

MAINE STATE LEGISLATURE

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MATTHEW K. KRUK
ACTING DIRECTOR

MAINE STATE LEGISLATURE
OFFICE OF PROGRAM EVALUATION AND
GOVERNMENT ACCOUNTABILITY

December 15, 2020

The Honorable Benjamin M. Chipman, Senate Chair
The Honorable Maureen Fitzgerald Terry, House Chair
And Members of the Joint Standing Committee on Taxation
100 State House Station
Augusta, Maine 04333

Dear Taxation Committee Members:

In accordance with 3 MRSA §1000 sub-section 2, I respectfully submit this report on “Interstate & Foreign Commerce Exemption” tax expenditures. This report is not the result of a full OPEGA evaluation. As intended under statute, it is instead a compilation of information to support your committee’s statutorily-required expedited review of certain Maine State tax expenditures that are on the approved review schedule for 2020.

OPEGA looks forward to reviewing this report with you at your request.

Sincerely,

A handwritten signature in black ink that reads "Matthew K. Kruk".

Matthew K. Kruk
Acting Director

Enclosure

Cc: Government Oversight Committee Members
Julie Jones, Senior Legislative Analyst, Office of Fiscal and Program Review
Suzanne Voynik, Analyst, Office of Fiscal and Program Review
Kirsten Figueroa, Commissioner, Department of Administrative and Financial Services
Heather Perreault, Deputy Commissioner of Finance
Michael Allen, Associate Commissioner Tax Policy
Jerome Gerard, Director, Maine Revenue Services

**Information to Support 2020 Expedited Reviews
of Maine State Tax Expenditures**

**“Interstate & Foreign Commerce Exemption” Tax Expenditures
Sales and Use Tax & Fuel Excise Taxes**

Prepared by

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

Submitted to

**Joint Standing Committee on Taxation
and
Government Oversight Committee**

January 2021

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Overview and Purpose

The Office of Program Evaluation and Government Accountability (OPEGA) is tasked by 3 MRSA §1000(2) with providing information to support the Legislature's Joint Standing Committee on Taxation in carrying out expedited reviews of certain Maine State tax expenditures. As defined by 3 MRSA §992 and 5 MRSA §1666, "tax expenditures" means "those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability." The information OPEGA is required to provide includes:

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

As required by 3 MRSA §998, the Legislature's Government Oversight Committee (GOC), in consultation with the Taxation Committee, previously assigned each Maine State tax expenditure to one of three review categories: (a) full evaluation; (b) expedited review; (c) no review. Tax expenditures selected by the Committees for expedited review are those intended to implement broad tax policy goals that cannot be reasonably measured.¹

This information is provided annually to aid the Taxation Committee for their review of tax expenditures and associated tax policies pursuant to 3 MRSA §1000(1). Since 2016, OPEGA has submitted expedited reviews grouped into the tax policy areas noted in Table 1. In 2021, OPEGA will complete a full cycle of reviews of the expenditures categorized by the GOC as expedited reviews.

Table 1: Previous and Upcoming Expedited Reviews by Tax Policy Area	
Calendar Year	Tax Policy Area
2016	Necessity of Life Exemptions
2017	Tax Fairness Exemptions
2018	Specific Policy Goal/Mandate Exemptions and Charitable Exemptions (1 st Half)
2019	Charitable Exemptions (2 nd Half)
2020	Interstate and Foreign Commerce Exemptions
2021	Conformity with IRC and Exemptions for Inputs to Tangible Products

The 13 tax expenditures selected by the Committees for expedited review in 2020 include exemptions from the sales and use tax and exemptions from the fuel excise taxes. Each of these tax exemptions were classified by the GOC in consultation with the Taxation Committee under the policy area described as "Interstate and Foreign Commerce."

¹ 3 MRSA §998(1)(B)

"Interstate and Foreign Commerce" Policy Area: Definition

OPEGA's 2015 Proposal for Legislative Review of Maine State Tax Expenditures defines the "Interstate and Foreign Commerce" policy area as:

Exempting certain items from tax to create an incentive to purchase them in Maine, or helping align Maine's tax policy with other jurisdictions so Maine is not at a competitive disadvantage.

Each of these sales and excise taxes which are exempted, appear to involve activities with a substantial presence within Maine and none of these taxes are applied only to nonresidents. Consequently, the policy area definition for these expenditures notes the purposes of these exemptions as being incentives for purchasing Maine products as well as to not create a disadvantage for Maine businesses with respect to other states.

To aid in categorizing the tax expenditures for evaluation by the Taxation Committee, OPEGA has grouped the 2020 tax expenditures into groupings of similar exemptions, based on the type of tax exempted. The groupings of expenditures described as "Interstate and Foreign Commerce" are listed as:

- 1) Exemptions from Sales and Use Taxes
- 2) Exemptions from Internal Combustion Fuels Excise Taxes
- 3) Exemptions from Special Fuels Excise Taxes

The first of these exemptions affects the General Fund, while the last two affect revenue for the Highway Fund. The 13 tax expenditures in the 2020 cohort contained in this report are grouped by category in Table 2.

Table 2: 2020 Tax Expenditures Grouped by Category	
Category	Expenditures
Exemptions from Sales and Use Taxes	Exemption for Sales of Ship's Stores
	Exemption for Sales of Certain Jet Fuels
	Exemption for Sales of Certain Vehicles Purchased or Leased by Non-Residents
	Exemption for Sales of Certain Vehicles Purchased or Leased by Qualifying Resident Businesses
	Exemption for Sales of Watercraft Purchased by Nonresidents
	Exemption for Sales of Property Used in Interstate Commerce
	Exemption for Sales of Property Delivered Outside this State
	Exemption for Sales of Certain Printed Materials
	Exemption for Sales of Certain Aircraft
	Exemption for Sale, Use or Lease of Aircraft and Sales of Repair and Replacement Parts
Exemptions from Internal Combustion Fuels Excise Taxes	Excise Tax Exemption for Gasoline Exported from the State
	Excise Tax Exemption for Jet or Turbojet Fuel - International Flights
Exemptions from Special Fuels Excise Taxes	Excise Tax Exemption for Special Fuel Exported from the State

Fiscal Impact Estimates

The fiscal impact estimates presented in this report represent estimated foregone revenue for the State due to the exemptions from sales taxes and fuel excise taxes. Maine Revenue Services (MRS) is required to prepare these estimates biennially based on the current tax law in effect at the time of the estimate. MRS uses various methods to estimate the forgone General Fund and Highway Fund revenue loss. The estimates reported here are taken from the Maine State Tax Expenditure Reports (MSTER).²

The individual tax expenditure descriptions beginning on page 6 include MRS' estimates of revenue loss by fiscal year (FY) with notation of the estimation method used.

Table 3: Estimated Fiscal Impact of 2020 Cohort of Tax Expenditures by Category

	FY16	FY17	FY18	FY19	FY20	FY21
Exemptions from Sales and Use Taxes	\$19,212,973	\$19,398,954	\$17,709,998	\$18,079,998	\$18,379,998	\$18,619,998
Exemptions from Internal Combustion Fuels Excise Taxes	\$67,054	\$67,724	\$61,280,000	\$64,550,000	\$67,070,000	\$68,410,000
Exemptions from Special Fuels Excise Taxes	N/A	N/A	\$14,980,000	\$15,770,000	\$16,390,000	\$16,720,000
Totals	\$19,280,027	\$19,466,678	\$93,969,998	\$98,399,998	\$101,839,998	\$103,749,998

Source: Estimates for FY16 & FY17 are from the 2018-2019 MSTER while the estimates for FY18 through FY21 are from the 2020-2021 MSTER. Where ranges are reported, the average of the lower and upper end of the range is used.

The estimates of fiscal impact from the MSTER were made prior to the economic effects of the COVID-19 global pandemic. The December 2020 Report of the Maine State Revenue Forecasting Committee³ notes an overall estimated decrease in General Fund Revenues of 3.9% in FY 2021 and a 0.8% decrease in Highway Fund revenue. OPEGA is unaware of any information with which to allocate these reductions made by the Revenue Forecasting Committee to the estimates of foregone revenue from these 13 tax expenditures.

Information on Individual Tax Expenditures

The remainder of this report contains a series of tables summarizing the information OPEGA is required to provide under 3 MRSA §1000(2) for each individual tax expenditure. OPEGA gathered this information from the following sources:

- Sections of Maine statute pertaining to each exemption;

² The MSTER is a report prepared by MRS in odd-numbered years to meet the requirements of 36 MRSA §199-B. The most recent edition was published February 15, 2019.

³ December 2020 Revenue Forecasting Committee Report (page 2 and page 4) <http://legislature.maine.gov/doc/4773>

- MSTER for 2018-2019 and 2020-2021; and
- Direct request for tax expenditure information from MRS.

In addition, the legislative history summarized in this report was prepared by OPEGA based on details researched and provided to OPEGA by the Law and Legislative Reference Library. Of the sources we reviewed, none directly identified intended beneficiaries for these exemptions, so OPEGA has defined these based on our understanding of the expenditures. In the case of sales taxes and excise taxes based upon sales, the beneficiary is typically the organization which makes the sale.

OPEGA used the 2018-2019 and 2020-2021 editions of the MSTER as the source of fiscal impact estimates in this report. MRS told OPEGA they do not use these estimates to identify trends; rather, the numbers are “point in time” based on the economic forecast using the best information available at the time. Estimates are influenced by the anticipated tax rates; economic activity; policy changes; available data; and other factors. This makes it challenging to discern any trends or policy impacts over time using the revenue loss estimates published in the MSTER. Consequently, MRS is unable to determine the amount of impact from each of these factors in a given year. They may adjust an estimate based on their assessment of the anticipated impact of certain changes, but that may be one of many factors that contribute to an estimate in a given year.

Neither OPEGA nor MRS was able to identify any existing data that could be used to assess how closely MRS’ estimates reflected actual forgone revenue, or that would better illustrate trends in fiscal impact. It is beyond the scope and resources of OPEGA to delve more deeply into the methods used to calculate individual tax expenditures or more fully research other potential data sources. If the Legislature is interested in understanding fiscal impact trends and/or actual impacts from policy changes on these tax expenditures, we suggest the Joint Standing Committee on Taxation confer with MRS and OFPR on options for obtaining such analyses in the future.

Tax Expenditure	Exemption for Sales of Ship's Stores		
Statutory reference	36 MRSA §1760(4)		
Distribution mechanism	Exempted from taxation at point of sale.		
Brief description	Sales of cabin, deck, engine supplies and bunkering oil to ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce are exempt for the sales and use tax.		
Intended beneficiaries	Owners/Operators of ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce.		
Estimated fiscal impact	FY16	\$250,000 - \$999,999	<i>Source: 2018-2019 Maine State Tax Expenditure Report</i>
	FY17	\$250,000 - \$999,999	
	FY18	\$250,000 - \$999,999	<i>Source: 2020-2021 Maine State Tax Expenditure Report</i>
	FY19	\$250,000 - \$999,999	
	FY20	\$250,000 - \$999,999	
	FY21	\$250,000 - \$999,999	
Notes on estimated fiscal impact	The revenue loss is estimated as a range of possible values because little or no data is available.		
Legislative history	Public Law	Change	
	PL 1953, c. 375	Enacted to include a sales tax exemption for the purchase of cabin, deck and engine supplies for ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce - but does not include fuel and bunkering oil.	
	PL 1957, c. 358	Amended to exempt bunkering oil from sales tax for ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce.	
	PL 1967, c. 89	Amended to exempt fuel from sales tax for ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce.	

Tax Expenditure	Exemption for Sales of Certain Jet Fuels		
Statutory reference	36 MRSA §1760(8)(B)		
Distribution mechanism	Exempted from taxation at point of sale.		
Brief description	Sales and use tax is exempted for internal combustion engine fuel that is bought and used for the purpose of propelling jet engine aircraft. (This fuel is subject to a separate excise tax.)		
Intended beneficiaries	Owners/Operators of jet engine aircraft.		
Estimated fiscal impact	FY16	\$6,502,226	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$6,632,270	
	FY18	\$4,560,000	
	FY19	\$4,800,000	Source: 2020-2021 Maine State Tax Expenditure Report
	FY20	\$4,990,000	
	FY21	\$5,120,000	
Notes on estimated fiscal impact	The number of gallons of jet fuel sold, which is reported on motor fuel tax returns, is used to estimate the cost of this exemption.		
Legislative history	Public Law	Change	
	PL 1969, c. 223	Amended §1760(8) - which exempts motor fuels which have paid excise taxes from sales and use taxes - to include that jet and turbojet fuel is not exempt from sales tax.	
	PL 1977, c. 572	Amended to allow jet and turbojet fuel used to propel aircraft on international flights to be exempt from sales and use tax.	
	PL 1981, c. 702	Amend to clarify the language of sub-§8 by using paragraph format.	
	PL 1987, c. 798	Amended to remove the requirement that fuels must be used on international flights to be eligible for the exemption.	
	PL 2009, c. 434	Amended to no longer differentiate the terms "turbo-jet" and "jet" engine aircraft.	

Tax Expenditure	Exemption for Sales of Certain Vehicles Purchased or Leased by Non-Residents		
Statutory reference	36 MRSA §1760(23-C)		
Distribution mechanism	Exempted from taxation at point of sale.		
Brief description	<p>A sales tax exemption on sales or leases of the following vehicles to a person that is not a resident of this State, if the vehicle is intended to be driven or transported outside the State immediately upon delivery:</p> <ul style="list-style-type: none"> (A) Motor vehicles other than those that are being leased for a period of less than one year; (B) Semitrailers; (C) Aircraft, if not exempted under subsection 88-A; and (E) Camper trailers, including truck campers, other than those that are being leased for a period of less than one year. <p>If the vehicles are registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price. (Paragraph D was repealed and statute was not re-sequenced.)</p>		
Intended beneficiaries	Maine businesses engaged in the sale or lease of certain motor vehicles and trailers		
Estimated fiscal impact	FY16	\$250,000 - \$999,999	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$250,000 - \$999,999	
	FY18	\$250,000 - \$999,999	
	FY19	\$250,000 - \$999,999	Source: 2020-2021 Maine State Tax Expenditure Report
	FY20	\$250,000 - \$999,999	
	FY21	\$250,000 - \$999,999	
Notes on estimated fiscal impact	The revenue loss is estimated as a range of possible values because little or no data is available.		
Legislative history	Public Law	Change	
	PL 1999, c. 759	Enacted to extend the sales tax exemption for vehicles purchased or leased by nonresidents and intended to be transported out of the State immediately upon delivery by the seller.	
	PL 2001, c. 682	Amended to extend the sales tax exemption to leased vehicles intended to be driven or transported out of the State immediately upon delivery.	
	PL 2003, c. 688	Amended to clarify statute by including the statute reference changes from PL 2003 c.414 and the removal of vehicle leases of less than one year from the tax exemption that occurred as a result of PL 2003, c.390.	
	PL 2005, c. 618	Amended to reformat for clarity and repealed paragraph D, the exemption of sales tax on truck bodies and trailers manufactured in the State and sold to nonresidents and are intended to be transported out of State immediately upon delivery.	
	PL 2007, c. 438	Amended to use the phrase "person that is not a resident of this State" instead of "nonresident" and then deleted the last	

		paragraph which defined nonresident, notwithstanding a section that was repealed in 2007.
	PL 2011, c. 380	Amended statute to not include aircraft in the exemption that are already exempted by sub-§88-A.
	PL 2013, c. 86	Amended to exempt sales tax on ATVs and snowmobiles purchased by non-residents if the vehicle is immediately leaving the State upon delivery.
	PL 2015, c. 300	Paragraph A amended with minor wording changes and paragraph E amended to remove the tax exemption from camper trailer rentals of less than one year.

Tax Expenditure	Exemption for Sales of Certain Vehicles Purchased or Leased by Qualifying Resident Businesses		
Statutory reference	36 MRSA §1760(23-D)		
Distribution mechanism	Exempted from taxation at point of sale.		
Brief description	Sales tax exemption on the sale or lease of a motor vehicle, except an automobile rental for a period of less than one year or an all-terrain vehicle or snowmobile, to a qualifying resident business if the vehicle is intended to be driven or transported outside the State immediately upon delivery and intended to be used exclusively in the qualifying resident business's out-of-state business activities.		
Intended beneficiaries	Maine businesses engaged in the sale or lease of certain motor vehicles		
Estimated fiscal impact	FY16	\$1,038,507	<i>Source:</i> 2018-2019 Maine State Tax Expenditure Report
	FY17	\$1,059,277	
	FY18	\$1,000,000	
	FY19	\$1,050,000	<i>Source:</i> 2020-2021 Maine State Tax Expenditure Report
	FY20	\$1,090,000	
	FY21	\$1,110,000	
Notes on estimated fiscal impact	Review of audit activity.		
Legislative history	Public Law	Change	
	PL 2007, c. 410	Enacted to exempt from sales and use tax the sale of vehicles under certain circumstances to a qualifying resident business if the vehicle is removed from the State immediately and for more than one year.	

Tax Expenditure	Exemption for Sales of Watercraft Purchased by Nonresidents		
Statutory reference	36 MRSA §1760(25)		
Distribution mechanism	Exempted from taxation at point of sale.		
Brief description	Sales tax is exempted on purchases and refitting or repair of watercraft by a person that is not a resident of this State if the watercraft is sailed or transported outside the State within 30 days of delivery by the seller.		
Intended beneficiaries	Maine businesses engaged in building and repairing watercraft		
Estimated fiscal impact	FY16	\$250,000 - \$999,999	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$250,000 - \$99,999	
	FY18	\$250,000 - \$999,999	Source: 2020-2021 Maine State Tax Expenditure Report
	FY19	\$250,000 - \$999,999	
	FY20	\$250,000 - \$999,999	
	FY21	\$250,000 - \$999,999	
Notes on estimated fiscal impact	The revenue loss is estimated as a range of possible values because little or no data is available.		
Legislative history	Public Law	Change	
	PL 1957, c. 199	Enacted an emergency sales tax exemption for yachts and other pleasure boats and commercial vessels and boats purchased by nonresidents that are either delivered outside the State or immediately transported outside the State upon delivery.	
	PL 1965, c. 257	Amended the exemption to include boat materials if under contract to make a boat delivered out of State by the seller.	
	PL 1967, c. 211	Amended the exemption to include materials for boats that are being repaired, altered, refit, reconstructed, overhauled or restored if they are to be delivered out of state by the seller.	
	PL 1969, c. 24	Amended to clarify language regarding whether title for the watercraft transfers within the State or outside of the State.	
	PL 1979, c. 687	Amended to disallow the exemption if the boat is moved back to Maine as its home port within 6 months of the sale.	
	PL 1985, c. 691	Amended to extend the period under which the exemption is disallowed if the boat is moved back to Maine as home port to 12 months.	
	PL 1987, c. 497	Amended to clarify the language to disallow the exemption if the boat is present in the State for more than 30-days during the 12-month period following its date of purchase as well as if the boat has Maine as its home port within the same timeframe.	
	PL 1987, c. 772	Amended to restate the exemption in positive terms rather than including added situations where the exemption is disallowed.	
	PL 1991, c. 546	Amended to simplify language by using "watercraft" rather than specify various types of watercraft that are registered for numbering, enrolled or documented under federal or foreign law in the appropriate customhouses or registry offices for location thereof or home ports outside the State.	

	PL 1997, c. 668	Amended to extend the exemption to boats that are temporarily stored in the State for more than 30 days as long as other conditions of the exemption are met.
	PL 1999, c. 708	Amended to provide a definition of nonresident for this subsection which includes specified groups of people (societies, clubs, associations, partnerships, LLCs, trusts, estates, corporations and other legal entities).
	PL 2005, c. 218	Amended exemption with minor wording changes.
	PL 2007, c. 438	Amended to change "nonresident" to "person that is not a resident of this State" which allowed removal of the definition of nonresident that was specific to this sub-section.
	PL 2009, c. 361	Amended with minor changes to improve clarity.
	PL 2009, c. 620	Amended to provide for a reduced sales tax rate for watercraft purchased and kept in the State or brought into the State by nonresidents for more than 30 days within 12 months of having been exempted from taxation at the time of sale.
	PL 2011, c. 285	Amended to clarify the intent of the Legislature to exempt from sales and use tax - watercraft used in this State for no more than 30 days by a nonresident and repealed redundant language.
	PL 2015, c. 300	Amended to clarify existing language with respect to the partial sales tax exemption for certain watercraft purchased in Maine by persons that are not residents and whose watercraft remains in Maine for at least 30 days (other than for temporary storage) within one year of sale.

Tax Expenditure	Exemption for Sales of Property Used in Interstate Commerce		
Statutory reference	36 MRSA §1760(41A)		
Distribution mechanism	Exempted from taxation at point of sale.		
Brief description	The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce is exempt from sales and use tax.		
Intended beneficiaries	Business entities engaged in interstate or foreign commerce		
Estimated fiscal impact	FY16	\$1,000,000 - \$2,999,999	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$1,000,000 - \$2,999,999	
	FY18	\$1,000,000 - \$2,999,999	
	FY19	\$1,000,000 - \$2,999,999	Source: 2020-2021 Maine State Tax Expenditure Report
	FY20	\$1,000,000 - \$2,999,999	
	FY21	\$1,000,000 - \$2,999,999	
Notes on estimated fiscal impact	The estimated revenue loss is a range because little or no data is available.		
Legislative history includes history of §1760(41) which was repealed and replaced by §1760(41A)	Public Law	Change	
	PL 1979, c. 686	Enacted a sales tax exemption for the sale of a vehicle, railroad rolling stock, aircraft or watercraft which is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 10 days after that sale and which is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce.	
	PL 1981, c. 705	Amended to allow the exemption if the instrumentality was placed in service within 30 days rather than 10.	
	PL 1987, c. 497	Amended to allow the State Tax Assessor to extend the time period required to place the instrumentality in use for foreign or interstate commerce for up to an addition 60 days for good cause.	
	PL 1999, c. 759	Amended the sales tax exemption for specifically for watercraft used in interstate or foreign commerce by extending the time period within which the watercraft must be put to use in interstate or foreign commerce if the watercraft is not capable of use for that purpose.	
	PL 2009, c. 361	Amended the exemption so that the restriction requiring 80% of the use of the instrumentality in interstate commerce does not include use when carrying cargo that originates and terminates within the State. Also amended statute to clarify that the exemption is not limited to instrumentalities otherwise required to be exempt under the United States Constitution.	

	PL 2011, c. 501	Amended the exemption so that the restriction requiring 80% of the use of the instrumentality in interstate commerce includes the use within the State of personal property that are buses with a capacity of at least 47 passengers that is engaged in transporting passengers within the State as long as the cruise originates and terminates outside of the State.
	PL 2017, c. 375	Repealed §1760(41) and enacted §1760(41-A) which amends provisions of the sales tax exemption for certain instrumentalities of interstate or foreign commerce to clarify the calculation of the period during which eligible property is placed in interstate or foreign commerce or intrastate commerce and to clarify other conditions of eligibility.

Tax Expenditure	Exemption for Sales of Property Delivered Outside this State		
Statutory reference	36 MRSA §1760(82)		
Distribution mechanism	Exempted from taxation at point of sale.		
Brief description	Sales of tangible personal property when the seller delivers the property to a location outside this State or to the United States Postal Service, a common carrier or a contract carrier hired by the seller for delivery to a location outside this State, regardless of whether the property is purchased F.O.B. shipping point or other point in this State and regardless of whether passage of title occurs in this State are exempt from tax.		
Intended beneficiaries	Export businesses within the State		
Estimated fiscal impact	FY16	\$6,000,000 +	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$6,000,000 +	
	FY18	\$6,000,000 +	
	FY19	\$6,000,000 +	Source: 2020-2021 Maine State Tax Expenditure Report
	FY20	\$6,000,000 +	
	FY21	\$6,000,000 +	
Notes on estimated fiscal impact	The revenue loss is estimated as a range of possible values because little or no data is available.		
Legislative history	Public Law	Change	
	PL 1999, c.414	Enacted the sales tax exemption on sales of tangible personal property when the seller delivers the property out of State regardless of when title transfers or who pays for and arranges delivery.	
	RR 1999, c. 1	Reallocated sub-§80 to sub-§82	
	PL 2007, c. 627	Amended to state that the exemption does not apply to any subsequent use of the property in this State.	

Tax Expenditure	Exemption for Sales of Certain Printed Materials			
Statutory reference	36 MRSA §1760(83)			
Distribution mechanism	Exempted from taxation at point of sale.			
Brief description	Sales of advertising or promotional materials printed on paper and purchased for the purpose of subsequently transporting such materials outside the State for use by the purchaser thereafter solely outside the State.			
Intended beneficiaries	Exporters of printed paper materials for advertising and promotions			
Estimated fiscal impact	FY16	\$250,000 - \$999,999	<i>Source: 2018-2019 Maine State Tax Expenditure Report</i>	
	FY17	\$250,000 - \$99,999		
	FY18	\$250,000 - \$999,999	<i>Source: 2020-2021 Maine State Tax Expenditure Report</i>	
	FY19	\$250,000 - \$999,999		
	FY20	\$250,000 - \$999,999		
	FY21	\$250,000 - \$999,999		
Notes on estimated fiscal impact	The revenue loss is estimated as a range of possible values because little or no data is available.			
Legislative history	Public Law	Change		
	PL 1999, c.521	Enacted the sales tax exemption on sales of advertising or promotional materials printed on paper that are subsequently transported out of State for use by the purchaser outside of the State.		
	RR 1999, c. 1	Reallocated sub-§81 to sub-§83.		

Tax Expenditure	Exemption for Sales of Certain Aircraft			
Statutory reference	36 MRSA §1760(88)			
Distribution mechanism	Exempted from taxation at point of sale.			
Brief description	Sales or leases of aircraft that weigh over 6,000 pounds, that are propelled by one or more turbine engines or that are in use by a Federal Aviation Administration classified 135-operator.			
Intended beneficiaries	Sellers, resellers and lessors of certain aircraft in the State.			
Estimated fiscal impact	FY16	\$457,460	<i>Source: 2018-2019 Maine State Tax Expenditure Report</i>	
	FY17	\$471,184		
	FY18	\$470,000	<i>Source: 2020-2021 Maine State Tax Expenditure Report</i>	
	FY19	\$490,000		
	FY20	\$510,000		
	FY21	\$530,000		
Notes on estimated fiscal impact	Sales tax micro-simulation model.			
Legislative history	Public Law	Change		
	PL 2005, c. 519	Enacted an exemption from sales and use tax the sale or lease of aircraft that weigh over 6,000 pounds that are propelled by one or more turbine engines or that are in use by an FAA classified 135-operator.		

Tax Expenditure	Exemption for Sale, Use or Lease of Aircraft and Sales of Repair and Replacement Parts		
Statutory reference	36 MRSA §1760(88-A)		
Distribution mechanism	Exempted from taxation at point of sale.		
Brief description	Sales, use or lease of aircraft and sales of repair and replacement parts exclusively for use in aircraft or in the significant overhauling or rebuilding of aircraft or aircraft parts or components are exempt from sales and use tax from July 1, 2011 to June 30, 2033.		
Intended beneficiaries	Aircraft repair and refurbishment industry within the State		
Estimated fiscal impact	FY16	\$714,782	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$736,225	
	FY18	\$1,180,000	
	FY19	\$1,240,000	Source: 2020-2021 Maine State Tax Expenditure Report
	FY20	\$1,290,000	
	FY21	\$1,360,000	
Notes on estimated fiscal impact	Sales tax micro-simulation model.		
Legislative history	Public Law	Change	
	PL 2011, c.380	Enacted an exemption from sales and use tax the sales, use or leases of aircraft and sales of repair and replacement parts used in aircraft or in the significant rebuilding of aircraft or components of aircraft from July 1, 2011 to June 30, 2015.	
	PL 2013, c.368	Amended to extend the exemption until June 30, 2021.	
	PL 2013, c.379	Amended to extend the exemption until June 30, 2033.	

Tax Expenditure	Excise Tax Exemption for Gasoline Exported from the State		
Statutory reference	36 MRSA §2903(4)(A)		
Distribution mechanism	Deducted from the amount delivered to the State based on gross quantity sold by the manufacturer or retailer who is collecting the tax on consumers as an agent of the State.		
Brief description	Gasoline excise taxes imposed by §2903 are exempted for gasoline sold wholly for exportation from this State by a licensed distributor or an exporter.		
Intended beneficiaries	Distributors and exporters of internal combustion fuels.		
Estimated fiscal impact	FY16	N/A	<i>Source: 2018-2019 Maine State Tax Expenditure Report</i>
	FY17	N/A	
	FY18	\$61,170,000	<i>Source: 2020-2021 Maine State Tax Expenditure Report</i>
	FY19	\$64,430,000	
	FY20	\$66,950,000	
	FY21	\$68,290,000	
Notes on estimated fiscal impact	The estimated revenue loss is based on information reported on fuel tax return forms. This exemption from the gasoline tax was not estimated in the 2016-17 or the 2018-19 issues of the Maine State Tax Expenditure Report.		
Legislative history	Public Law	Change	
	PL 1997, c. 738	Enacted an exemption to the internal combustion fuel excise tax for internal combustion fuel sold wholly for exportation from this State.	
	PL 2009, c. 625	Amended to exempt internal combustion fuel sold wholly for exportation from this State only by a licensed distributor or an exporter.	

Tax Expenditure	Excise Tax Exemption for Jet or Turbojet Fuel - International Flights		
Statutory reference	36 MRSA §2903(4)(D)		
Distribution mechanism	Deducted from amount delivered to the State based on gross quantity sold by the manufacturer or retailer who is collecting the tax on consumers as an agent of the State.		
Brief description	Fuel bought or used by any person to propel jet or turbojet engine aircraft in international flight is exempt from the aeronautical jet fuel excise tax.		
Intended beneficiaries	Owners/Operators of jet or turbojet engine aircraft engaged in international flights		
Estimated fiscal impact	FY16	\$67,054	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$67,724	
	FY18	\$110,000	
	FY19	\$120,000	Source: 2020-2021 Maine State Tax Expenditure Report
	FY20	\$120,000	
	FY21	\$120,000	
Notes on estimated fiscal impact	The estimated revenue loss is based on information reported on motor fuel tax returns.		
Legislative history	Public Law	Change	
	PL 1997, c. 738	Enacted an exemption to the internal combustion fuel excise tax for internal combustion fuel bought or used by any person to propel jet or turbojet engine aircraft in international flight.	
	PL 2007, c. 627	Amended with minor wording changes and clarified what is considered an international flight.	
	PL 2009, c. 434	Amended to restore language limiting the scope of the exemption for internal combustion engine fuel used in international flights that was inadvertently repealed by legislation enacted in the First Special Session of the 123rd Legislature.	

Tax Expenditure	Excise Tax Exemption for Special Fuel Exported from the State		
Statutory reference	36 MRSA §3204-A(5)		
Distribution mechanism	Deducted from amount delivered to the State based on gross quantity sold by the manufacturer or retailer who is collecting the tax on consumers as an agent of the State.		
Brief description	Special fuel sold only for exportation from this State is exempt from the Special Fuel Tax.		
Intended beneficiaries	Distributors and exporters of special fuels		
Estimated fiscal impact	FY16	N/A	<i>Source: 2018-2019 Maine State Tax Expenditure Report</i>
	FY17	N/A	
	FY18	\$14,980,000	<i>Source: 2020-2021 Maine State Tax Expenditure Report</i>
	FY19	\$15,770,000	
	FY20	\$16,390,000	
	FY21	\$16,720,000	
Notes on estimated fiscal impact	The estimated revenue loss is based on information reported on motor fuel tax returns. This exemption from the special fuel tax was not estimated in the 2016-17 or the 2018-19 issues of the Maine State Tax Expenditure Report.		
Legislative history	Public Law	Change	
	PL 1995, c. 271	Enacted an exemption from the special fuels excise tax for fuels that are sold only for exportation from this State.	
	PL 2009, c. 625	Amended to exempt special fuel sold only for exportation by a licensed distributor or an exported.	

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

3 MRS §998. Process for review of tax expenditures⁴

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

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

2. Schedule. The committee, in consultation with the policy committee, shall establish a prioritized schedule of ongoing review of the tax expenditures assigned to the full evaluation and expedited review categories pursuant to subsection 1, paragraphs A and B. To the extent practicable, the committee shall group the review of tax expenditures with similar goals together.

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

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

SECTION HISTORY

2015, c 344, §4 (NEW) 2017, c 266, §1 (AMD)

3 MRS §1000. Expedited review of tax expenditures

1. Expedited review process. Beginning July 1, 2016, the policy committee shall conduct expedited reviews of tax expenditures and the associated tax policies identified under section 998, subsection 1, paragraph B, in accordance with the schedule established in section 998, subsection 2.

A. For each tax policy subject to review, the policy committee shall assess the continued relevance of, or need for adjustments to, the policy, considering:

- (1) The reasons the tax policy was adopted;
- (2) The extent to which the reasons for the adoption still remain or whether the tax policy should be reconsidered;
- (3) The extent to which the tax policy is consistent or inconsistent with other state goals; and
- (4) The fiscal impact of the tax policy, including past and estimated future impacts.

B. For each tax expenditure related to the tax policy under review, the policy committee shall assess the continued relevance of, or need for adjustments to, the expenditure, considering:

- (1) The fiscal impact of the tax expenditure, including past and estimated future impacts;
- (2) The administrative costs and burdens associated with the tax expenditure;
- (3) The extent to which the tax expenditure is consistent with the broad tax policy and with the other tax expenditures established in connection with the policy;
- (4) The extent to which the design of the tax expenditure is effective in accomplishing its tax policy purpose;

⁴ In these sections of law, “the office” refers to OPEGA; “the committee” refers to the GOC; “the policy committee” refers to the Taxation Committee.

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

- (5) The extent to which there are adequate mechanisms, including enforcement efforts, to ensure that only intended beneficiaries are receiving benefits and that beneficiaries are compliant with any requirements;
- (6) The extent to which the reasons for establishing the tax expenditure remain or whether the need for it should be reconsidered; and
- (7) Any other reasons to discontinue or amend the tax expenditure.

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

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

3. Report by policy committee; legislation. By December 1st of each year, beginning in 2016, the policy committee shall submit to the Legislature a report on the results of the expedited reviews conducted pursuant to subsection 1 that year. The policy committee may submit a bill related to the report to the next regular session of the Legislature to implement the policy committee's recommendations.

SECTION HISTORY
2015, c 344, §4 (NEW)

Appendix B: Estimated Fiscal Impact of “Interstate and Foreign Commerce” Tax Expenditures, FY16-FY21

Expenditure	Statute	FY16	FY17	FY18	FY19	FY20	FY21
Exemption for Sales of Ship’s Stores	36 MRSA §1760(4)	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999
Exemption for Sales of Certain Jet Fuels	36 MRSA §1760(8)(B)	\$6,502,226	\$6,632,270	\$4,560,000	\$4,800,000	\$4,990,000	\$5,120,000
Exemption for Sales of Certain Vehicles Purchased or Leased by Non-Residents	36 MRSA §1760(23-C)	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999
Exemption for Sales of Certain Vehicles Purchased or Leased by Qualifying Resident Businesses	36 MRSA §1760(23-D)	\$1,038,507	\$1,059,277	\$1,000,000	\$1,050,000	\$1,090,000	\$1,110,000
Exemption for Sales of Watercraft Purchased by Nonresidents	36 MRSA §1760(25)	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999
Exemption for Sales of Property Used in Interstate Commerce	36 MRSA §1760(41A)	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999
Exemption for Sales of Property Delivered Outside this State	36 MRSA §1760(82)	\$6,000,000+	\$6,000,000+	\$6,000,000+	\$6,000,000+	\$6,000,000+	\$6,000,000+
Exemption for Sales of Certain Printed Materials	36 MRSA §1760(83)	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999	\$250,000 - \$999,999
Exemption for Sales of Certain Aircraft	36 MRSA §1760(88)	\$457,460	\$471,184	\$470,000	\$490,000	\$510,000	\$530,000
Exemption for Sale, Use or Lease of Aircraft and Sales of Repair and Replacement Parts	36 MRSA §1760(88-A)	\$714,782	\$736,225	\$1,180,000	\$1,240,000	\$1,290,000	\$1,360,000
Excise Tax Exemption for Gasoline Exported from the State	36 MRSA §2903(4)(A)	N/A	N/A	\$61,170,000	\$64,430,000	\$66,950,000	\$68,290,000
Excise Tax Exemption for Jet or Turbojet Fuel - International Flights	36 MRSA §2903(4)(D)	\$67,054	\$67,724	\$110,000	\$120,000	\$120,000	\$120,000
Excise Tax Exemption for Special Fuel Exported from the State	36 MRSA §3204-A(5)	N/A	N/A	\$14,980,000	\$15,770,000	\$16,390,000	\$16,720,000
TOTAL		\$19,280,027	\$19,466,678	\$93,969,998	\$98,399,998	\$101,839,998	\$103,749,998

Source: Estimates for FY16 & FY17 are from the 2018-2019 MSTER while the estimates for FY18 through FY21 are from the 2020-2021 MSTER. For totals, where ranges are reported, the average of the lower and upper end of the range is used.

Appendix C: Additional Discussion of MRS' Microsimulation Model

History of Updates to MRS' Office of Tax Policy Microsimulation Model

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

MRS has had four Sales and Excise tax models since 1999 and has a goal of updating the model every five years. The details on models used to date are:

Model I: Contracted with KPMG, LLP in 1998. Models were completed by end of 1999 and used for fiscal note purposes beginning with the 2000 legislative session. The FY02/03 biennial budget was the first time the models were used for tax expenditure estimates (January 2001).

Model II: Contracted with Barents Group, LLC (at that time a subsidiary of KPMG) in 2002. Models were completed by the end of 2004 and used for fiscal note purposes beginning with the 2005 legislative session. The FY06/07 biennial budget was the first time the models were used for tax expenditure estimates (January 2005). Base year data in this model was for the year 2000. This model was used for fiscal estimates in the 2014-2015 Maine State Tax Expenditure Report.

Model III: Contracted with Chainbridge, LLC in 2011. Models were completed by the end of 2011 and used for fiscal note purposes beginning with the 2012 legislative session. The FY14/15 biennial budget was the first time the models were used for tax expenditure estimates (January 2013). Base year data in this model is for the year 2009. This model was used for fiscal estimates for Sales & Use Tax expenditures in the 2016-2017 Maine State Tax Expenditure Report.

Model IV: Contracted with Chainbridge, LLC in 2016. The Sales tax model was completed by the fall of 2016 and used for fiscal note purposes beginning with the 2017 legislative session. The FY18/19 biennial budget was the first time the models were used for tax expenditure estimates (January 2017). Base year data in this model is from 2012 and 2014. The income tax model was used for fiscal note purposes beginning with the 2018 legislative session.