Services for 3 Tax Examiner positions and related All Other and computer programming costs.