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STATE OF MAINE  
128<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION

Joint Standing Committee on Taxation

Tax Expenditure Review

December 2017

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
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State of Maine  
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE  
COMMITTEE ON TAXATION

December 27, 2017

TO Honorable Sara Gideon, Chair  
Honorable Michael Thibodeau, Co-Chair  
Members of the Legislative Council:

FROM: Sen. Dana L. Dow, Senate Chair   
Rep. Ryan Tipping, House Chair   
Joint Standing Committee on Taxation

Attached is the final report of the Joint Standing Committee on Taxation resulting from its review of tax expenditures pursuant to 3 MRSA §§999 and 1000. The provisions subject to review in 2017 include:

1. Expedited review provisions included under the tax policy category of "tax fairness;" and
2. Full review provisions: The New Markets Capital Investment Program and the Pine Tree Development Zones program.

The report has been posted on line at <http://www.legislature.maine.gov/uploads/originals/tax-expenditure-report-final.pdf>

Please let us know if there is any other information you can provide.



**TAX EXPENDITURE REVIEW**  
**REPORT OF THE JOINT STANDING**  
**COMMITTEE ON TAXATION**

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# **TAX EXPENDITURE REVIEW**

## **REPORT OF THE JOINT STANDING COMMITTEE ON TAXATION**

### **Executive Summary**

The Joint Standing Committee on Taxation is required under 3 MRSA §§999 and 1000 to conduct an annual review of tax expenditures identified and evaluated by the Office of Program Evaluation and Governmental Accountability (OPEGA). The provisions subject to review in 2017 include:

1. Expedited review provisions included under the tax policy category of “tax fairness;” and
2. Full review provisions: The New Markets Capital Investment Program and the Pine Tree Development Zones program.

The tax expenditures subject to review by the Taxation Committee in 2017 contain both categories of tax expenditures. The OPEGA report on expedited evaluations can be found in Appendix B. The OPEGA reports on full evaluations are contained in separate reports which may be accessed at the following website: <http://legislature.maine.gov/opega/opega-reports/9149>.

### **Provisions subject to review in 2017**

**1. Expedited review provisions.** Pursuant to statute, the Office of Program Evaluation and Government Accountability (OPEGA) provides background information to the Taxation Committee for review. The Taxation Committee reviews that information and may make recommendations for legislative or administrative changes. With regard to the expedited provisions subject to review, the Committee is recommending no statutory changes to those programs at this time, although we are making a couple of administrative recommendations to fill gaps in the availability of information to facilitate future reviews.

**2. Full review provisions.** Full review provisions are subject to evaluation by the OPEGA under the oversight of the Government Oversight Committee. The results of that evaluation are provided to the Taxation Committee for review and recommendations.

**A. New Markets Capital Investment program.** With regard to the New Markets Capital Investment program, the Committee is recommending legislation to place in statute limitations on the use of “one-day” loans under the program. These rules have already been adopted by the Finance Authority of Maine which administers the program. The Committee believes that inclusion of this provision in the statutes is desirable to ensure the continued limitation of this strategy which caused significant problems with regard to the case of the credit granted with regard to Great Northern Paper Company.

The Committee notes that the final available credit allocations under this program are anticipated to all be allocated by March 2018. The Committee recommends that if the Legislature intends to enact authorization for additional allocations under this program, the design and data availability recommendations contained in the OPEGA evaluation report should be considered in more detail to identify statutory changes necessary to resolve problem areas described in the report. The Committee also intends to work with Maine Revenue Services on statutory language to clarify ambiguity identified in the OPEGA report with regard to the annual limit on the amount that may be claimed under this credit.

**B. Pine Tree Development Zones (PTDZ) program.** The Committee carefully reviewed the provisions of the OPEGA report on this program and notes that the original purpose of the program to create jobs by incentivizing economic development in areas of the state with high unemployment and low levels of economic investment has been diluted by subsequent amendments to the program since its enactment. The Committee notes that, under current law, new entry into the program is not permitted after December 31, 2018.

The Committee voted to recommend that if legislation is introduced in the Second Regular Session of the 128<sup>th</sup> Legislature to extend the PTDZ program, the design, data availability and administrative weaknesses identified in the OPEGA evaluation report should be considered in more detail to identify statutory and administrative changes necessary to resolve issues identified in the report. Subsequent to its final meeting the Committee learned that legislation to extend the program is being submitted to the Second Regular Session by the Department of Economic and Community Development. The suggested reference of the bill (LD 1645) is the Joint Standing Committee on Labor, Commerce, Research and

Economic Development. The Taxation Committee is aware that members of the LCRED Committee have been following the OPEGA report. Assuming the bill is referred to the LCRED Committee, the Taxation Committee intends to work with that Committee to assist with its consideration of the legislation.



# **TAX EXPENDITURE REVIEW**

## **REPORT OF THE JOINT STANDING COMMITTEE ON TAXATION**

### **PART I INTRODUCTION GENERAL BACKGROUND**

The Joint Standing Committee on Taxation is required under 3 MRSA §§999 and 1000 to conduct an annual review of tax expenditures identified and evaluated by the Office of Program Evaluation and Governmental Accountability (OPEGA).

In 2015, the 127<sup>th</sup> Maine Legislature enacted legislation establishing a process requiring legislative review of tax expenditures.<sup>1</sup> Under the new law, the Legislature's Government Oversight Committee (GOC) has responsibility for the details of establishing operation of the review process. The Office of Program Evaluation and Government Accountability (OPEGA) which staffs the GOC has responsibility for evaluation of tax expenditures and providing information to the Joint Standing Committee on Taxation (Taxation Committee). The Taxation Committee has responsibility for reviewing the OPEGA reports and submitting legislation to the full Legislature to make any changes considered to be necessary.

The new law required the GOC, assisted by its staff in OPEGA, and in consultation with the Taxation Committee, to assign tax expenditures to one of the following three categories.

**1. Full evaluation review.** Provisions that provide an incentive for certain behavior, that benefit a specific group or for which measurable goals can be identified.

**2. Expedited review.** Provisions that are intended to implement broad tax policy goals that cannot be reasonably measured; and

**3. No review.** Provisions that result in revenue loss less than \$50,000 or that do not otherwise warrant full or expedited review.

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<sup>1</sup> The current statutes governing tax expenditure review are located in 3 MRSA §§998-1001. See Appendix A. "Tax expenditure" is defined by statute as "...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 initial assignment of tax expenditures to the three categories was completed in 2015, and the first round of review (expedited review only) was completed in 2016.<sup>2</sup>

The tax expenditures subject to review by the Taxation Committee in 2017 contain both expedited review provisions and full evaluation provisions. Provisions subject to expedited review covered by this report are those identified as falling under the tax policy of “tax fairness.”

**Provisions subject to full evaluation in 2017** include the **New Markets Capital Investment Program** and the **Pine Tree Development Zone Program**. The OPEGA reports on full evaluations are contained in separate reports which may be accessed at the following website: <http://legislature.maine.gov/opega/opega-reports/9149>

Tax expenditures have been subject to legislative review in one form or another since 1979.<sup>3</sup> The depth of review varied from year to year, and in the years immediately preceding enactment of the current process, was limited to review of the biennial report on tax expenditures from Maine Revenue Services pursuant to 36 MRSA §199-B.

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<sup>2</sup> The original categorization provided for a six-year rotating schedule of review for both full evaluations and expedited reviews. The statutes were amended in 2017 to provide for a flexible schedule with regard to full evaluations to accommodate the complexity of review and the availability of OPEGA resources.

<sup>3</sup> The original law providing for tax expenditure review was enacted in PL 1979, chapter 467. The law governing tax expenditure review prior to enactment of the current process can still be found at 36 MRSA c. 10.

**PART II**  
**EXPEDITED REVIEW TAX EXPENDITURES**  
**“TAX FAIRNESS”**

**A. Scope of report**

Pursuant to 3 MRSA §§ 998-1001, the Taxation Committee is required to review certain tax expenditures that fall under the category of expedited review as identified by the Government Oversight Committee and to report the results of its review to the next Regular Session of the Legislature by December 1st. For tax expenditures falling within the category of “expedited review,” the Taxation Committee is required by statute to consider the following information:

1. For each tax policy subject to review:

- a. The reasons the tax policy was adopted;
- b. The extent to which the reasons for the adoption remain or whether reconsideration is needed;
- c. The extent to which the tax policy is consistent with other state goals;  
and
- d. The past and estimated future fiscal impact of the tax policy.

2. For each individual tax expenditure:

- a. The past and estimated future fiscal impact;
- b. The administrative costs and burdens;
- c. The extent to which the tax expenditure is consistent with the policy being reviewed and with other tax expenditures;
- d. The extent to which the tax expenditure is effective in accomplishing its tax policy purpose;
- e. The extent to which there are adequate mechanisms to ensure only intended beneficiaries are receiving benefits;
- f. The extent to which the reasons for establishing the tax expenditure still remain or whether there is a need for reconsideration; and
- g. Any other reasons to discontinue or amend the tax expenditure.

**B. Process**

In the identification of tax policies, the categorization of individual tax expenditures and the development of the schedule for tax expenditure review, the primary responsibility, under law, falls on the GOC with staff support from OPEGA. Input from the Taxation Committee was sought at each step in the process as required by statute.



As required by 3 MRSA §1000, subsection 2, in July, 2017, OPEGA submitted to the Taxation Committee and the GOC of the 128<sup>th</sup> Legislature *Information to Support 2017 Expedited Reviews of Maine State Tax Expenditures: “Tax Fairness” Tax Expenditures*.<sup>4</sup> Pursuant to statute, the information provided in the report includes:

- A description of the tax policy under review,
- A description 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.<sup>5</sup>

### **C. Provisions subject to review**

The specific tax expenditures identified for review during the 2017 cycle are the following sales tax exemptions.<sup>6</sup>

1. Sales tax exemption for certain loaner vehicles;<sup>7</sup>
2. Sales tax exemption for certain property purchased outside the state.<sup>8</sup>
3. Sales tax exemption for certain returnable containers;<sup>9</sup>
4. Sales tax exemption for meals and lodging provided to employees;<sup>10</sup>
5. Sales tax exemption for mobile and modular homes;<sup>11</sup>
6. Sales tax exemption for motor vehicle fuel subject to fuel taxes;<sup>12</sup>
7. Sales tax exemption for packaging materials;<sup>13</sup>
8. Sales tax trade-in credits;<sup>14</sup>
9. Income tax credit for income tax paid to other jurisdictions;<sup>15</sup>
10. Income tax deduction for active duty military pay for service performed outside the state;<sup>16</sup>

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<sup>4</sup> The OPEGA report is located in Appendix B.

<sup>5</sup> Fiscal impact estimates are included for fiscal year 2012-13 through fiscal year 2018-19.

<sup>6</sup> The text of the statutory provisions subject to review this year can be found in Appendix C.

<sup>7</sup> 36 MRSA §1760.21-A

<sup>8</sup> 36 MRSA §1760.45.

<sup>9</sup> 36 MRSA §1760.12.

<sup>10</sup> 36 MRSA §1760.75

<sup>11</sup> 36 MRSA §1760.40.

<sup>12</sup> 36 MRSA §1760.8.A.

<sup>13</sup> 36 MRSA §1760.12-A.

<sup>14</sup> 36 MRSA §1765.

<sup>15</sup> 36 MRSA §5217-A.

<sup>16</sup> 36 MRSA §5122.2.LL

11. Income tax deduction for dividends from affiliates not included in combined returns;<sup>17</sup>
12. Income tax deduction for Social Security benefits and Railroad Retirement benefits that are taxed at the federal level;<sup>18</sup>
13. Refund of gasoline tax for off-highway use and for certain bus companies;<sup>19</sup>
14. Refund of special fuel tax for off-highway use and for certain bus companies;<sup>20</sup> and
15. Real estate transfer tax – multiple exemptions<sup>21</sup>

Following receipt of the OPEGA report, the Tax Committee met twice (October 17th and November 27th) to receive briefings from OPEGA, review the OPEGA report and resolve any questions committee members might have regarding the report or the individual tax expenditures subject to review.

This Part contains the Taxation Committee’s conclusions. These conclusions are made in the context of review of individual tax expenditures required under current law. They do not necessarily indicate opinions of the Committee or its members if the provisions were to be considered in the context of overall tax reform.

#### **D. Analysis of tax policy**

For each tax policy subject to review the Taxation Committee is directed by statute to “ ... assess the continued relevance of, or need for adjustments to ... ” the policy considering:

- The reasons the tax policy was adopted;
- The extent to which the reasons for the adoption remain or whether reconsideration is needed;
- The extent to which the tax policy is consistent with other state goals; and
- The past and estimated future fiscal impact of the tax policy.<sup>22</sup>

##### **1. Reasons for tax policy**

As part of its statutory duties the GOC, in consultation with the Taxation Committee, is required to identify tax policies for tax expenditures under review. The tax expenditures reviewed this year are all provisions that have been identified as falling under the category of items that should not be taxed because they fall under the

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<sup>17</sup> 36 MRSA §5200-A.2.G.

<sup>18</sup> 36 MRSA §36 MRSA §5122.2.C.

<sup>19</sup> 36 MRSA §2908;2909.

<sup>20</sup> 36 MRSA §3218;3215.

<sup>21</sup> 36 MRSA §4641-C.

<sup>22</sup> 3 MRSA §1000.

category of “tax fairness.” The Maine Legislature has never explicitly adopted a policy of addressing all issues of “tax fairness.” The policy is described by OPEGA as supporting:

1. Any expenditure that prevents double taxation or pyramiding (taxes on taxes); provides similar treatment of similar transactions/taxpayers; or addresses public perception that it would not be fair to tax the item/transaction; and
2. Equality of treatment based on benefits received and ability to pay indicating that an equitable tax system imposes similar tax burdens on people in similar circumstances, minimizes regressivity and minimizes taxes on low-income individuals.<sup>23</sup>

**2. The extent to which the reasons for the adoption remain or whether reconsideration is needed;**

**FINDING 1: The Taxation Committee finds that the policy providing for “tax fairness” should be maintained to the extent possible within budgetary constraints.** When future tax expenditures are proposed, the Legislature should be mindful of the intrinsic problems of defining “tax fairness” and consider the extent to which those proposals fall under this category. The Committee recognizes that there are many potential tax expenditures that might be supported under the justification of “tax fairness.” It is recognized that there will likely be disagreement as to what provisions facilitate “fairness” and which provisions can be afforded within the myriad of conflicting budgetary priorities. The Committee believes that reconsideration of this policy is not warranted at this time.

**3. The extent to which the tax policy is consistent with other state goals**

**FINDING 2: The Taxation committee finds that this tax policy is consistent with the goals of state policy makers to create a tax structure that is equitable and reduces unfair burdens on taxpayers.** The policy is consistent with other state tax policies designed to reduce the impact of taxes on Maine taxpayers such as tax expenditures that support necessities of life, the homestead property tax exemption and the income tax credits designed to alleviate sales tax and property tax burdens. This policy helps to alleviate any regressive tendencies inherent in the tax laws.

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<sup>23</sup> *IRS: Understanding Taxes; NCSL: Principles of a High Quality State Revenue System.*

#### **4. The past and estimated future fiscal impact of the tax policy.**

The OPEGA report provides estimates for FY 13 through FY 19 for the General Fund revenue loss attributable to each individual tax expenditure subject to review. The estimates are derived from information provided by Maine Revenue Services in its 2015 and 2017 MRS biennial tax expenditure reports. The estimates are prepared by Maine Revenue Services primarily through use of its economic microsimulation model. The model is adjusted periodically to update the base year for economic assumptions and to incorporate factors determined annually by the Maine Economic Forecasting Commission and other entities. The total estimate of the General Fund revenue loss for the provisions subject to review increased from \$237,168,685 in FY 13 to an estimated loss in FY 19 of \$300,017,998. Approximately 60% of the estimated loss comes from the sales tax exemption for motor fuel and the income tax exclusion from Social Security and Railroad Retirement benefits.

#### **E. Analysis of individual tax expenditures**

The Taxation Committee reviewed the information provided in the OPEGA report regarding the tax expenditures subject to review in this cycle and other information made available to the Committee from staff. Maine Revenue Services was requested to attend meetings to answer questions and provide recommendations to the Committee. MRS declined to attend, requesting that the Committee instead provide any questions to them in writing. The Committee notes that it solicited information from Maine Revenue Services regarding administrative costs and burdens of the provisions subject to review but received no response. The Committee provides the following conclusions and recommendations.

**1. Sales tax exemption for certain loaner vehicles.** This provision exempts from sales and use tax the loan of a vehicle by a new vehicle dealer to a service customer for short-term use free of charge pursuant to a manufacturer's or dealer's warranty. This provision was enacted as part of changes made to reflect the expansion of the sales tax to cover the sales of dealer or extended warranties in connection with the sales of new cars. In the absence of this exemption the "loan" by the motor vehicle dealer would be considered a short-term lease subject to tax on the value of the lease, as if it were a rental car. The provision may be considered to avoid double taxation as the warranty itself would be subject to sales tax as part of the purchase of the new vehicle or as the sale of an extended warranty.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this exemption.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness in accomplishing its tax policy purpose. The sales tax exemption for the loan of a motor vehicle to a service customer for short-term use free of charge pursuant to a manufacturer's or dealer's warranty is effective in avoiding taxation of a free transaction that is arguably covered under the sale of the related warranty which is subject to sales tax.

5. Reaching intended beneficiaries. The likely beneficiaries of this provision are new vehicle dealers and purchasers.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**2. Sales tax exemption for certain property purchased by the present owner outside Maine and registered outside Maine (if registration is required).** Specific categories of exempt property are:

1. Automobiles, if purchaser was resident of the other state at time of purchase;
2. Snowmobiles or ATVs purchased by a person who is not a Maine resident;
3. Aircraft (not otherwise exempt) if the owner was a resident of another state at time of purchase and if the aircraft is in Maine no more than 20 days during the 12 months following purchase (not counting days the aircraft is in Maine for major servicing);
4. Property brought into Maine solely for conduct related to a declared state disaster or emergency; and
5. In all other cases, if the property is purchased and used outside Maine for more than 12 months.

The general intent of this provision appears to be to avoid a Maine use tax being paid on items that would have previously been subject to a sales tax in the State where originally purchased (if a sales tax applied at the point of purchase).

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this exemption.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency. The committee notes that although watercraft purchased by nonresidents outside Maine are not mentioned in this provision, watercraft are subject to similar treatment under 36 MRSA §1760, subsection 25, paragraph B. Title 36 MRSA § 1760, subsection 25, which covers additional types of watercraft purchases, has been categorized for review under the tax policy of “interstate and foreign commerce” and will be reviewed in 2020.

4. Effectiveness. This sales tax exemption appears to be effective in accomplishing its purpose

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**3. Sales tax exemption for certain returnable containers.** This exemption covers the sale of returnable containers when sold with the contents in connection with a retail sale of the contents and when sold for refilling. This exemption dates back to the original enactment of the sales tax. The tax policy intent is not entirely clear but appears to be a recognition of the administrative burden for retailers if required to collect and pay sales tax on the small amounts assessed for returnable containers.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this exemption.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no inconsistency related to this exemption.

4. Effectiveness. This sales tax exemption appears to be effective in accomplishing its purpose.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**4. Sales tax exemption for certain meals and lodging provided to employees.**

This exemption covers meals and lodging provided by employers to employees at their place of employment when the value of the meals or lodging is allowed as a credit toward the wages of those employees. This provision appears to be intended to avoid a form of double taxation in that the subject meals and lodging would be considered “income” that must be included in gross income by the employee for purposes of calculating federal income tax. This income tax treatment flows through to Maine income tax.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this exemption.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no inconsistency with the tax policy or with other tax expenditures.

4. Effectiveness. This sales tax exemption appears to be effective in accomplishing its purpose.

5. Reaching intended beneficiaries. The Committee sees no issues with this provision reaching its intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**5. Sales tax exemption for mobile and modular homes.** This provision exempts from sales tax sales of used manufactured housing. It also exempts the cost of new manufactured housing excluding materials; however, the exemption may not exceed 50% of the sale price. This provision is intended to provide parity between sales of new manufactured housing (where the cost to the purchaser usually includes both materials and labor) and new conventionally-built housing (where the cost of materials used in construction is taxed but the cost of labor is not).

1.. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this exemption.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This sales tax exemption provides a formula intended to provide similar treatment between sales of manufactured housing and sales of conventionally-built housing. It appears to accomplish this purpose.

5. Reaching intended beneficiaries. The intended beneficiaries of this provision would include both sellers and purchasers of manufactured housing.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**6. Sales tax exemption for motor vehicle fuel subject to fuel taxes.** This exemption, which has existed since the enactment of the sales tax is intended to avoid the application of both motor fuel taxes and sales taxes to fuel that is used in motor vehicles on the highway.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this exemption.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This sales tax exemption appears to have been originally conceived of as avoiding double taxation. By its nature, it achieves that purpose.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries who would best be considered to be purchasers of motor fuel used on the highways.



6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**7. Sales tax exemption for packaging materials.** This provision exempts sales of packaging materials to persons engaged in the business of packing and shipping tangible personal property and sales to a person for use in packing or shipping tangible personal property sold by them or as part of a service provided by them, such as dry cleaning. The exclusion of these items from sales tax when used for packing, packaging or shipping personal property sold by the purchaser was included as part of the original enactment of the sales tax; however, it was provided by excluding the items from the definition of “retail sale” rather than by means of exemption. It is inferred from this treatment that packaging materials were probably seen more as items that went into “production” of the final item sold which would ordinarily not be subject to sales tax. Over time similar packaging materials were added and in 1990, the language in the definition section was repealed and moved to the exemption section as an “administrative” change.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this exemption.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. While the original purpose of this provision is somewhat obscure, it appears to provide relief to retailers who do not need to segregate the cost of packaging-related materials in order to collect sales tax in connection with retail sales.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**8. Sales tax credit for certain trade-ins.** This provision permits the amount allowed by a retailer against the purchase of certain new items when the purchaser trades

in a used item in the same category to be deducted from the sales price for the purpose of calculating the amount of sales tax that must be paid on the item purchased when an item of the same type is traded in. The trade-in credit originally applied only to motor vehicles and farm tractors. Additional items have been added since 1975. The trade-in credit currently applies to the following categories of personal property:

1. Motor vehicles
2. Watercraft
3. Aircraft
4. Chainsaws
5. Special mobile equipment
6. Trailers and truck campers.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this exemption.

3. Consistency with the tax policy and other tax expenditures. The Committee notes that, it is unclear why the trade-in credit should be limited to the categories of property currently covered under current law.

4. Effectiveness. This sales tax exemption reduces the cost of purchasing the covered items when trade-in credits are allowed.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**9. Income tax credit for income tax paid to other jurisdictions.** This provision was enacted at the same time as the adoption of the income tax in 1969. The intent is to avoid double taxation that might result if income is subject to tax under the laws of two state-level jurisdictions. In *Comptroller of the Treasury of Maryland v. Wynne*, 575 U.S. \_\_\_\_ (2015), the United States Supreme Court ruled that it was a violation of the Commerce Clause of the United States Constitution for a state to impose an income tax on income that was subject to taxation in another state.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B) for estimated impact prior to fiscal year 2014. The Committee notes that, based on the recognition that this provision seems to be constitutionally required, Maine Revenue Services has ceased to estimate the revenue impact of this provision.

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this credit.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This credit is effective in ensuring compliance with the requirements of the United States Constitution.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**10. Income tax deduction for active duty military pay for service performed outside the State.** This provision is an income tax deduction for military pay earned outside of Maine for active duty military service members whose permanent duty station is outside Maine and active duty or reserve service in support of a declared state or federal disaster response at the direction of the Governor or the President of the United States.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B) for estimated impact.

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this credit.

3. Consistency with the tax policy and other tax expenditures. This provision appears to be intended to relieve tax burdens on active duty military personnel. The Committee sees no issues with consistency.

4. Effectiveness. This credit is effective in accomplishing its purpose..

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**11. Income tax deduction for dividends from affiliates not included in a combined return.** This provision excludes from income tax on corporations 50% of the apportionable dividend income that is not included with the taxpayer on a Maine combined report. The intent of this provision is to create greater equity in the treatment of foreign or domestic dividend income that is not included in a combined report and that may be subject to tax by another jurisdiction.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B) for estimated impact prior to fiscal year 2014. The Committee notes that Maine Revenue Services has ceased to estimate the revenue impact of this provision based on the recognition that this provision seems to be constitutionally required for the same reasons cited under the analysis of the income tax credit for taxes paid to another jurisdiction.

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this credit.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This credit is effective in ensuring compliance with the requirements of the United States Constitution.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**12. Income tax deduction for Social Security benefits and Railroad Retirement benefits that are taxed at the federal level.** Under the federal Internal Revenue Code a portion of Social Security and Railroad Retirement benefits may be included in taxable income for an individual with income over a prescribed amount. This provision of Maine

law reduces Maine adjusted gross income by the amount of the federally taxable benefits with the result that all Social Security and Railroad Retirement benefits are excluded from income tax in Maine.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B) for estimated impact.

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this credit.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This provision recognizes that Social Security and Railroad Retirement benefits are based on earned income that was partially subject to income tax at the time it was earned.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

**13. Refund of gasoline tax for off-highway use and for certain bus companies.**

This provision authorizes a tax refund for a portion of gasoline excise tax paid in 2 different situations:

i. Off-highway use. Gasoline used for any commercial use other than on the highways of the State or in the operation of an aircraft. The refund for fuel used off-highway is equal to the excise tax paid reduced by the use tax and 1¢ per gallon.

ii. Certain buses. Gasoline used in a “locally encouraged vehicle” (a bus exempt from municipal motor vehicle excise tax) that is used to furnish common carrier passenger service. The refund is available for the same percentage of the fuel as the percentage that the “commutation fare revenue” (revenue from fares less than 60¢ or similar commuter passes) is of the company’s total revenue from passenger operations. No refund is provided if the company’s percentage of “commutation fare revenue” is less than 60%

A refund is also allowed for special fuel tax under the same conditions. See item 14 below.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B) for estimated impact.

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this credit.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. The two components of this refund (off highway use) and certain buses) appear to have different purposes.

a. Off-highway use. Fuel excise taxes accrue to the Highway Fund and must be used for transportation purposes. Use Tax accrues to the General Fund. If fuel is not purchased for use on the highways, it seemed appropriate that the taxes from those sales should accrue to the General fund rather than the Highway Fund. This provision is effective in accomplishing that purpose.

b. Certain buses. This provision providing a refund for “locally encouraged” buses appears to be intended to benefit the provision of low-cost local transportation buses.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this provision is still warranted.

**14. Refund of special fuel tax for off-highway use and for certain bus companies.**

This provision authorizes a tax refund for a portion of special fuel excise tax paid in 2 different situations:

i. Off-highway use. Special fuel used for any commercial use other than on the highways of the State or in the operation of an aircraft. The refund for fuel used off-highway is equal to the excise tax paid reduced by use tax and 1¢ per gallon.

ii. Certain buses. Special fuel used in a “locally encouraged vehicle” (a bus exempt from municipal motor vehicle excise tax) that is used to furnish common carrier passenger service. The refund is available for the same percentage of the fuel as the percentage that the “commutation fare revenue” (revenue from fares less than 60¢ or similar commuter passes) is of the company’s total revenue from passenger operations. No refund is provided if the company’s percentage of “commutation fare revenue” is less than 60%

A refund is also allowed for gasoline tax under the same conditions. See item 13 above.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B) for estimated impact.

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this credit.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. The two components of this refund (off highway use) and certain buses) appear to have different purposes.

a. Off-highway use. Fuel excise taxes accrue to the Highway Fund and must be used for transportation purposes. Use Tax accrues to the General Fund. If fuel is not purchased for use on the highways, it seemed appropriate that the taxes from those sales should accrue to the General fund rather than the Highway Fund.

b. Certain buses. This provision providing a refund for “locally encouraged” buses appears to be intended to benefit the provision of low-cost local transportation buses.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this provision is still warranted.

**15. Real estate transfer tax exemptions.** The following transfers are exempt from the real estate transfer tax. Exemptions are available for transfers between related businesses or related individuals and transfers involving government agencies or pursuant to law.

1. Deeds to property transferred to or by U.S. or Maine government entities
2. Certain deeds associated with mortgages
3. Deeds correcting or affecting a previous deed without consideration
4. Deeds between certain family members without consideration
5. Tax deeds
6. Deeds of partition
7. Deeds pursuant to mergers or consolidations with no capital gain or loss
8. Deeds by subsidiary corporation to parent corporation
9. Deeds prior to 10/1/75
10. Deeds by a parent corporation to subsidiary corporation
11. Deeds of distribution
12. Deeds executed by public officials in performance of official duties
13. Deeds of foreclosure or in lieu of foreclosure
14. Deeds pursuant to Bankruptcy Code
15. Deeds to a trustee, nominee or straw
16. Certain deeds within a business entity for certain business organization purposes
17. Deeds to charitable conservation organizations
18. Deeds to limited liability company by related business entity
19. Deeds reflecting a change in business identity or form of ownership
20. Transfers of controlling interests if the transfer of real property would qualify for an exemption

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B) for estimated impact.

2. Administrative costs and burdens. The Committee has received no information indicating that there are administrative burdens connected with this credit.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This credit is effective in accomplishing the purpose of the exemptions



5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes these items still warrants exemption.

## PART III

### FULL EVALUATIONS NEW MARKETS CAPITAL INVESTMENT PROGRAM

Full review provisions are subject to evaluation by the Office of Program Evaluation and Government Accountability (OPEGA) under the oversight of the Government Oversight Committee (GOC). The results of that evaluation are provided to the Taxation Committee for review and recommendations.

The New Markets Capital Investment Program provides credits against income tax and insurance premium tax for qualified investments in businesses in low-income communities via a qualified community development entity. The credits are modeled on a federal credit with many definitions and administrative provisions tied to federal law. Eligibility for the credits is administered by the Finance Authority of Maine (FAME). The income tax credit is administered by Maine Revenue Services. For an in-depth description of the program and the evaluation process, see the OPEGA report.<sup>24</sup>

As required by 3 MRSA §999, subsection 1, in March 2017, the GOC completed its review of the OPEGA Report, including the receipt of input from stakeholders, and endorsed the report and submitted it, including the following evaluation elements, to the Taxation Committee for review and recommendations to the full Legislature.

### RECOMMENDATIONS

The OPEGA report makes the following recommendations with regard to the program.

- 1. Opportunities to improve program design and cost effectiveness should be considered if the Legislature authorizes additional allocations.**

**Taxation Committee conclusions.** The New Markets Capital Investment Program was enacted in 2011. It authorized FAME to allocate tax credits for up to \$250,000,000 of qualified equity investments. At the time of this evaluation, all of the allocations had been granted; however, the failure of some projects to move forward has resulted in some allocations lapsing back to FAME. FAME is in the midst of a new round of applications and expects to have the lapsed allocations awarded by the Spring of 2018. Legislation would be required to authorize any additional new allocations, and at this time it does not

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<sup>24</sup> Government Oversight Committee; Office of Program Evaluation and Government Accountability. *New Markets Capital Investment Program – Current Portfolio of Projects Produced Positive Outcomes; Cost-Effectiveness Could Be Improved.* March 2017.

appear that legislation will be introduced in the coming Second Regular Session to extend the program. The OPEGA report recommends that, if additional allocations will be authorized, the Legislature should look further into several aspects of the design of the program to provide greater assurance that its goals and purposes are accomplished with maximum impact. The Taxation Committee agrees with this recommendation.

**2. The Legislature should consider incorporating into statute a recent FAME rule change regarding “same-day loans.”**

The OPEGA report identified problems with the design of the program that permitted “one-day loans” as an allowable use of qualified investments, thereby reducing the amount of the investment available for project expenses and limiting the program’s effectiveness. As the result of criticism of the use of this strategy in one project in the early phases of the program FAME adopted a rule that restricted the use of such loans. The OPEGA report recommends that the provisions of the FAME rule be added to the programs statutes in order to ensure that the limitation is permanent and not dependent upon regulatory action.

**Taxation Committee conclusions.** The Taxation Committee agrees with the OPEGA recommendation and will submit legislation to place the restriction on “one-day loans” into the program’s statutes.

**3. Guidance should be established for potential situations where annual aggregate claims exceed \$20,000,000**

The program’s statutes provide that “... a tax credit claim may not exceed \$20,000,000 in any one state fiscal year over the 7 years of the tax credit allowance dates as described in Title 36, section 5219-HH, subsection 1, paragraph A” Maine Revenue Services has noted that the language is ambiguous and could be interpreted to mean that the limitation applies to the filing of a claim, the allowance of a claim or the payment of a claim. The OPEGA report recommends clarification of the statutory language and the establishment of guidance for situations where the annual aggregate claims exceed the \$20,000,000 limit.

**Taxation Committee conclusions.** The Taxation Committee will pursue this issue in more detail with Maine Revenue Services which did not participate in the Committee’s review of the OPEGA report. If clarifying legislation is identified, the Committee would submit legislation or seek to amend the annual bill submitted by Maine Revenue Services regarding administrative changes to the tax laws to provide the needed clarification.

**4. Data needed for efficient and effective program evaluation should be captured and maintained.**

The OPEGA report notes the absence of considerable data necessary to properly evaluate the effectiveness of the program. The report recommends that FAME develop a process for efficiently collecting and maintaining the data needed on each certified project to facilitate meaningful evaluation. The report also indicates that the Legislature should amend the program's statutes to require program participants to report the information considered necessary to the evaluation process.

**Taxation Committee conclusions.** The Taxation Committee agrees with this recommendation.

## **PART IV**

### **FULL EVALUATIONS PINE TREE DEVELOPMENT ZONE PROGRAM**

Full review provisions are subject to evaluation by the Office of Program Evaluation and Government Accountability (OPEGA) under the oversight of the Government Oversight Committee (GOC). The results of that evaluation are provided to the Taxation Committee for review and recommendations.

The Pine Tree Zones Development (PTDZ) Program provides a portfolio of benefits for qualified PTDZ business. Benefits include:

- Exclusion from certain tax increment financing limitations
- Expanded reimbursement under employment tax increment financing (ETIF)
- Sales tax exemptions and reimbursements
- Income tax and insurance premium tax credits
- Discounted utility rates
- Electricity sales benefits
- Electric line extension benefits
- Certain energy conservation program participation

Eligibility for the PTDZ program is administered by the Department of Economic and Community Development (DECD). PTDZ benefits are administered by the agency administering the program to which those benefits apply. An in-depth description of the program is contained in the OPEGA report.<sup>25</sup>

As required by 3 MRSA §999, subsection 1, in August 2017, the GOC completed its review of the OPEGA report, including the receipt of input from stakeholders, and endorsed the report and submitted it, including the following evaluation elements, to the Taxation Committee for review and recommendations to the full Legislature.

### **RECOMMENDATIONS**

The OPEGA report makes the following recommendations with regard to the program.

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<sup>25</sup> Government Oversight Committee; Office of Program Evaluation and Government Accountability. *Pine Tree Development Zones – Program Design Does Not Support Intended Goals; Whether Program is Achieving Results Despite Design Is Unknown As Adequate Data Is Not Readily Available to Assess Outcomes*. August, 2017.

**1. If there is legislative interest in extending PTDZs, program outcomes should be fully assessed and design weaknesses should be addressed.**

The Committee carefully reviewed the provisions of the OPEGA report on this program and notes that the original purpose of the program to create jobs by incentivizing economic development in areas of the state with high unemployment and low levels of economic investment has been diluted by subsequent amendments to the program since its enactment. The Committee notes that, under current law, new entry into the program is not permitted after December 31, 2018.

**Taxation Committee conclusions:** The Committee voted to recommend that if legislation is introduced in the Second Regular Session of the 128<sup>th</sup> Legislature to extend the PTDZ program, the design, data availability and administrative weaknesses identified in the OPEGA evaluation report should be considered in more detail to identify statutory and administrative changes necessary to resolve issues identified in the report. Subsequent to its final meeting the Committee learned that legislation to extend the program for five years is being submitted to the Second Regular Session by the Department of Economic and Community Development. The suggested reference of the bill (LD 1645) is to the Joint Standing Committee on Labor, Commerce, Research and Economic Development (LCRED) which has traditionally been the committee with jurisdiction over the PTDZ program. The Taxation Committee is aware that members of the LCRED Committee have been following the progress of the OPEGA report. Assuming that LD 1645 is referred to the LCRED Committee, the Taxation Committee intends to work with that Committee to assist with its consideration of the legislation.

**2. Maine Revenue Services should include enhanced information about PTDZ benefits in future biennial tax expenditure reports to improve transparency**

The OPEGA report notes many gaps in the availability of information necessary for it to evaluate the PTDZ program fully and recommends that Maine Revenue Services take several actions to improve the capture of relevant information. These include:

- A. Including the PTDZ insurance premium tax credit benefit in its biennial tax expenditure report
- B. Basing estimates of sales tax reimbursement on actual payments made rather than providing an estimated range
- C. Providing a better explanation of the method of estimating revenue loss from the sales tax exemption
- D. Providing estimates of foregone revenue from the PTDZ expanded ETIF benefit separately from other ETIF revenue estimates.

**Taxation Committee conclusions.** The Taxation Committee agrees that expanded MRS data reporting would enhance OPEGA's ability to evaluate of the PTDZ program. The OPEGA report indicates that MRS would be able to incorporate these changes into its reporting procedures with minimal need for additional resources. The committee asks Maine Revenue Services to advise the committee if legislative changes are needed to ensure the availability of those resources.

**3. DECD should notify all entities that administer PTDZ benefits when a business is decertified**

The OPEGA report indicates that DECD reports to Maine Revenue Services when a PTDZ business is decertified; however, other entities that administer PTDZ benefits may not be notified. The report recommends that DECD create a process for notifying all entities that administer PTDZ benefits when a business is decertified.

**Taxation Committee conclusions.** The Taxation Committee agrees with this recommendation.

**4. Additional data should be captured and/or made accessible if the Legislature desires full analysis of PTDZ costs and outcomes.**

The OPEGA report indicates that limited data availability and accessibility presents a significant obstacle in the evaluation of the effectiveness and impact of the PTDZ program. The report recommends that, if the Legislature extends the date for entry into the program and desires full analysis of PTDZ costs and outcomes, it should review the issues identified by the OPEGA report in greater detail and work with OPEGA and administering agencies to identify the most effective way of ensuring that the needed information is available for future analysis.

**Taxation Committee conclusions.** The Taxation Committee agrees with this recommendation and recommends that the Legislature consider this issue in more detail in the context of review during the Second Regular Session of legislation that has already been printed that proposes to extend the PTDZ program entry date to December 31, 2023.

# Appendix A

## Tax Expenditure Statutes





**Title 3: LEGISLATURE**  
**Chapter 37: LEGISLATIVE OVERSIGHT OF GOVERNMENT AGENCIES AND PROGRAMS**

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**Maine Revised Statutes**  
**Title 3: LEGISLATURE**

**Chapter 37: LEGISLATIVE OVERSIGHT OF GOVERNMENT AGENCIES AND  
PROGRAMS**

2001, c. 702, §2 (NEW). 2003, c. 451, §KKK1 (AMD). 2003, c. 673, §GGGG1 (AMD).

**§992. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 702, §2 (NEW).]

**1. Committee.** "Committee" means a joint legislative committee established to oversee program evaluation and government accountability matters.

[ 2001, c. 702, §2 (NEW) .]

**2. Director.** "Director" means the Director of the Office of Program Evaluation and Government Accountability.

[ 2001, c. 702, §2 (NEW) .]

**3. Office.** "Office" means the Office of Program Evaluation and Government Accountability established in section 991.

[ 2001, c. 702, §2 (NEW) .]

**4. Other entity.** "Other entity" means any public or private entity in this State that may be subject to program evaluation under this chapter as the result of its receipt or expenditure of public funds. "Other entity" may include local and county governments, quasi-municipal governments, special districts, utility districts, regional development agencies or any municipal or nonprofit corporation.

[ 2003, c. 673, Pt. GGGG, §2 (AMD) .]

**4-A. Policy committee.** "Policy committee" means the joint standing committee of the Legislature having jurisdiction over taxation matters.

[ 2015, c. 344, §1 (NEW) .]

**5. Program evaluation.** "Program evaluation" means an examination of any government program that includes performance audits, management analysis, inspections, operations, research or examinations of efficiency, effectiveness or economy or the evaluation of any tax expenditure required under this chapter.

[ 2015, c. 344, §2 (AMD) .]

**5-A. Qualified auditor.** "Qualified auditor" means an auditor who meets the education and experience requirements of the Office of State Auditor as defined in Title 5, section 241.

[ 2003, c. 463, §2 (NEW) . ]

**6. State agency.** "State agency" means each state board, commission, department, program, office or institution, educational or otherwise, of this State.

[ 2001, c. 702, §2 (NEW) . ]

**6-A. Statistic.** "Statistic" means a numerical value computed from a set of data. "Statistic" includes, but is not limited to, a sum, mean, median, maximum, minimum, range and variance.

[ 2015, c. 344, §3 (NEW) . ]

**6-B. Tax expenditure.** "Tax expenditure" has the same meaning as under Title 5, section 1666.

[ 2015, c. 344, §3 (NEW) . ]

**7. Working paper.** "Working paper" means all documentary and other information acquired, prepared or maintained by the office during the conduct of a program evaluation, including all intra-agency and interagency communications relating to a program evaluation and includes electronic messages and draft reports or any portion of a draft report.

[ 2001, c. 702, §2 (NEW) . ]

#### SECTION HISTORY

2001, c. 702, §2 (NEW). 2003, c. 463, §§1,2 (AMD). 2003, c. 673, §§GGG2,3 (AMD). 2015, c. 344, §§1-3 (AMD).

## §998. PROCESS FOR REVIEW OF TAX EXPENDITURES

**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; [ 2015, c. 344, §4 (NEW) . ]

B. Expedited review for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and [ 2015, c. 344, §4 (NEW) . ]

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. [ 2015, c. 344, §4 (NEW) . ]

[ 2015, c. 344, §4 (NEW) . ]

**2. Schedule.** ~~By October 1, 2015, the~~ The committee, in consultation with the policy committee, shall establish a 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 ~~schedule~~ group the review of tax expenditures with similar goals ~~during the same year~~ together.

[ 2015, c. 344, §4 (NEW) .]

**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.

[ 2015, c. 344, §4 (NEW) .]

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

[ 2015, c. 344, §4 (NEW) .]

#### SECTION HISTORY

2015, c. 344, §4 (NEW) .

## §999. FULL EVALUATION OF TAX EXPENDITURES

**1. Evaluation process.** Beginning January 1, 2016, the office shall evaluate each tax expenditure identified under section 998, subsection 1, paragraph A in accordance with the schedule established in section 998, subsection 2.

A. By January 31st of each year Prior to the beginning of each evaluation, the committee, after consideration of recommendations from the office, shall approve the following for each tax expenditure subject to full evaluation review ~~in that year~~:

- (1) The purposes, intent or goals of the tax expenditure, as informed by original legislative intent as well as subsequent legislative and policy developments and changes in the state economy and fiscal condition;
- (2) The intended beneficiaries of the tax expenditure;
- (3) The evaluation objectives, which may include an assessment of:
  - (a) The fiscal impact of the tax expenditure, including past and estimated future impacts;
  - (b) The extent to which the design of the tax expenditure is effective in accomplishing the tax expenditure's purposes, intent or goals and consistent with best practices;
  - (c) The extent to which the tax expenditure is achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits;
  - (d) The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries;
  - (e) The extent to which it is likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states;
  - (f) The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective;
  - (g) The extent to which there are other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the tax expenditure, and the extent to which such similar initiatives are coordinated, complementary or duplicative;

(h) The extent to which the tax expenditure is a cost-effective use of resources compared to other options for using the same resources or addressing the same purposes, intent or goals; and

(i) Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goals; and

(4) The performance measures appropriate for analyzing the evaluation objectives. Performance measures must be clear and relevant to the specific tax expenditure and the approved evaluation objectives. [ 2015, c. 344, §4 (NEW) . ]

B. Before final approval pursuant to paragraph A, the committee shall seek and consider input from the policy committee and stakeholders and may seek input from experts. [ 2015, c. 344, §4 (NEW) . ]

[ 2015, c. 344, §4 (NEW) . ]

**2. Action by office; report.** ~~By December 31st of each year, beginning in 2016, the~~ The office shall ~~complete the tax expenditure evaluations pursuant to subsection 1 scheduled for that year and~~ submit a report on the results each evaluation to the committee and the policy committee. The office shall seek stakeholder input as part of the report. For each tax expenditure evaluated, the report must include conclusions regarding the extent to which the tax expenditure is meeting its purposes, intent or goals and may include recommendations for continuation or repeal of the tax expenditure or modification of the tax expenditure to improve its performance.

[ 2015, c. 344, §4 (NEW) . ]

**3. Action by committee.** The committee shall review the report submitted by the office under subsection 2, assess the report's objectivity and credibility and vote whether to endorse the report. ~~By June 1st of each year, beginning in 2017, the~~ The committee shall submit a record of the vote on the report ~~any reports submitted by the office~~ and any comments of or actions recommended by the committee to the policy committee for its review and consideration.

[ 2015, c. 344, §4 (NEW) . ]

**4. Action by policy committee.** The policy committee shall review the results of the tax expenditure evaluations and of the committee's review based on materials submitted under subsections 2 and 3. By December 1st of each year, beginning in 2017, the policy committee shall submit to the Legislature a report documenting its activities under this chapter and any recommendations resulting from its review of the materials submitted under subsections 2 and 3. The policy committee may submit a bill to the next regular session of the Legislature to implement the policy committee's recommendations.

[ 2015, c. 344, §4 (NEW) . ]

#### SECTION HISTORY

2015, c. 344, §4 (NEW) .

## §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. [ 2015, c. 344, §4 (NEW) . ]

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;
- (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. [ 2015, c. 344, §4 (NEW) . ]

[ 2015, c. 344, §4 (NEW) . ]

**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; [ 2015, c. 344, §4 (NEW) . ]
- 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 [ 2015, c. 344, §4 (NEW) . ]
- C. The fiscal impact of the tax policy and each related tax expenditure, including past and estimated future impacts. [ 2015, c. 344, §4 (NEW) . ]

[ 2015, c. 344, §4 (NEW) . ]

**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.

[ 2015, c. 344, §4 (NEW) . ]

#### SECTION HISTORY

2015, c. 344, §4 (NEW) .

## §1001. TAX EXPENDITURE EVALUATION PROCESS DETAILS

**1. Information requests; confidentiality; reporting.** The following provisions apply to the performance of duties under sections 999 and 1000. These powers are in addition to the powers granted to the office and committee under this chapter.

A. The office may request confidential information from the Department of Administrative and Financial Services, Maine Revenue Services or other state agencies as necessary to address the evaluation objectives and performance measures approved under section 999, subsection 1. The office shall request any confidential information in accordance with section 997, subsection 4. The office shall request that confidential tax information, other than beneficiary contact information, be made accessible to the office as de-identified tax data. If Maine Revenue Services is unable to provide such data, the office and representatives of Maine Revenue Services shall determine appropriate methods for the office to access the requested information. [2015, c. 344, §4 (NEW).]

B. Upon request of the office and in accordance with section 997, subsection 4, the Department of Administrative and Financial Services, Maine Revenue Services or other state agencies shall provide confidential information to the office. The office shall maintain the confidentiality of the information provided, in accordance with section 997, subsections 3 and 4. This paragraph does not apply to federal tax information that is confidential under Title 36, section 191, subsection 3. [2015, c. 344, §4 (NEW).]

C. The office, the committee or the policy committee may consult with governmental agencies, other entities and experts, including members of the Consensus Economic Forecasting Commission under Title 5, section 1710. [2015, c. 344, §4 (NEW).]

D. The office may contract with other entities for the purpose of obtaining assistance in the review of tax expenditures. The office shall require a nondisclosure agreement as part of any contract entered into pursuant to this paragraph. The office may not disclose confidential taxpayer information to a contractor, except for:

- (1) Contact information for specific beneficiaries of tax expenditures for the purpose of conducting interviews, surveys or other data collection; and
- (2) Statistics classified so as to prevent the identification of specific taxpayers or the reports, returns or items of specific taxpayers.

The contractor shall retain physical control of any information obtained pursuant to this paragraph until the conclusion of the review for which the information was provided, after which the information must be immediately destroyed. [2015, c. 344, §4 (NEW).]

E. The office may report confidential information obtained under this section to Legislators, legislative committees, state agencies and the public only in the form of statistics classified so as to prevent the identification of specific taxpayers or the reports, returns or items of specific taxpayers. [2015, c. 344, §4 (NEW).]

F. Prior to the submission of a tax expenditure evaluation report under section 999, subsection 2, the office shall provide the State Tax Assessor an opportunity to review a draft of the report in accordance with the provisions of section 997, subsection 1. The State Tax Assessor may advise the office on compliance with paragraph E. [2015, c. 344, §4 (NEW).]

G. For purposes of this section, the following terms have the following meanings:

- (1) "Beneficiary contact information" means the following information listed on a tax return or included in a tax return: the name, address, zip code, e-mail address and telephone number of the taxpayer, and of any related entity, officers, attorneys, personal representatives and other agents, tax preparers and shareholders of, partners of or members of the taxpayer or of a listed related entity.
- (2) "De-identified tax data" means tax returns and other confidential tax information that are redacted or otherwise modified or restricted by Maine Revenue Services so as to exclude the following:
  - (a) Beneficiary contact information;
  - (b) Identification numbers including federal or state employer identification numbers, social security numbers and registration numbers; and



(c) Other information from which the State Tax Assessor determines that the identity of the taxpayer could reasonably be inferred. [ 2015, c. 344, §4 (NEW) . ]

[ 2015, c. 344, §4 (NEW) . ]

**2. Legislation.** The committee may submit to the Legislature any legislation it considers necessary to improve the process or availability of data for the review of tax expenditures.

[ 2015, c. 344, §4 (NEW) . ]

#### SECTION HISTORY

2015, c. 344, §4 (NEW) .

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## Appendix B

### OPEGA 2017 Report on Expedited Review

#### Provisions



**Information to Support 2017 Expedited Reviews  
of Maine State Tax Expenditures**

**“Tax Fairness” Tax Expenditures**

**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**

**July 2017**

**Office of Program Evaluation and Government Accountability  
Maine State Legislature  
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Augusta, Maine 04333  
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<sup>1</sup> In prior tax expenditure lists this was referred to as the “Deduction for Dividends Received from Nonunitary Affiliates.” MRS suggested the “Deduction for Dividends from Affiliates not included in Combined Return” is more accurate because affiliates can be unitary or nonunitary.

## Overview

The Office of Program Evaluation and Government Accountability (OPEGA) is tasked by 3 MRSA § 1000 sub-§ 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<sup>2</sup>. 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.<sup>3</sup> The 14 tax expenditures selected by the Committees for expedited review in 2017 include sales and use tax exemptions, income tax credits and deductions, gasoline tax and special fuel tax refunds, and a real estate tax exemption under the tax policy area generally described as "Tax Fairness."

OPEGA added the "Deduction for Social Security Benefits Taxable at Federal Level" to this year's list after discussions with staff for the Taxation Committee and after determining that this expenditure more appropriately meets the criteria for the "Tax Fairness" policy area than its prior category of "Tax Relief." According to the 2018-2019 Maine State Tax Expenditure Report issued in 2017, federal taxation of social security and railroad retirement benefits provides funds to the Social Security Trust Fund. Since the State does not have this need, these benefits are excluded from Maine taxable income. Also, by operation of federal law, states are prohibited from taxing benefits issued by the Railroad Retirement Board, including retirement, sick and unemployment benefits.

The "Tax Fairness" group of 15 tax expenditures includes eight sales and use tax exemptions; four income tax credits or deductions; two excise tax refunds; and a real estate tax exemption. They are:

1. Exemption for Certain Loaner Vehicles (Sales & Use Tax)
2. Exemption for Certain Property Purchased Out of State (Sales & Use Tax)
3. Exemption for Certain Returnable Containers (Sales & Use Tax)
4. Exemption for Meals & Lodging Provided to Employees (Sales & Use Tax)
5. Exemption for Mobile & Modular Homes (Sales & Use Tax)
6. Exemption for Motor Vehicle Fuel (Sales & Use Tax)

<sup>2</sup> 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."

<sup>3</sup> 3 MRSA § 998 sub-§ 1, paragraph B.

7. Exemption for Packaging Materials (Sales & Use Tax)
8. Exemption for Trade-In Credits (Sales & Use Tax)
9. Credit for Income Tax Paid to Other Jurisdiction (Income Tax)
10. Deduction for Active Duty Military Pay Earned Outside of Maine (Income Tax)
11. Deduction for Dividends from Affiliates not included in Combined Return<sup>4</sup> (Income Tax)
12. Deduction for Social Security Benefits Taxable at Federal Level (Income Tax)
13. Refund of the Gasoline Tax for Off-Highway Use and for Certain Bus Companies (Excise Tax)
14. Refund of the Special Fuel Tax for Off-Highway Use and for Certain Bus Companies (Excise Tax)
15. Exemptions of the Real Estate Transfer Tax (Real Estate Transfer Tax)

### ***“Tax Fairness” Policy Area: Definition***

OPEGA’s 2015 Proposal for Legislative Review of Maine State Tax Expenditures defined expenditures in the “Tax Fairness” policy area as any expenditure which:

*Prevents double taxation or pyramiding (taxing on taxes); provides similar tax treatment of similar transactions/taxpayer situations; or addresses public perception that it would not be fair to tax the item/transaction.*

OPEGA found that the federal Internal Revenue Service (IRS) frames its definition of “Tax Fairness” based on two concepts: benefits received and ability to pay. According to the IRS:

*Benefits received means that people should pay taxes in proportion to the benefits they receive from government goods and services. Ability to pay means that people's taxes should be in proportion to their resources. People's resources differ because they have different amounts of:*

- *wealth (assets and property such as houses, cars, stocks, bonds, and savings accounts), or*
- *income (wages, interest and dividends, profits, or other payments).<sup>5</sup>*

OPEGA observes that many Maine State tax expenditures could fall within the Tax Fairness policy area as described by the IRS. Consequently, we suggest the Taxation Committee use OPEGA’s narrower definition in its review of the tax expenditures included in this report.

### ***Tax Expenditures Required by Federal Law***

Two expenditures in the expedited review group this year are no longer included in Maine Revenue Services’ (MRS) biennial Maine State Tax Expenditure Report because these tax expenditures, or some variation of

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<sup>4</sup> In prior tax expenditure lists this was referred to as the “Deduction for Dividends Received from Nonunitary Affiliates.” MRS suggested the “Deduction for Dividends from Affiliates Not Included in Combined Return” is more accurate because affiliates can be unitary or nonunitary.

<sup>5</sup> <https://apps.irs.gov/app/understandingTaxes>

them, are required by federal law.<sup>6</sup> Consequently, the Committees may want to consider removing these two expenditures from the expedited review cycle in future years.

The “Deduction for Dividends from Affiliates Not Included in Combined Return” has not been included in MRS’ biennial report since 2013. MRS explained that the State can choose the manner – such as by the dividends deduction at issue – for providing any tax relief required under federal law, with respect to businesses taxed on overseas income. The “Credit for Income Tax Paid to Other Jurisdiction” has not been included in MRS’ biennial report since 2015. According to MRS, a recent Supreme Court decision, *Comptroller of the Treasury of Maryland v. Wynne*<sup>7</sup>, found it was unconstitutional for states to fail to provide a tax adjustment to taxpayers with respect to income also taxed by other states.

### **Fiscal Impact Estimates**

The fiscal impact estimates presented in this report represent estimated foregone revenue for the State. MRS is required to prepare these estimates biennially based on current tax law in effect at the time of the estimate. MRS estimates foregone revenue for the tax expenditures using various methods. The estimates are presented in the Maine State Tax Expenditure Reports as estimated General Fund, Highway Fund, and HOME Fund<sup>8</sup> revenue loss.

The individual tax expenditure descriptions beginning on page 6 include MRS’ estimates of revenue loss by year with notation of the estimating method used and any additional context.

Table 1 shows the total estimated fiscal impact for 13 of the 15 tax expenditures as reported by MRS. Appendix B shows the breakdown of impact for these individual expenditures by year. As discussed above, MRS stopped reporting estimated revenue loss for two expenditures during the time period covered by Table 1. Since fiscal impact estimates were not available for all years, OPEGA has excluded these two expenditures from Table 1 and Appendix B to provide for more meaningful comparison of totals year to year.

<b>Table 1: Estimated Fiscal Impact of “Tax Fairness” Tax Expenditures in the State of Maine*</b>	
<b>Year</b>	<b>MRS Estimated Revenue Loss</b>
FY13	\$237,168,685
FY14	\$289,437,224
FY15	\$295,093,933
FY16	\$275,211,414
FY17	\$278,166,897
FY18	\$288,880,496
FY19	\$300,017,998
Source: Estimates for FY13 were published in the 2014-2015 Maine State Tax Expenditure Report. Estimates for FY14-FY15 were published in the 2016-2017 Maine State Tax Expenditure Report. Estimates for FY16-FY19 were published in the 2018-2019 Maine State Tax Expenditure Report.	
*Does not include estimates for “Credit for Income Tax Paid to Other Jurisdiction” and “Deduction for Dividends from Affiliates Not Included in Combined Return.”	

<sup>6</sup> These two expenditures were included in the biennial Maine State Tax Expenditure report issued in 2013. That report was used as the basis for establishing the population of tax expenditures that would be subject to the legislative review process set forth in 3 MRSA § 998. The Maine State Tax Expenditure Report issued in 2017 states: “The credits for income tax paid to another jurisdiction by an estate or trust and by an individual have been removed because of considerations of U.S. Constitution provisions bearing on state taxation. The deduction for dividends received from nonunitary affiliates was removed, beginning with the 2015 report, because of similar constitutional considerations.”

<sup>7</sup> [https://www.supremecourt.gov/opinions/14pdf/13-485\\_o7jp.pdf](https://www.supremecourt.gov/opinions/14pdf/13-485_o7jp.pdf)

<sup>8</sup> The Housing Opportunities for Maine (HOME) Fund was established by the Legislature in 1983 under 30-A MRSA Subchapter 7 to provide funding for affordable housing. The Real Estate Transfer Tax (see page 24) is the funding source for HOME.



There are substantial changes in the fiscal estimates for some tax expenditures over time, as follows:

*Packaging Materials.* The estimated fiscal impact of this expenditure has more than tripled from FY13-FY19, from approximately \$10 million to almost \$33 million. MRS explained this was due to changes in its sales and use tax microsimulation model<sup>9</sup>, and also due to the inclusion of different types of packaging material in the estimates from year to year. There were no statutory changes during this period. MRS could not provide further details on the changes in the types of packaging materials included.

*Deduction for Active Duty Military Pay Earned Outside of Maine.* There is some variation in the fiscal impact estimate for this expenditure, which increased from under \$1 million in FY14 to almost \$2 million in FY15 and in subsequent years decreases to \$1 million. MRS told OPEGA the FY14 and FY15 estimates were from the original fiscal note of the bill that established this deduction. Beginning in FY16, data was extrapolated from tax returns. MRS said if the estimate for FY15 was revised based on actual data the number would be significantly lower.

*Fuel & Gasoline Taxes.* There was some fluctuation over time in the fiscal impact estimates for “Refund of the Gasoline Tax for Off-Highway Use and for Certain Bus Companies” and “Motor Vehicle Fuel.” MRS told OPEGA the forecasted values are generally a reflection of refund activity over the past two or three years adjusted for any known anomalies. Actual refunds can fluctuate with changes in fuel prices or other economic factors, but year-to-year fluctuations may simply be timing or other random occurrences such as an unusually large refund.

## **Maine State Taxes on Fuel and Gasoline**

Motor vehicle fuel sold in Maine is subject to Sales & Use Tax unless exempted (page 12). One of the exemptions is for fuels that are subject to the Gasoline Tax or Special Fuel Tax, which are excise taxes. The Gasoline Tax is applicable to all internal combustion engine fuel commonly known as gasoline (36 MRSA § 2903). Special Fuel Tax is applicable to distillates and low-energy fuel, including diesel, propane, natural gas, methanol, hydrogen, and ethanol (36 MRSA § 3203). Exempting motor vehicle fuels that are subject to Gasoline Tax or Special Fuel Tax from the Sales & Use Tax prevents double taxation.

The Gasoline and Special Fuel Taxes also have exemptions for fuel used in certain off-highway vehicles or by certain bus companies. These exemptions are described on pages 20 and 22 of this report. Beneficiaries get the exemptions by submitting applications for refunds of taxes paid at point of sale.<sup>10</sup> Fuel exempted for off-highway use is, however, subject to Sales & Use Tax which is subtracted from the refund before it is paid, unless an applicable sales tax exemption exists.

Two other exemptions to the Gasoline Tax are not included in this report. Gasoline tax paid for fuel used in certain aircraft is also refundable under 36 MRSA § 2910. This tax expenditure is not included in this report because it has an estimated fiscal impact of under \$50,000. State and local governments are exempt on bulk purchases of gasoline products from the Gasoline Tax under 36 MRSA § 2903 sub-§ 4, paragraph C. State and local governments are similarly exempt on bulk purchases under the Special Fuel Tax Law, 36 MRSA § 3204-A sub-§ 3. These expenditures are slated for expedited review under the Charitable group of tax expenditures.

<sup>9</sup> See Appendix C for information on MRS’ microsimulation models.

<sup>10</sup> Dyed diesel is exempt from excise tax at the point of sale. Sales tax is paid at the time of purchase.

## ***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 for each individual “Tax Fairness” tax expenditure. OPEGA gathered much of this information from the following sources:

- Sections of Maine statute pertaining to each exemption;
- MRS’ Maine State Tax Expenditure Reports for 2018-2019, 2016-2017 and 2014-2015; and
- MRS tax bulletins.

In addition, the legislative history summarized in this report was prepared by OPEGA in consultation with OFPR based on details researched and provided to OPEGA by the Law and Legislative Reference Library.

None of the sources we reviewed directly identified intended beneficiaries for these exemptions, so OPEGA has defined these based on our understanding of the expenditures.

MRS’ biennial reports are the source of the fiscal impact estimates OPEGA has included in this report for Fiscal Years (FY) 2013 through 2019. The FY13 estimates were published in the 2014-2015 Maine State Tax Expenditure Report. The estimates for FY14 and FY15 were published in the 2016-2017 Maine State Tax Expenditure Report. The estimates for FY16-FY19 were published in the 2018-2019 Maine State Tax Expenditure Report.

MRS told OPEGA they do not use these estimates to look at 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 Maine State Tax Expenditures Reports. 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.

MRS has undertaken an effort to determine the total amount claimed for some expenditures on individual and corporate income tax returns in order to obtain more accurate data. However, MRS explained that this information is not always captured on tax returns in a way that is easily translated into estimates. There is a limit on the number of lines that can be included on a tax return, and the need for this information must be balanced against other needs, including the cost of changing the forms. This effort is time intensive for MRS to carry out within its current system.

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 was beyond the scope and resources of our current project for OPEGA to delve any 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 “Tax Fairness” 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 Certain Loaner Vehicles		
Statutory reference	36 MRSA § 1760 sub-§ 21-A		
Distribution mechanism	Exemption at point of use.		
Brief description	Tax exemption for use of a loaner vehicle provided by a new vehicle dealer to a service customer pursuant to a manufacturer’s or dealer’s warranty.		
Intended beneficiaries	Service customers using loaner vehicles provided by new vehicle dealers.		
Estimated fiscal impact	FY13	\$232,560	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$253,816	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$266,151	
	FY16	\$280,047	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$285,647	
	FY18	\$291,361	
	FY19	\$297,188	
Notes on estimated fiscal impact	MRS originally based estimates on net assessments and recent sales tax audits related to new car dealers prior to the enactment of the law. Current estimates were based on the original calculation, but with additional increases to come to the best estimate.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 2007, ch. 410	Enacted a Sales and Use tax exemption for the use of a loaner vehicle by a service customer of a new car dealer pursuant to a manufacturer’s or dealer’s warranty.	

Tax Expenditure	Exemption for Certain Property Purchased Out of State		
Statutory reference	36 MRSA § 1760 sub-§ 45		
Distribution mechanism	Exemption at the time of property registration.		
Brief description	Sales & Use Tax exemption for certain property purchased out of state: (A) automobiles, if the owner was a resident of another state at the time of purchase, (B) snowmobiles or all-terrain vehicles if the purchaser is an individual and not a State resident, (C) aircraft, provided certain conditions are met, (D) property brought to the State solely to conduct activities related to a state disaster or emergency, (E) other property that was purchased and used by the present owner outside the State for more than 12 months. <sup>11</sup>		
Intended beneficiaries	Owners of certain types of property purchased out of state that use or register such property in Maine.		
Estimated fiscal impact	FY13	\$1,000,000 – \$2,999,999	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$1,000,000 – \$2,999,999	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$1,000,000 – \$2,999,999	
	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	
Notes on estimated fiscal impact	Estimated as a range of possible values because little or no data is available.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1983, ch. 571	Enacted exemption for property purchased and used (and registered, if required) by the present owner outside the State for more than 6 months before being brought into State.	
	P.L. 1985, ch. 419	Amended exemption to apply to: (1) automobiles if the owner was a resident of another state and employed or registered to vote in that state at the time of purchase, or (2) property purchased and used by the owner outside the state for more than 12 months. Property, other than automobiles, that is required to be registered does not qualify for exemption unless it was registered in the previous state for more than 12 months prior to registration in State.	
	P.L. 1987, ch. 772	Created criteria for watercraft to qualify for the exemption. Watercraft must be registered outside the State by an owner who (at the time of purchase) was a resident of another state and the watercraft is present in State not more than 30 days for the 12 months following purchase.	

<sup>11</sup> 36 MRSA § 1760, sub-§ 88-A provides an exemption for all aircraft sales through June 30, 2033. This exemption is slated for review under the Expedited group of “Interstate or Foreign Commerce.”

	P.L. 1991, ch. 620	Applied the criteria for watercraft (see P.L. 1987, ch. 772) to snowmobiles and all-terrain vehicles (ATVs).
	P.L. 1995, ch. 467	Removed criteria for snowmobiles so they fell under the general criteria for other types of property (i.e. must be used outside of State for 12 months).
	P.L. 2005, ch. 218	Re-inserted previous criteria for snowmobiles (see P.L. 1991, ch. 620). Exempted snowmobiles if purchaser is a non-resident, and the snowmobile is purchased and used out of state.
	P.L. 2005, ch. 519	Added exemption for any aircraft not already exempted under sub-§ 88 (i.e. a commercial airliner) that was purchased out of State and is present in State for no more than 20 days in the 12 months after purchase, excluding periods for major repairs or maintenance.
	P.L. 2007, ch. 438	Clarified that this exemption for automobiles, watercraft, snowmobiles or ATVs is limited to individuals, not other legal entities.
	P.L. 2007, ch. 691	Discounted (from the time in State to be subject to tax) any days aircraft are in State to provide free transportation for children and adults to access life-saving medical care.
	P.L. 2009, ch. 625	Removed the requirement that a nonresident purchaser must have been employed or registered to vote in another state to qualify for exemption from use tax on automobiles purchased and used out of State.
	P.L. 2011, ch. 622	Exempted property brought into State solely to conduct activities directly related to a State disaster or emergency and the property is present only during the disaster period.

Tax Expenditure	Exemption for Certain Returnable Containers		
Statutory reference	36 MRSA § 1760 sub-§ 12		
Distribution mechanism	Exemption at point of sale.		
Brief description	Sales tax exemption for returnable containers when sold either with the contents or when resold for refilling.		
Intended beneficiaries	Purchasers of returnable containers.		
Estimated fiscal impact	FY13	\$1,287,434	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$1,427,979	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$1,512,056	
	FY16	\$1,745,929	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$1,798,307	
	FY18	\$1,852,256	
	FY19	\$1,907,824	
Notes on estimated fiscal impact	MRS derives the estimate from grocery sales data and sample bottle redemption data.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1951, ch. 250	Enactment of sales tax exemption for returnable containers when sold with the contents or when resold for refilling.	

Tax Expenditure	Exemption for Meals and Lodging Provided to Employees		
Statutory reference	36 MRSA § 1760 sub-§ 75		
Distribution mechanism	Exemption at point of sale.		
Brief description	Sales Tax exemption on meals and lodging provided to employees at their place of employment when the value of the meals and lodging is allowed as a credit toward the wages of those employees.		
Intended beneficiaries	Employees receiving meals and/or lodging from employer where the value is credited toward wages.		
Estimated fiscal impact	FY13	\$145,350	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$160,930	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$168,286	
	FY16	\$50,000 – \$249,999	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$50,000 – \$249,999	
	FY18	\$50,000 – \$249,999	
	FY19	\$50,000 – \$249,999	
Notes on estimated fiscal impact	MRS explained that the estimates changed to a range of possible values because little or no data is available. MRS previously calculated the fiscal impact based on the number of people working in the service industry. It was changed to a range because the estimate was not based on any meaningful data.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1989, ch. 871	Enacted a Sales Tax exemption for meals or lodging provided to employees at their place of employment when the value of those meals or that lodging is allowed as a credit toward the wages of those employees.	

Tax Expenditure	Exemption for Mobile and Modular Homes		
Statutory reference	36 MRSA § 1760 sub-§ 40		
Distribution mechanism	Exemption at point of sale.		
Brief description	Sales Tax exemption for (A) used manufactured housing, and (B) new manufactured housing except for the cost of materials (exemption may not exceed 50% of the sale price).		
Intended beneficiaries	Purchasers of manufactured housing.		
Estimated fiscal impact	FY13	\$17,735,845	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$27,593,065	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$28,650,370	
	FY16	\$31,907,086	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$32,226,157	
	FY18	\$32,709,549	
	FY19	\$33,200,193	
Notes on estimated fiscal impact	Estimates based on information from sales tax returns (reported exempt sales).		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1977, ch. 716	Enacted a Sales Tax exemption for used mobile or modular homes and an exemption for new mobile or modular homes to the extent of all costs included in the sales price, other than cost of materials, with exemption not to exceed 50% of sale price.	
	P.L. 2005, ch. 618	Replaces the phrase “mobile and modular homes” with the defined term of “manufactured housing” (as already used administratively by MRS).	



Tax Expenditure	Exemption for Motor Vehicle Fuel		
Statutory reference	36 MRSA § 1760 sub-§ 8, paragraph A		
Distribution mechanism	Exemption at point of sale.		
Brief description	Motor vehicle fuels that are subject to Gasoline or Special Fuel Taxes (excise taxes) are exempt from Sales & Use Tax.		
Intended beneficiaries	Individuals purchasing motor vehicle fuel that is subject to excise taxes.		
Estimated fiscal impact	FY13	\$121,893,611	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$143,231,504	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$142,461,604	
	FY16	\$89,387,543	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$90,594,164	
	FY18	\$91,690,031	
	FY19	\$92,946,579	
Notes on estimated fiscal impact	Estimates based on actual and projected motor fuel tax revenue and estimated average prices of motor fuels.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1951, ch. 250	Enacted Sales & Use Tax exemption for gasoline and motor vehicle fuel subject to excise taxes.	
	P.L. 1959, ch. 358	Extends the exemption to gasoline or motor vehicle fuels on which a tax is imposed by any other state or province.	
	P.L. 1969, ch.223	Restricted the exemption from internal combustion engine fuel bought and used for jet or turbo engine aircraft.	
	P.L. 1977, ch. 572	Exempted fuel sold for aircraft for international flights.	
	P.L. 1983, ch. 852	Expanded exemption to internal combustion engine fuel containing at least 10% ethanol that is already subject to tax.	
	P.L. 1987, ch. 798	Expanded exemption to all internal combustion engine fuel for use in jet or turbojet engine aircraft.	
	P.L. 1991, ch. 546	Removed the exemption for internal combustion engine fuel containing at least 10% ethanol.	
	P.L. 2007, ch. 240	Expanded the exemption to diesel internal combustion engine fuel bought and used from July 1, 2007 to June 30, 2008 for use in commercial ground fishing boats.	
	P.L. 2011, ch. 548	Removed the exemption for fuel bought and sold 2007-2008 for commercial ground fishing boats and added exemption for fuel on which a comparable tax has been paid in Canada.	

Tax Expenditure	Exemption for Packaging Materials		
Statutory reference	36 MRSA § 1760 sub-§ 12-A		
Distribution mechanism	Exemption at point of sale if purchaser provides certificate to confirm eligibility.		
Brief description	Sales & Use tax exemption for materials used by individuals and businesses to ensure delivery of contents in physically good condition, provided the materials pass into the possession of the customer.		
Intended beneficiaries	Individuals and businesses that purchase certain packing, packaging and shipping materials that pass into the possession of the customer.		
Estimated fiscal impact	FY13	\$10,174,500	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$11,943,875	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$12,843,050	
	FY16	\$29,204,000	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$30,360,400	
	FY18	\$31,722,600	
	FY19	\$32,996,600	
Notes on estimated fiscal impact	Estimates generated with sales tax micro-simulation model. MRS explained that increase in the estimates from the 2016-2017 report to the 2018-2019 report is due to changes in the model, including changes in consumer/sales trends, as well as due to changes in different types of packaging materials being included in the estimates from year to year.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1951, ch. 250	Enacted a Sales Tax exemption for certain packaging materials by excluding them from the definition of “retail sale” for sales tax purposes, when the materials are sold to persons for packing, packaging or shipping personal property produced or sold by them.	
	P.L. 1953, ch. 146	Added requirement that the packaging materials be transferred to the possession of the purchaser to qualify for exemption.	
	P.L. 1953, ch. 374	Extended the exemption to property on which the following services have been performed in the regular course of business: cleaning, pressing, dyeing, washing, repairing or reconditioning.	
	P.L. 1989, ch. 871	Moved the exemption for packaging material from the definition of “retail sale” to its own exemption provision.	
	P.L. 1995, ch. 634	Added those engaged in the business of packing, packaging, shipping, and transporting tangible personal property to the exemption.	

Tax Expenditure	Exemption for Trade-In Credits		
Statutory reference	36 MRSA § 1765		
Distribution mechanism	Exemption at point of sale.		
Brief description	Sales Tax exemption for the value of traded in property when used towards the sale price of another of the same kind of property for: motor vehicles, watercraft, aircraft, chain saws, special mobile equipment, and trailers/truck campers.		
Intended beneficiaries	Individuals and businesses trading in listed property.		
Estimated fiscal impact	FY13	\$24,253,331	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$26,345,793	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$28,032,417	
	FY16	\$33,470,748	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$34,642,224	
	FY18	\$35,854,701	
	FY19	\$37,109,616	
Notes on estimated fiscal impact	Estimates based on information from Sales Tax returns (reported exempt sales).		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1953, ch. 266	Enacted Sales Tax exemption by specifying tax is payable on the difference between the sale price of a purchased motor vehicle or farm tractor and the sale price of the vehicle or tractor traded in.	
	P.L. 1967, ch. 108	Excluded from the exemption those transactions between dealers involving exchanging tractors or vehicles from inventory. <sup>12</sup>	
	P.L. 1969, ch. 295	Repealed tax exemption.	
	P. & S.L. 1969, ch. 154	Reinstated tax exemption.	
	P.L. 1975, ch. 317 & ch. 528	Extended exemption to aircraft and boats.	
	P.L. 1977, ch. 686	Extended exemption to include self-propelled vehicles used to harvest lumber.	
	P.L. 1985, ch. 519	Extended exemption to chain saws and clarified that exemption only applies for trade-ins of listed items of the same kind.	

<sup>12</sup> Per MRS, this exclusion only applied if the dealer intended to make a taxable use of the property. Sales for resale are exempt from Sales & Use tax under 36 MRSA § 1752 sub-§ 10 for items purchased for resale if annual gross sales are over \$3,000.

	P.L. 1987, ch. 49	Extended exemption to camper trailers.
	P.L. 1987, ch. 128	Clarified that the exemption is calculated based on the trade-in allowance (not sale price) and extended exemption to include livestock trailers and up to 20% of the trade-in allowance for special mobile equipment.
	P.L. 1987, ch. 467	Extended exemption to lumber harvesting loaders.
	P.L. 1989, ch. 533	Extended exemption to full amount for special mobile equipment.
	P.L. 1997, ch. 133	Incorporated farm tractors and lumber harvesting vehicles and loaders into the definition of special mobile equipment and removed these distinct categories, allowing the exemption to apply to trades of any type of special mobile equipment.
	P.L. 1999, ch. 518	Allowed a trade-in credit of a truck camper against a camper trailer or another truck camper.
	P.L. 2007, ch. 375	Extended exemption to all trailers, removed separate category of camper trailers, retained truck campers in own category.
	P.L. 2007, ch. 627	Corrected consequence of previous statute by creating exception to allow the exemption when truck campers and camper trailers are traded, despite being in different categories.
	P.L. 2009, ch. 207	Placed trailers and truck campers into the same category and removed length restriction in definition of trailer.

Tax Expenditure	Credit for Income Tax Paid to Other Jurisdiction		
Statutory reference	36 MRSA § 5217-A		
Distribution mechanism	Credit on Maine State Income Tax Return.		
Brief description	Credit for income tax paid to another state, political subdivision of a state, the District of Columbia or any political subdivision of a foreign country that is analogous to a state.		
Intended beneficiaries	Maine residents who have paid income tax to another jurisdiction.		
Estimated fiscal impact	FY13	\$42,940,000	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$43,035,000	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$44,756,000	
	FY16	No estimate	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	No estimate	
	FY18	No estimate	
	FY19	No estimate	
Notes on estimated fiscal impact	MRS explained that estimates are no longer included in the Tax Expenditure Report because of considerations of U.S. Constitution provisions bearing on state taxation. Previous estimates were based on information from the MRS data warehouse.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P. & S.L. 1969, ch. 154	Enactment of State income tax credit for the amount of income tax paid to another state (or political subdivision) or the District of Columbia.	
	P.L. 1977, ch. 424	Extends the income tax credit to include tax paid to a Canadian Province.	
	P.L. 1981, ch. 411	Extends the income tax credit to include tax paid to a political subdivision of a foreign country which is analogous to a State.	
	P.L. 1983, ch. 571	Clarifies that if a credit is claimed for taxes paid to both a state and a political subdivision, the total credit does not exceed the tax otherwise due.	
	P.L. 1991, ch. 591	Inserts exclusion to the tax credit for any tax payable as a result of the newly implemented State minimum tax.	
	P.L. 2003, ch. 391	Clarifies that the credit for income tax paid to another jurisdiction is limited to tax paid on income derived from sources in the other taxing jurisdiction, as defined by Maine statute.	

Tax Expenditure	Deduction for Active Duty Military Pay Earned Outside of Maine		
Statutory reference	36 MRSA § 5122 sub-§ 2, paragraph LL		
Distribution mechanism	Deduction on Maine State Income Tax Return.		
Brief description	Income tax deduction for pay received for active duty military service performed outside of Maine.		
Intended beneficiaries	Active duty military service members who are Maine residents and perform military service outside Maine.		
Estimated fiscal impact	FY13	\$0	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$741,000	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$1,873,000	
	FY16	\$990,000	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$900,000	
	FY18	\$900,000	
	FY19	\$900,000	
Notes on estimated fiscal impact	MRS explained that the estimates for FY14-15 were taken from the original fiscal note on the bill establishing the deduction, whereas the reduced estimates for FY16-19 are based on extrapolations from actual tax return data. According to MRS, FY14 was estimated based on a partial year of data and FY15 actual impact was likely much lower than estimated.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 2011, ch. 657	Enacted a deduction from State income tax for active duty military pay earned outside of Maine for service performed pursuant to written military orders during tax years beginning on or after January 1, 2014.	
	P.L. 2013, ch. 331	Clarifies the conditions for military pay to be eligible for the income subtraction. Adds members of the national guard and naval reserves if activated for a federal operational mission or disaster response.	

Tax Expenditure	Deduction for Dividends from Affiliates not included in Combined Return		
Statutory reference	36 MRSA § 5200-A sub-§ 2, paragraph G		
Distribution mechanism	Deduction on Maine State Income Tax Return.		
Brief description	Companies with affiliates overseas are entitled to a 50% deduction of apportioned dividend income to offset the burden of being taxed on overseas business income.		
Intended beneficiaries	Corporations paying Maine State income tax on income of overseas affiliates.		
Estimated fiscal impact	FY13	\$10,000,000	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	No estimate	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	No estimate	
	FY16	No estimate	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	No estimate	
	FY18	No estimate	
	FY19	No estimate	
Notes on estimated fiscal impact	MRS explained that estimates are no longer included in Tax Expenditure Reports as this tax relief is a U.S. Constitutional requirement. Previous estimates were based on information from the MRS data warehouse.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1987, ch. 841	Enacted a State income tax deduction of up to 50% (phased in over time) of the apportioned dividend income received from an overseas affiliate.	

Tax Expenditure	Deduction for Social Security Benefits Taxable at Federal Level		
Statutory reference	36 MRSA § 5122 sub-§ 2, paragraph C		
Distribution mechanism	Deduction on Maine State Income Tax Return.		
Brief description	Federal Adjusted Gross Income (FAGI) is reduced by social security benefits and railroad retirement benefits included in FAGI.		
Intended beneficiaries	Individuals who receive Social Security or Railroad Retirement benefits.		
Estimated fiscal impact	FY13	\$52,737,350	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$69,711,000	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$71,212,000	
	FY16	\$79,400,000	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$78,500,000	
	FY18	\$85,000,000	
	FY19	\$91,800,000	
Notes on estimated fiscal impact	Estimates based on information from the Maine Revenue Services data warehouse and the individual income micro-simulation tax model.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1983, ch. 798	Enacted an exclusion of Social Security benefits from State Income Tax by reducing FAGI by the amount of Social Security benefits and Railroad Retirement benefits included in FAGI.	



Tax Expenditure	Refund of Gasoline Tax for Off-Highway Use and for Certain Bus Companies		
Statutory reference	36 MRSA § 2908 (off-highway use), 36 MRSA § 2909 (certain bus companies)		
Distribution mechanism	Refund upon submission of paper application within 18 months (off-highway use) or 12 months (certain bus companies) of purchase.		
Brief description	A refund of the Gasoline Tax paid (less \$.01 per gallon and applicable sales & use tax) on internal combustion fuel for commercial use, except for motor vehicles on public ways or in aircraft <u>and</u> a full refund of the Gasoline Tax on internal combustion fuel for common carrier passenger service on which no motor vehicle excise tax is due. <sup>13</sup>		
Intended beneficiaries	Individuals, firms or corporations purchasing applicable gasoline for commercial use.		
Estimated fiscal impact	FY13	\$958,705	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$265,192	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$ 325,000	
	FY16	\$676,475	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$960,000	
	FY18	\$960,000	
	FY19	\$960,000	
Notes on estimated fiscal impact	Estimates extrapolated based on actual refunds issued in the fiscal year 2006.		
Legislative history (includes substantive amendments)  Section 2908: Off-highway use	Public Law	Change	
	P.L. 1925, ch. 212	Enacted a refund of 2/3 of Gasoline Tax paid on internal combustion engine fuel for motor boats, agricultural tractors, vehicles on rails or tracks, stationary engines for mechanical or industrial use, or any other commercial use except in motor vehicles operated on public highways. Refund applications must be made to the State Auditor with original invoices within 90 days of purchase.	
	P.L. 1927, ch. 251	Increased the refund amount to 3/4 of tax paid and extends the time to apply for a refund to 6 months from date of purchase.	
	P.L. 1931, ch. 44	Extended the time to apply for a refund to 9 months.	
	P.L. 1931, ch. 216	Shifted refund administration from State Auditor to the Department of Finance.	
	P.L. 1941, ch. 316	Excluded fuel used in aircraft from the refund.	
	P.L. 1947, ch. 349	Increased the refund amount to 5/6 of tax paid.	

<sup>13</sup> Off-highway fuel is subject to Sales and Use tax and has an 18-month refund period from the date of sale. Fuel used by certain bus companies is exempt from Sales and Use tax and has a 12-month refund period.

	P.L. 1955, ch. 436	Increased the refund amount to 6/7 of tax paid.
	P.L. 1957, ch. 193	Extended the time to apply for a refund to 12 months.
	P.L. 1965, ch. 395	Removed the refund for pleasure boats not used for commercial purposes and confirmed that the refund applies to fuel used for commercial boats.
	P.L. 1969, ch. 426	Increased the refund amount to 7/8 of tax paid.
	P.L. 1971, ch. 529	Increased the refund amount to 8/9 of tax paid.
	P.L. 1977, ch. 270	Extended the time to apply for a refund to 15 months.
	P.L. 1979, ch. 549	Clarified that the refund only applies to vehicles on rails or tracks if they are owned or operated by railroad companies.
	P.L. 1983, ch. 94	Increased the refund to the amount of tax paid less \$.01 per gallon; extended the refund to fuel for registered vehicles operating off state highways; permitted monthly refund applications; required refund applications to be processed and paid promptly; required submission of substantiating information quarterly; confirmed that applicable fuel qualifying for Gasoline Tax refund is subject to Sales and Use tax.
	P.L. 2005, ch. 332	Restricted beneficiaries to persons purchasing and using fuel for commercial use, simplified list of eligible vehicles as only vehicles for commercial use other than those registered for use on State highways. Decreased time to apply for a refund to 12 months and allowed applications for periods other than monthly.
	P.L. 2007, ch. 438	Removed requirement to submit original invoices (but retained requirement to submit evidence as the Assessor may require.)
Section 2909: Certain bus companies	P.L. 2005, ch. 260	Clarified that a person who purchases and uses fuel for commercial ground fishing is eligible for refund.
	P.L. 2015, ch. 9	Extended the time to apply for a refund to 18 months.
	P.L. 1959, ch. 329	Enacted a Gasoline Tax exemption of 3/7 of the tax paid by any person or entity engaged in furnishing a common carrier passenger service under a certificate issued by the Public Utilities Commission, on the proportion of internal combustion engine fuel used in buses (on which no excise tax is collected), provided the tax exempt passenger fare revenue is at least 60% of the total fare revenue. Applications for refunds must be submitted to the State Tax Assessor on required forms with original invoices within 9 months of the date of purchase.

	P.L. 1965, ch. 479	Increased the amount of refund available to the entire amount of Gasoline Tax paid.
	P.L. 2005, ch. 332	Extended the time to apply for refunds to 12 months.
	P.L. 2007, ch. 438	Removed the requirement to submit original invoices as part of refund claim.

Tax Expenditure	Refund of the Special Fuel Tax for Off-Highway Use and for Certain Bus Companies		
Statutory reference	36 MRSA § 3218 (off-highway use), 36 MRSA § 3215 (certain bus companies)		
Distribution mechanism	Refund upon submission of paper application within 18 months (off-highway use) or 12 months (certain bus companies) of purchase.		
Brief description	A refund of the Special Fuel Tax paid (less \$.01 per gallon and applicable sales & use tax) on special fuel, except for use in motor vehicles on State highways or in an aircraft <u>and</u> a full refund of the Special Fuel Tax paid on internal combustion fuel used in common carrier passenger service on which no motor vehicle excise tax is collected. <sup>14</sup>		
Intended beneficiaries	Individuals, firms or corporations purchasing applicable fuel.		
Estimated fiscal impact	FY13	\$4,500,000	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$4,513,071	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$4,500,000	
	FY16	\$4,749,588	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$4,500,000	
	FY18	\$4,500,000	
	FY19	\$4,500,000	
Notes on estimated fiscal impact	Estimates extrapolated based on actual refunds issued in the fiscal year 2006.		
Legislative history (includes substantive amendments)  Section 3218: Off-highway use	Public Law	Change	
	P.L. 1983, ch. 94	Enacted a refund for Special Fuel Tax on internal combustion engine fuel for motor boats, agricultural equipment not operated on public ways, vehicles that only run on rails or tracks, stationary engines, registered vehicles operated off highways, or for any other commercial use except motor vehicles operating on the highways. Refunds are for the Special Fuel Tax paid less \$.01 by application to the State Tax Assessor within 15 months of purchase. Applicable fuel qualifying for Special Fuel Tax refund is subject to use tax.	
	P.L. 1983, ch. 828	Extended the refund beyond commercial use.	
	P.L. 2003, ch. 390	Restricted refunds to persons who purchase and use applicable fuel; simplified language of eligible vehicles to anything other than a motor vehicle registered for use on the highways.	
	P.L. 2005, ch. 332	Reduced the time to submit an application to 12 months; clarified that the amount of refund is the amount of tax paid minus \$.01 per gallon.	

<sup>14</sup> Off-highway fuel is subject to Sales and Use tax and has an 18-month refund period from the date of sale. Fuel used by certain bus companies is exempt from Sales and Use tax and has a 12-month refund period.

	P.L. 2015, ch. 9	Extends the time for refund applications to 18 months.
Section 3215: Certain bus companies	P.L. 1959, ch. 329	Enacted a Special Fuel Tax exemption of 3/7 of the tax paid by any person or firm providing common carrier passenger services for locally encouraged vehicles (on which no excise tax is collected) under a certificate issued by the Public Utilities Commission, provided that the tax-exempt passenger fare revenue is at least 60% of the total passenger fare revenue. Refund applications must be filed within 9 months of purchase.
	P.L. 1965, ch. 479	Increased the amount of refund available to the entire amount of tax paid.
	P.L. 2005, ch. 332	Extended the time for refund applications to 12 months from purchase.
	P.L. 2007, ch. 438	Removed the requirement to submit original invoices as part of refund claim.

Tax Expenditure	Exemptions of the Real Estate Transfer Tax		
Statutory reference	36 MRSA § 4641-C		
Distribution mechanism	Exemption claimed when submitting Real Estate Transfer Tax Declaration or Controlling Interest Transfer Tax form.		
Brief description	Exempts from the Real Estate Transfer Tax 19 different types of transfers of real estate by deed or by transfer of a controlling interest in the property.		
Intended beneficiaries	Buyers and sellers of exempt real estate.		
Estimated fiscal impact	FY13	\$500,000-\$1,999,998	Source: 2014-2015 Maine State Tax Expenditure Report
	FY14	\$500,000-\$1,999,998	Source: 2016-2017 Maine State Tax Expenditure Report
	FY15	\$500,000-\$1,999,998	
	FY16	\$500,000-\$1,999,998	Source: 2018-2019 Maine State Tax Expenditure Report
	FY17	\$500,000-\$1,999,998	
	FY18	\$500,000-\$1,999,998	
	FY19	\$500,000-\$1,999,998	
Notes on estimated fiscal impact	Estimates are based on a forecast of housing sales and median home prices from the Office of Policy and Management economic forecast. The exemption impacts the General Fund and the HOME Fund in the amount of \$250,000 - \$999,999 each.		
Legislative history (includes substantive amendments)	Public Law	Change	
	P.L. 1975, ch. 572	Enacted eight exemptions from the Real Estate Transfer Tax for certain types of deeds, including property acquired by government entities, mortgage deeds, additions/modifications to existing deeds, deeds between certain family members without consideration, tax deeds, deeds of partition, deeds made pursuant to mergers, and deeds by a subsidiary to its parent corporation in exchange for stock.	
	P.L. 1975, ch. 655	Added exemption for partial releases of mortgage deeds.	
	P.L. 1977, ch. 318	Added exemption for deeds made prior to October 1, 1975.	
	P.L. 1977, ch. 394	Added exemption for deeds made by a parent corporation to its subsidiary in exchange for stock.	
	P.L. 1981, ch. 148	Added exemption for deeds of distribution made under Probate Code.	
	P.L. 1985, ch. 691	Clarified language to ensure exemption includes property deeds transferred to or by the US or State of Maine.	

	P.L. 1993, ch. 398	Added exemption for deeds executed by public officials in performance of official duties, deeds of (or in lieu of) foreclosure, deeds given pursuant to the US Bankruptcy Code, deeds to a trustee/nominee/straw, certain corporate and partnership deeds in exchange for shares/interests/debt security.
	P.L. 1993, ch. 647	Confirmed that non-government organizations involved in real estate transfers with a government entity will be liable for the Real Estate Transfer Tax, with the exception of property transferred for transportation purposes and land conservation. Deeds for gifts of land to charitable conservation organizations added to exemption.
	P.L. 1993, ch. 718	Added exemption for deeds between limited liability companies and their members.
	P.L. 1999, ch. 638	Added exemption for deeds pursuant to consolidation of business entities provided no gain or loss is recognized by the IRS; and property transfers that are simply a change in identity or form of ownership when there is no change in beneficial ownership.
	P.L. 2001, ch. 559	Added exemption for real estate transferred by a transfer of a controlling interest if the transfer by deed would be exempt.
	P.L. 2005, ch. 519	Added exemption for deeds between grandparent and grandchild.
	P.L. 2009, ch. 361	Clarified the types of business entities that qualify for exemption for deeds made pursuant to a merger or consolidation.
	P.L. 2009, ch. 402	Removed exemption for foreclosures and deeds in lieu of foreclosures and directed that tax revenue to the Bureau of Consumer Credit Protection to fund the agency's additional duties resulting from increased foreclosure rates. Clarified that only the mortgagor is exempt from the tax imposed for the deed in lieu of foreclosure.
	P.L. 2013, ch. 521	Clarified that tax is exempted regardless of whether the transfer is by deed, assignment or other method of transfer for public sales for any amount needed to satisfy the claims of the mortgage.

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

### **3 MRSA § 998. Process for review of tax expenditures<sup>15</sup>**

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. By October 1, 2015, the committee, in consultation with the policy committee, shall establish a 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 schedule the review of tax expenditures with similar goals during the same year.
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.

### **3 MRSA § 1000. Expedited review of tax expenditures; Sub-§ 2**

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.

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<sup>15</sup> In these sections of law, “the office” refers to OPEGA; “the committee” refers to the Government Oversight Committee; “the policy committee” refers to the Taxation Committee.



## **Appendix B: Estimated Fiscal Impact of “Tax Fairness” Tax Expenditures, FY13-FY19**

<b>Expenditure<sup>16</sup></b>	<b>FY13<sup>17</sup></b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>
Exemption for Certain Loaner Vehicles	\$232,560	\$253,816	\$266,151	\$280,047	\$285,647	\$291,361	\$297,188
Exemption for Certain Property Purchased Out of State	\$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	\$1,000,000-2,999,999
Exemption for Certain Returnable Containers	\$1,287,434	\$1,427,979	\$1,512,056	\$1,745,929	\$1,798,307	\$1,852,256	\$1,907,824
Exemption for Meals & Lodging Provided to Employees	\$145,350	\$160,930	\$168,286	\$50,000-\$249,999	\$50,000-\$249,999	\$50,000-\$249,999	\$50,000-\$249,999
Exemption for Mobile & Modular Homes	\$17,735,845	\$27,593,065	\$28,650,370	\$31,907,086	\$32,226,157	\$32,709,549	\$33,200,193
Exemption for Motor Vehicle Fuel	\$121,893,611	\$143,231,504	\$142,461,604	\$89,387,543	\$90,594,164	\$91,690,031	\$92,946,579
Exemption for Packaging Materials	\$10,174,500	\$11,943,875	\$12,843,050	\$29,204,000	\$30,360,400	\$31,722,600	\$32,996,600
Exemption for Trade-In Credits	\$24,253,331	\$26,345,793	\$28,032,417	\$33,470,748	\$34,642,224	\$35,854,701	\$37,109,616
Deduction for Active Duty Military Pay Earned Outside of Maine	\$0	\$741,000	\$1,873,000	\$990,000	\$900,000	\$900,000	\$900,000
Deduction for Social Security Benefits Taxable at Federal Level	\$52,737,350	\$69,711,000	\$71,212,000	\$79,400,000	\$78,500,000	\$85,000,000	\$91,800,000
Refund of the Gasoline Tax for Off-Highway Use and for Certain Bus Companies	\$958,705	\$265,192	\$325,000	\$676,475	\$960,000	\$960,000	\$960,000
Refund of the Special Fuel Tax for Off-Highway Use and for Certain Bus Companies	\$4,500,000	\$4,513,071	\$4,500,000	\$4,749,588	\$4,500,000	\$4,500,000	\$4,500,000
Exemptions of the Real Estate Transfer Tax <sup>18</sup>	\$500,000-1,999,998	\$500,000-1,999,998	\$500,000-1,999,998	\$500,000-1,999,998	\$500,000-1,999,998	\$500,000-1,999,998	\$500,000-1,999,998
<b>TOTAL<sup>19</sup></b>	<b>\$237,168,685</b>	<b>\$289,437,224</b>	<b>\$295,093,933</b>	<b>\$275,211,414</b>	<b>\$278,166,897</b>	<b>\$288,880,496</b>	<b>\$300,017,998</b>

<sup>16</sup> This table excludes two expenditures “Credit for Income Tax Paid to Other Jurisdiction” and “Deduction for Dividends from Affiliates not included in Combined Return” that are no longer included in the Maine State Tax Expenditure Report as described on p. 3. Data for these expenditures is not available for most years. If the Committees wish to see current estimates for these expenditures, they would need to request it from MRS. The available data for these two expenditures is included on pp. 6 and 8.

<sup>17</sup> Source: Estimates for FY13 were published in the 2014-2015 Maine State Tax Expenditure Report. Estimates for FY14-FY15 were published in the 2016-2017 Maine State Tax Expenditure Report. Estimates for FY16-FY19 were published in the 2018-2019 Maine State Tax Expenditure Report.

<sup>18</sup> This range is a combination of estimated cost of “Exemptions of the Real Estate Transfer Tax” to the General Fund and the HOME fund; costs estimated by MRS for each of those are \$250,000-\$999,999.

<sup>19</sup> These totals use the mid-point of the estimated range for the fiscal impact of “Real Estate Transfer Tax,” “Certain Property Purchased Out of State,” and “Meals & Lodging Provided to Employees.”

## ***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 models are not yet in use by MRS' Office of Tax Policy for estimating the fiscal impact of income tax law changes.



## Appendix C

### Provisions Subject to Review



**Maine Revised Statutes**  
**Title 36: TAXATION**  
**Chapter 211: GENERAL PROVISIONS**

**§1760. EXEMPTIONS**

Subject to the provisions of section 1760-C, no tax on sales, storage or use may be collected upon or in connection with: [1999, c. 521, Pt. A, §6 (AMD).]

**8. Certain motor fuels.** Sales of:

A. Motor fuels upon which a tax at the maximum rate for highway use pursuant to Part 5 or a comparable tax of another state or a province of Canada has been paid; or [2011, c. 548, §16 (AMD).]

B. Internal combustion engine fuel, as defined in section 2902, bought and used for the purpose of propelling jet engine aircraft. [2011, c. 548, §16 (AMD).]

C. [1991, c. 546, §18 (RP).]

D. [2011, c. 548, §16 (RP).]

[ 2011, c. 548, §16 (AMD) .]

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

**12-A. Packaging materials.** Sales of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials to:

A. Persons engaged in the business of:

(1) Packing or packaging tangible personal property; and

(2) Shipping or transporting that tangible personal property; or [2011, c. 240, §18 (RPR).]

B. Persons for use in packing, packaging or shipping tangible personal property sold by them or on which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business that are transferred to the possession of the purchaser of that tangible personal property; [1995, c. 634, §1 (NEW); 1995, c. 634, §2 (AFF).]

[ 2011, c. 240, §18 (AMD) .]

**21-A. Certain loaner vehicles.** The use of a loaner vehicle provided by a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, to a service customer pursuant to a manufacturer's or dealer's warranty.

[ 2007, c. 627, §47 (AMD) .]

**40. Manufactured housing.** Sales of:

A. Used manufactured housing; and [2005, c. 618, §3 (AMD).]

B. New manufactured housing to the extent of all costs, other than materials, included in the sale price, but the exemption may not exceed 50% of the sale price. [2005, c. 618, §3 (AMD).]

[2005, c. 618, §3 (AMD).]

**45. Certain property purchased outside State.** Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29-A, section 101, subsection 7, and if the owner is an individual who was, at the time of purchase, a resident of the other state; [2009, c. 625, §8 (AMD).]

A-1. [2011, c. 285, §15 (AFF); 2011, c. 285, §4 (RP).]

A-2. If the property is a snowmobile or all-terrain vehicle as defined in Title 12, section 13001 and the purchaser is an individual who is not a resident of the State; [2007, c. 438, §45 (AMD).]

A-3. If the property is an aircraft not exempted under subsection 88 or 88-A and the owner at the time of purchase was a resident of another state or tax jurisdiction and the aircraft is present in this State not more than 20 days during the 12 months following its purchase, exclusive of days during which the aircraft is in this State for the purpose of undergoing "major alterations," "major repairs" or "preventive maintenance" as those terms are described in 14 Code of Federal Regulations, Appendix A to Part 43, as in effect on January 1, 2005. For the purposes of this paragraph, the location of an aircraft on the ground in the State at any time during a day is considered presence in the State for that entire day, and a day must be disregarded if at any time during that day the aircraft is used to provide free emergency or compassionate air transportation arranged by an incorporated nonprofit organization providing free air transportation in private aircraft by volunteer pilots so children and adults may access life-saving medical care; [2011, c. 622, §2 (AMD).]

A-4. If the property is brought into this State solely to conduct activities directly related to a declared state disaster or emergency, at the request of the State, a county, city, town or political subdivision of the State or a registered business, the property is owned by a person not otherwise required to register as a seller under section 1754-B and the property is present in this State only during a disaster period. As used in this paragraph, "declared state disaster or emergency" has the same meaning as in Title 10, section 9902, subsection 1 and "disaster period" means the period of 60 days that begins with the date of the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or major emergency, whichever occurs first; or [2011, c. 2, §40 (COR).]

B. For more than 12 months in all other cases. [1987, c. 772, §22 (RPR).]

Property, other than automobiles, snowmobiles, all-terrain vehicles and aircraft, that is required to be registered for use in this State does not qualify for this exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State. If property required to be registered for use in this State was not required to be registered for use outside this State, the owner must be able to document actual use of the property outside this State for more than 12 months prior to its registration in this State. For purposes of this subsection, "use" does not include storage but means actual use of the property for a purpose consistent with its design.

[2013, c. 331, Pt. C, §8 (AMD).]

**75. Certain meals and lodging.** Meals or lodging provided to employees at their place of employment when the value of those meals or that lodging is allowed as a credit toward the wages of those employees.

[1989, c. 871, §15 (NEW).]

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## §1765. TRADE-IN CREDIT

When one or more items in one of the following categories are traded in toward the sale price of another item in that same category, the tax imposed by this Part must be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade. This section does not apply to transactions between dealers involving exchange of the property from inventory: [ 2007, c. 627, §50 (AMD); 2007, c. 627, §96 (AFF). ]

**1. Motor vehicles.** Motor vehicles;

[ 1987, c. 402, Pt. A, §180 (RPR) . ]

**3. Watercraft.** Watercraft;

[ 1989, c. 588, Pt. C, §4 (RPR) . ]

**4. Aircraft.** Aircraft;

[ 1987, c. 402, Pt. A, §180 (RPR) . ]

**6. Chain saws.** Chain saws;

[ 1987, c. 402, Pt. A, §180 (RPR) . ]

**7. Special mobile equipment.** Special mobile equipment; or

[ 2009, c. 207, §2 (AMD) . ]

**8. Trailers and truck campers.** Trailers and truck campers.

[ 2009, c. 207, §3 (AMD) . ]

**9. Truck campers.**

[ 2009, c. 207, §4 (RP) . ]

The trade-in credit allowed by this section is not available unless the items traded are in the same category. The tax must be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade. [ 2009, c. 207, §5 (AMD) . ]

## §2908. REFUND OF TAX IN CERTAIN CASES; TIME LIMIT

A person who purchases and uses internal combustion engine fuel for any commercial use other than in the operation of a registered motor vehicle on the highways of this State or, except as provided in section 2910, in the operation of an aircraft and who has paid the tax imposed by this chapter on that fuel is entitled to



reimbursement in the amount of the tax paid, less 1¢ per gallon, upon presenting to the State Tax Assessor a sworn statement accompanied by evidence as the assessor may require. The statement must show the total amount of internal combustion engine fuel so purchased and used by that person for a commercial use other than in the operation of registered motor vehicles on the highways of this State or in the operation of aircraft. [2007, c. 438, §70 (AMD).]

A refund application on a form prescribed by the State Tax Assessor must be filed to claim a refund pursuant to this section. Interest must be paid at the rate determined pursuant to section 186, calculated from the date of receipt of the claim, for all proper claims not paid within 30 days of receipt. Applications for refunds must be filed with the assessor within 18 months from the date of purchase. [2015, c. 9, §1 (AMD).]

All fuel that qualifies for a refund under this section is subject to the use tax imposed by chapter 215. [2005, c. 683, Pt. B, §31 (RPR).]

## **§2909. REFUND OF ENTIRE TAX PAID BY CERTAIN COMMON CARRIERS**

A person engaged in furnishing common carrier passenger service is entitled to reimbursement of the tax paid on internal combustion engine fuel used by that person in locally encouraged vehicles. For purposes of calculating reimbursement due pursuant to this section, internal combustion engine fuel used in a person's locally encouraged vehicles is presumed to bear the same proportional relationship to internal combustion engine fuel used in all of the person's passenger vehicles that the person's commutation fare revenue derived from service provided by locally encouraged vehicles bears to the person's total passenger fare revenue. "Commutation fare revenue" means revenue attributable to fares of 60¢ or less and fares paid for commutation or season tickets for single trips of less than 30 miles or for commutation tickets for one month or less. "Total passenger fare revenue" means all revenue attributable to the claimant's passenger operations. "Locally encouraged vehicles" means buses upon which no excise tax is collected under section 1483, subsection 13. [2009, c. 598, §47 (AMD).]

Applications for refunds must be filed with the State Tax Assessor, on a form prescribed by the assessor, within 12 months from the date of purchase. A refund may not be issued under this section unless the claimant's commutation fare revenue derived during the period for which the refund is claimed is at least 60% of the claimant's total passenger fare revenue derived during that period. [2007, c. 438, §71 (AMD).]

### **Maine Revised Statutes**

### **Title 36: TAXATION**

### **Chapter 459: SPECIAL FUEL TAX ACT**

## **§3215. REFUND OF TAXES FOR CERTAIN COMMON CARRIERS**

A person engaged in furnishing common carrier passenger service is entitled to reimbursement of the tax paid on special fuel used by that person in locally encouraged vehicles. For purposes of calculating reimbursement due pursuant to this section, special fuel used in a person's locally encouraged vehicles is presumed to bear the same proportional relationship to special fuel used in all of the person's passenger vehicles that the person's commutation fare revenue derived from service provided by locally encouraged vehicles bears to the person's total passenger fare revenue. "Commutation fare revenue" means revenue

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attributable to fares of 60¢ or less and fares paid for commutation or season tickets for single trips of less than 30 miles or for commutation tickets for one month or less. "Total passenger fare revenue" means all revenue attributable to the claimant's passenger operations. "Locally encouraged vehicles" means buses upon which no excise tax is collected under section 1483, subsection 13. [2009, c. 598, §48 (AMD).]

Applications for refunds must be filed with the State Tax Assessor, on a form prescribed by the assessor, within 12 months from the date of purchase. A refund may not be issued under this section unless the claimant's commutation fare revenue derived during the period for which the refund is claimed is at least 60% of the claimant's total passenger fare revenue derived during that period. [2007, c. 438, §85 (AMD).]

### **§3218. REFUND OF TAX IN CERTAIN CASES, TIME LIMIT**

A person who purchases and uses special fuel for any use other than operation of a registered motor vehicle on the highways of this State, and who has paid the tax imposed by this chapter on that fuel, is entitled to reimbursement in the amount of the tax paid, less 1¢ per gallon, upon presenting to the State Tax Assessor a sworn statement accompanied by evidence as the assessor may require. The statement must show the total amount of special fuel so purchased and used by that person other than in the operation of registered motor vehicles on the highways of this State. [2007, c. 438, §86 (AMD).]

A refund application on a form prescribed by the assessor must be filed to claim a refund pursuant to this section. Interest must be paid at the rate determined pursuant to section 186, calculated from the date of receipt of the claim, for all valid claims not paid within 30 days of receipt. Applications for refunds must be filed with the assessor within 18 months from the date of purchase. [2015, c. 9, §2 (AMD).]

All fuel qualifying for a refund under this section is subject to the use tax imposed by chapter 215. [2003, c. 390, §17 (RPR).]

## **Chapter 711-A: REAL ESTATE TRANSFERS**

### **§4641-C. EXEMPTIONS**

The following are exempt from the tax imposed by this chapter: [2001, c. 559, Pt. I, §5 (AMD); 2001, c. 559, Pt. I, §15 (AFF).]

**1. Governmental entities.** Deeds to property transferred to or by the United States, the State of Maine or any of their instrumentalities, agencies or subdivisions. For the purposes of this subsection, only the United States, the State of Maine and their instrumentalities, agencies and subdivisions are exempt from the tax imposed by section 4641-A; except that real property transferred to the Department of Transportation or the Maine Turnpike Authority for transportation purposes; gifts of real property to governmental entities; and deeds transferring real property to governmental entities from a bona fide nonprofit land conservation organization are exempt from the tax;

[1997, c. 504, §10 (AMD).]

**2. Mortgage deeds, deeds of foreclosure and deeds in lieu of foreclosure.** Mortgage deeds, discharges of mortgage deeds and partial releases of mortgage deeds.

A. For the purposes of this subsection, only the mortgagor is exempt from the tax imposed for a deed in lieu of foreclosure. [2013, c. 521, Pt. A, §3 (NEW).]

B. In the event of a transfer, by deed, assignment or otherwise, to a 3rd party at a public sale held pursuant to Title 14, section 6323, the tax imposed upon the grantor by section 4641-A applies only to that portion of the proceeds of the sale that exceeds the sums required to satisfy in full the claims of the mortgagee and all junior claimants originally made parties in interest in the proceedings or having subsequently intervened in the proceedings as established by the judgment of foreclosure and sale. The tax must be deducted from the excess proceeds. [2013, c. 521, Pt. A, §3 (NEW).]

C. In the event of a transfer, by deed, assignment or otherwise, from a mortgagee or its servicer to the mortgagee or its servicer or to the owner of the mortgage debt at a public sale held pursuant to Title 14, section 6323, the mortgagee or its servicer if the servicer is the selling entity is considered to be both the grantor and grantee for purposes of section 4641-A. [2013, c. 521, Pt. A, §3 (NEW).]

D. In the event of a deed in lieu of foreclosure and a deed from a mortgagee or its servicer to the mortgagee or its servicer or to the owner of the mortgage debt at a public sale held pursuant to Title 14, section 6323, the tax applies to the value of the property. [2013, c. 521, Pt. A, §3 (NEW).]

For the purposes of this subsection, "servicer" means a person or entity that acts on behalf of the owner of a mortgage debt to provide services related to the mortgage debt, including accepting and crediting payments from the mortgagor, issuing statements and notices to the mortgagor, enforcing rights of the owner of a mortgage debt and initiating and pursuing foreclosure proceedings;

[ 2013, c. 521, Pt. A, §3 (RPR) .]

**3. Deeds affecting a previous deed.** Deeds that, without additional consideration and without changing ownership or ownership interest, confirm, correct, modify or supplement a deed previously recorded;

[ 1997, c. 504, §11 (AMD) .]

**4. Deeds between certain family members.** Deeds between husband and wife, parent and child or grandparent and grandchild, without actual consideration for the deed, and deeds between spouses in divorce proceedings;

[ 2005, c. 519, Pt. SSS, §1 (AMD); 2005, c. 519, Pt. SSS, §2 (AFF) .]

**5. Tax deeds.** Tax deeds;

[ 1977, c. 318, §1 (NEW) .]

**6. Deeds of partition.** Deeds of partition when the interest conveyed is without consideration. However, if any of the parties take shares greater in value than their undivided interest, a tax is due on the difference between their proportional undivided interest and the greater value, computed at the rate set forth in section 4641-A;

[ 1993, c. 398, §4 (AMD) .]

**7. Deeds pursuant to mergers or consolidations.** Deeds made pursuant to mergers or consolidations of business entities, from which no gain or loss is recognized under the Code. For purposes of this subsection, "business entity" means an association or legal entity organized to conduct business, including, without limitation, a domestic or foreign corporation, a limited partnership, a general partnership, a limited liability partnership, a limited liability company, a joint venture, a joint stock company or a business trust;

[ 2009, c. 361, §26 (AMD); 2009, c. 361, §37 (AFF) .]

**8. Deeds by subsidiary corporation.** Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

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[ 1981, c. 148, §1 (AMD) .]

**9. Deeds prior to October 1, 1975.** Deeds dated or acknowledged prior to October 1, 1975, and offered for recording subsequent to that date;

[ 1993, c. 398, §4 (AMD) .]

**10. Deeds by parent corporation.** Deeds made by a parent corporation to its subsidiary corporation for no consideration other than shares of stock of the subsidiary corporation;

[ 1993, c. 398, §4 (AMD) .]

**11. Deeds of distribution.** Deeds of distribution made pursuant to Title 18-A or Title 18-B;

[ 2005, c. 397, Pt. C, §21 (AMD); 2005, c. 397, Pt. C, §22 (AFF) .]

**12. Deeds executed by public officials.** Deeds executed by public officials in the performance of their official duties;

[ 1993, c. 398, §4 (NEW) .]

**13. Deeds of foreclosure and in lieu of foreclosure.**

[ 2009, c. 402, §23 (RP) .]

**14. Deeds given pursuant to the United States Bankruptcy Code.** Deeds given pursuant to the United States Bankruptcy Code;

[ 1993, c. 398, §4 (NEW) .]

**15. Deeds to a trustee, nominee or straw.** Any deeds:

A. To a trustee, nominee or straw party for the grantor as beneficial owner; [1993, c. 398, §4 (NEW) .]

B. For the beneficial ownership of a person other than the grantor when, if that person were the grantee, no tax would be imposed upon the conveyance pursuant to this chapter; or [1993, c. 398, §4 (NEW) .]

C. From a trustee, nominee or straw party to the beneficial owner; [1993, c. 647, §2 (AMD); 1993, c. 718, Pt. B, §10 (AMD).]

[ 1993, c. 647, §2 (AMD); 1993, c. 718, Pt. B, §10 (AMD) .]

**16. Certain corporate, partnership and limited liability company deeds.** Deeds between a family corporation, partnership, limited partnership or limited liability company and its stockholders, partners or members for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership, limited partnership or limited liability company under the laws of this State, if the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership, limited partnership or limited liability company. For purposes of this subsection a family corporation, partnership, limited partnership or limited liability company is a corporation, partnership, limited partnership or limited liability company in which the majority of the voting stock of the corporation, or of the interests in the partnership, limited partnership or limited liability company is held by and the majority of the stockholders, partners or members are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the real property involved, or persons acting in a fiduciary capacity for persons so related;

[ 1995, c. 462, Pt. A, §69 (RPR) .]

**17. Deeds to charitable conservation organizations.** Deeds for gifts of land or interests in land granted to bona fide nonprofit institutions, organizations or charitable trusts under state law or charter, a similar law or charter of any other state or the Federal Government that meet the conservation purposes requirements of Title 33, section 476, subsection 2, paragraph B without actual consideration for the deeds;

[ 1999, c. 638, §45 (AMD) .]

**18. Limited liability company deeds.** Deeds to a limited liability company from a corporation, a general or limited partnership or another limited liability company, when the grantor or grantee owns an interest in the limited liability company in the same proportion as the grantor's or grantee's interest in or ownership of the real estate being conveyed;

[ 2001, c. 559, Pt. I, §6 (AMD); 2001, c. 559, Pt. I, §15 (AFF) .]

**19. Change in identity or form of ownership.** Any transfer of real property, whether accomplished by deed, conversion, merger, consolidation or otherwise, if it consists of a mere change in identity or form of ownership of an entity. This exemption is limited to those transfers when no change in beneficial ownership is made and may include transfers involving corporations, partnerships, limited liability companies, trusts, estates, associations and other entities; and

[ 2001, c. 559, Pt. I, §7 (AMD); 2001, c. 559, Pt. I, §15 (AFF) .]

**20. Controlling interests.** Transfers of controlling interests in an entity with a fee interest in real property if the transfer of the real property would qualify for exemption if accomplished by deed of the real property between the parties to the transfer of the controlling interest.

[ 2001, c. 559, Pt. I, §8 (NEW); 2001, c. 559, Pt. I, §15 (AFF) .]

## §5122. MODIFICATIONS

**2. Subtractions.** Federal adjusted gross income shall be reduced by:

C. Social security benefits and railroad retirement benefits paid by the United States, to the extent included in federal adjusted gross income; [1989, c. 502, Pt. A, §136 (RPR); 1989, c. 556, Pt. B, §7 (RPR).]

G. For income tax years commencing on or after January 1, 1989 and before January 1, 2000, an amount equal to the total premiums spent for insurance policies for long-term care that have been certified by the

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Superintendent of Insurance as complying with Title 24-A, chapter 68; [1999, c. 521, Pt. C, §3 (AMD); 1999, c. 521, Pt. C, §9 (AFF).]

LL. To the extent included in federal adjusted gross income and to the extent otherwise subject to Maine income tax, an amount equal to military compensation earned during the taxable year for service performed outside of this State pursuant to written military orders:

- (1) For active duty service in the active components of the United States Army, Navy, Air Force, Marines or Coast Guard by a service member whose permanent duty station during such service is located outside of this State; and
- (2) For active duty service in the active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard or in the Maine National Guard by a service member in support of a federal operational mission or a declared state or federal disaster response when the orders are either at federal direction or at the direction of the Governor of this State; [2015, c. 1, §5 (AMD).]

## **§5217-A. INCOME TAX PAID TO OTHER TAXING JURISDICTION**

A resident individual is allowed a credit against the tax otherwise due under this Part, excluding the tax imposed by section 5203-C, for the amount of income tax imposed on that individual for the taxable year by another state of the United States, a political subdivision of any such state, the District of Columbia or any political subdivision of a foreign country that is analogous to a state of the United States with respect to income subject to tax under this Part that is derived from sources in that taxing jurisdiction. In determining whether income is derived from sources in another jurisdiction, the assessor may not employ the law of the other jurisdiction but shall instead assume that a statute equivalent to section 5142 applies in that jurisdiction. The credit, for any of the specified taxing jurisdictions, may not exceed the proportion of the tax otherwise due under this Part, excluding the tax imposed by section 5203-C, that the amount of the taxpayer's Maine adjusted gross income derived from sources in that taxing jurisdiction bears to the taxpayer's entire Maine adjusted gross income; except that, when a credit is claimed for taxes paid to both a state and a political subdivision of a state, the total credit allowable for those taxes does not exceed the proportion of the tax otherwise due under this Part, excluding the tax imposed by section 5203-C, that the amount of the taxpayer's Maine adjusted gross income derived from sources in the other state bears to the taxpayer's entire Maine adjusted gross income. [2003, c. 673, Pt. JJ, §4 (AMD); 2003, c. 673, Pt. JJ, §6 (AFF).]