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REPORT OF THE JOINT STANDING COMMITTEE ON TAXATION REGARDING

TAX EXPENDITURE REVIEW

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EXECUTIVE SUMMARY

It is the responsibility of the Joint Standing Committee on Taxation to review all tax expenditures contained in the sales, income and insurance tax laws. The review is based on a four year rotating cycle with approximately one fourth of the tax expenditure provisions being reviewed each year. The review conducted this year represented the second year of the current four year cycle. The process of review consisted of a public hearing and several Committee meetings. The public hearing was not well attended. The expenditures subject to review were the topic of discussion at Committee meetings.

The purpose of tax expenditure review is to provide an opportunity for legislative review of tax expenditure provisions. Although the procedure currently used by the Committee has not resulted in an extensive change of the State's tax system, it has accomplished its intended purpose. Therefore, the committee makes no recommendation for change in the current procedure. The committee also makes no recommendation for change in any of the provisions subject to review this year. In one instance, however, the Committee does recommend that the Bureau of Taxation propose a change of wording to clarify the intent of a provision.

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TAX EXPENDITURE REVIEW

SECTION I: BACKGROUND

Introduction

The Sales and Use Tax in Maine was enacted into law in 1951 at the rate of 2%. The enactment of the tax was part of a plan which eliminated the state property tax which had previously provided substantial revenues to the State General Fund. Additional information relating to the origin of the tax may be found in the 1980 and 1982 reports of this Committee on sales tax exemptions.

The total amount collected from the sales and use tax in Maine in fiscal year 1985-86 was $386,624,035. Of that amount, 5.1% is dedicated to the Local Government Fund and distributed to municipalities in the form of state-municipal revenue sharing. The remainder is deposited in the General Fund.

Legislative review

History

In 1978, the 109th Legislature enacted the original procedures for review of sales and use tax exemptions. The original provisions established a cycle of review that required the review of one half of the exemptions every second year. Following the first review in 1979, the Committee recommended that the procedure be changed to require a review of all sales tax exemptions on a four year cycle. The first full review was completed in 1982.

In 1981, in a related measure, the Legislature enacted a provision of law requiring the Governor to include in the State budget document an estimate of the loss of State revenue resulting from tax expenditures. "Tax expenditures" is defined as "state tax revenue losses attributable to provisons of Maine laws which allow a special exclusion, exemption or deduction or which provide a special credit, a preferential rate of tax or a deferral of tax liability." This itemized estimate is prepared every two years by the Bureau of Taxation for inclusion in the budget document. The estimate makes projections of cost over the two years covered by the proposed budget and includes the two preceding fiscal years.

Maine law, 36 MRSA §195 et seq., enacted in 1985, established the current procedure for legislative review of tax expenditures. This law expanded the review procedure to include for the first time tax expenditures contained within the income tax and insurance tax laws, and sales tax provisions not located in section 1760, the exemption section.

Section 195 identifies the purpose of the review -- to provide for the periodic review of tax provisions that provide a benefit to some groups thereby resulting in an increased burden on those who are not benefited. Periodic review is intended to ensure that once the Legislature establishes a tax expenditure provision it will continue to review its purpose and effectiveness to maintain responsible tax policy.

Current Procedure

Responsibility for conducting tax expenditure review is allocated to the joint standing committee of the Legislature with responsibility for taxation. The review covers all tax expenditures contained in the sales, income and insurance tax laws. The review is accomplished through a four year rotating cycle. Each year approximately one quarter of the tax expenditure provisions are assigned for review. Therefore, each provision will be reviewed every fourth year. A separate but parallel procedure exists for the review of property tax exemptions every four years. (See 1 MRSA §2601 et seq.)

SECTION II: TAX EXPENDITURE REPORTS

Summary of previous reports

Since 1978, the reviews listed in Table 1 have been conducted by the Joint Standing Committee on Taxation. In each instance the report covering the review was issued early in the subsequent year.

TABLE 1: TAX EXPENDITURE REVIEWS,
JOINT STANDING COMMITTEE ON TAXATION

Year	Sections Reviewed
1978	Title 36, sections 652 and 656 (partial property tax exemptions)
1979	Title 36, section 1760, subsections 15 to 23 and 25 to 29 (partial sales tax exemptions)
1981	Title 36, section 1760, subsections 3 to 41 (all sales tax exemptions)
1983	Title 36, Part 2 (all property tax exemptions)
1985	Title 36, section 1752, section 1760, subsections 1 to 9-C and chapter 357 (sales tax exclusions, exemptions and insurance tax preferences)

Review during the current year

Process

This report covers year two of the current four year cycle. Table 2 lists the tax expenditure provisions of sales tax law contained in Title 36 that were reviewed this year.

TABLE 2: TAX EXPENDITURE PROVISIONS REVIEWED

Section 1760,
subsections 31 through the end of that section

Section 1811-A

Section 1862

Section 1863

Section 2012

Section 2013

Section 2014

As required by chapter 9 of Title 36, the Committee held a public hearing on the tax expenditures subject to review during this cycle. Fewer than 10 people attended the hearing; only one spoke -- Henry Magnuson, representing the Paper Industry Information Office. He spoke in favor of the sales tax exemption for machinery and equipment used in production of tangible personal property and in research.

The Committee met several times to review the expenditures subject to review during this cycle. Specific questions were raised regarding: 1) the relationship between the sales tax exemption for used mobile and modular homes and the recently expanded sales tax on fabrication services; and 2) the sales tax exemption for rail track materials. These questions are addresed in Section IV of this report.

Content

This report is prepared by the Committee as required by section 199 of Title 36. That law provides that the report must contain the following information:

1. A description of the purpose of the tax expenditure;
2. A determination of the groups or individuals likely to benefit from the tax expenditure;
3. An evaluation of the effectiveness of the tax expenditure;
4. An estimate of the annual cost of the tax expenditure;
5. A recommendation of the committee as to the amendment, repeal, replacement or retention of the tax expenditure for any other matters relating to the provisions subject to review; and
6. An evaluation of the effectiveness of the procedures required by this chapter and any recommendations for change.

The law permits the Committee to include in its report only information that has become relevant since the last time a tax expenditure was subject to review. Most of the provisions subject to review during this cycle were previously reviewed in 1982; some, however, were not. In some instances, the Committee finds there has been no change since 1982.

SECTION III: EFFECTIVENESS OF TAX EXPENDITURE REVIEW

Evaluation of effectiveness of chapter 9

Chapter 9 of Title 36 requires the Committee to consider the effectiveness of tax expenditure review procedures and make appropriate recommendations for change.

Since the enactment of tax expenditure review procedures in 1978, little change in tax expenditure policy has been accomplished as a result of the Committee's review. The review procedure has been the subject of two major revisions since 1978. Thus far, six reviews have taken place (including the current one). Few substantive changes have resulted.

In 1979, two duplicative property tax exemptions were repealed (Red Cross and certain colleges). A third (fallout shelters) was repealed because the Committee believed that the exemption was no longer consistent with public policy. One sales tax exemption (unincorporated hospitals) was repealed in 1979 because no such institutions appeared to exist.

In 1982, the Committee recommended repeal of the sales tax exemptions for liquor and cigarettes and the use of the increased revenues for purposes of local revenue sharing. Legislation was not pursued, however, because of a ruling that the inclusion of the provision increasing revenue sharing was not germane to the tax exemption study. The Committee chose not to pursue the repeal of the exemptions if they could not be tied to revenue sharing. Those exemptions were subsequently repealed in order to provide funding for general needs.

The lack of recommendations for major changes in tax expenditures subject to review is reflected in the lack of public participation in public hearings over the last few years and the dearth of written justifications submitted to the Committee. Members of the public and representatives of special interest groups have come to expect little in the way of activity as a result of tax expenditure review. In some instances where members of the Committee have had a particular interest in an exemption, representatives of groups benefiting from the exemption have been asked to present information to the Committee or appear to answer questions. In most instances, the Committee has been required to depend upon its own deductions of the purposes of exemptions and the persons who receive the benefit. No organization within the State appears to advocate for repeal of tax expenditure provisions, although a few concerns have been raised about individual exemptions.

Alternatives to the current procedure

Nineteen states currently have some kind of tax expenditure report system. All but four of these systems require preparation of the report by the executive branch, ordinarily by the revenue department, as part of the annual or biennial budget document. Legislative review is not mandated in most states and occurs as part of the ordinary budget procedure. According to a report of the National Conference of State Legislatures, few changes have occurred as a result of tax expenditure review reports. In fact, NCSL reports that the Revenue Department in California is recommending that the procedure be repealed because it has resulted in so few changes. There do not appear to be any examples from other states of procedures that work any better than Maine's procedure works.

A few alternative approaches that could increase attention to the tax expenditure review process are listed here:

A. Sunset of tax expenditure provisions. This alternative was first proposed by the Taxation Committee in 1985. The proposal appeared in an amendment to a bill that sought to require an investigation and report by the executive branch to the Legislature on proposed tax expenditures. Although the amendment was approved by the Committee, the bill was amended on the floor to remove the automatic sunset provision. The suggestion appeared again in 1986 in LD 1912, AN ACT to Require Legislative Review and Approval of Sales and Use Tax Exemptions Every 5 Years. Although LD 1912 received a divided Committee report, the majority of the Committee recommended that the bill ought not to pass, and it died between Houses.

An automatic sunset provision could be expected to draw more attention from affected parties than the current procedure. It could either result in a peremptory review with little change from the current procedure, or it could become a major burden for the committee with the responsibility for reviewing the sunset legislation.

B. Review by some organization other that the Taxation Committee. In most states the narrative report describing tax expenditure provisions is prepared by the revenue department. The review could also be performed by another executive agency, such as the State Planning Office or the Finance Authority of Maine, for submission to the Legislature.

C. Increased assertiveness on the part of the Committee. The Committee could become more active in review of tax expenditure proposals. A series of public hearings could be scheduled; representatives of all affected groups could be specifically invited to make presentations; a few major expenditures could be proposed for repeal or amendment. Increased activity on the part of the Committee could result in greater attention from groups and individuals benefiting from the provisions subject to review.

Recommendations

Although the procedure currently used by the Committee in the review of tax expenditures has not resulted in massive overhaul of the State's tax system, it was not intended to have such an effect. The procedure does provide an opportunity for legislative review of tax expenditure provisions. It also ensures that those provisions that have lost their political viability will be seriously considered for reform or repeal. The work load of the Committee might be lightened if the executive branch of government, probably the Bureau of Taxation, prepared the explanatory information for each provision; however, the Committee does not currently make that recommendation for change.

SECTION IV: ANALYSIS OF PROVISIONS REVIEWED

The provisions

The remainder of this report contains the determinations of the Committee with regard to the provisions subject to review this year. The Committee makes no recommendations for change in these provisions, although in one instance the Committee is recommending that the Bureau of Taxation propose a change of wording to clarify the intent of a provision (mobile and modular homes).

Each provision has been analyzed according to the following structure:

A. Purpose;

B. Groups or individuals benefited;

C. Effectiveness; and

D. Recommendation.

Table 3, containing the estimated cost of each provision subject to review, may be found at the end of this section. Estimates were made by the State Economist at the Bureau of Taxation. The figures provided are for the 1987-88 fiscal year.

The text of the provisions subject to review may be found in Appendix A.

TITLE 36, SECTION 1760

Subsection 31 - Machinery and Equipment

A. Purpose:

The purposes of this exemption are:

1. To eliminate a tax on capital investment, which tends to act as an investment disincentive,
2. To encourage modernization and expansion, and
3. To be competitive with other states in their taxation policies.

B. Groups or Individuals Benefited:

Maine businesses are the primary group benefited. The secondary groups benefited are the citizens of the State through the pass through of tax savings and through the creation of jobs by retaining business in Maine and encouraging its growth.

C. Effectiveness:

The following specifics are offered as showing the necessity of continuing this exception.

1. The Jan/Feb., 1985 issue of Industrial Development magazine showed 38 states with a sales tax exemption on new equipment.
2. A 1980 survey by the National Tax Association - Tax Institute of America showed 33 states, including all Northern Region states, with a sales tax exemption on machinery used in production of tangible personal property for sale. Six states that don't offer a sales tax exemption offer a personal property tax exemption. Half the states exempt from both these taxes.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 32 - New Machinery and Equipment for Research

The discussion for subsection 31 also pertains to this section. Seven of the nine northern region states, including Maine, offered this exemption as of 1980.

Recommendation

It is recommended that this exemption be retained.

Subsection 33 - Diabetic Supplies

A. Purpose:

The purpose of this exemption is to reduce the medical expense of diabetes, an affliction which places a particular financial burden on its sufferers because: it strikes at all ages; it is long term and incurable; and it requires many non-prescription supplies.

B. Groups or Individuals Benefited:

The persons benefited are those who are diabetic.

C. Effectiveness:

This exemption saves diabetics the expense of the sales tax on treatment-related purchases and, reduces the cost of their ailment. It should be noted that the Bureau of Taxation reports that they already give exemptions for non-prescription items that are obviously illness-related.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 34 - Coin-operated Machines

LD 2261 of the 112th Legislature sought to rescind this subsection and tax all items sold through vending machines in a similar fashion as non-exempt food items. This LD received an ONTP.

A. Purpose:

This exemption removes vending machine companies (i.e. those with greater than 50% of their sales from vending) from the necessity of paying a sales tax on food and beverage products. The reason is the alleged impracticality of collecting this tax. Instead these companies are taxed on the wholesale cost of the product. This exemption also acts to place vending machine food sales on a more competitive tax basis with non-taxed grocery store food sales.

B. Groups or Individuals Benefited:

The persons benefited are generally vending machine companies who are not faced with the logistics of collecting the sales tax and are taxed on a lower cost rather than sales basis. Some of this saving is in all probability passed on to the purchaser.

C. Effectiveness:

With the substantially different price structure of items sold by vending machines compared to items sold over-the-counter and the growth and changing structure of the away-from-home eating market now versus when this exemption was passed, there is a question as to whether it still fills its logistic and competitive purpose.

D. Recommendation:

The Committee gave particular attention to this exemption and specifically to whether the argument based on the logistics problem of collecting the tax was still valid and whether the 50% cut off point for qualifications should be retained. Representatives of the vending machine industry were invited to a Committee work session and presented information relating to the exemption to the Committee. The discussions were inconclusive.

The Committee recommends that this exemption be retained as is.

Subsection 35 - Seeing-eye Dogs

A. Purpose:

This exemption was enacted in 1975 without legislative debate. The purpose of the exemption was to provide a benefit to blind persons who use seeing eye dogs to assist them with mobility.

B. Groups or Individuals Benefited:

Persons assisted are blind persons owning seeing eye dogs. The Eye Care Division of the Bureau of Rehabilitation estimates that fewer than 25 persons in Maine use seeing eye dogs.

C. Effectiveness:

This exemption has accomplished its purpose.

D. Recommendation:

The Taxation Committee does not recommend any change in this exemption at the present time.

Subsection 37 - Regional Planning Commissions and Councils of Government

A. Purpose:

This exemption was enacted in 1977 to institutionalize the tax exempt status of regional planning commissions and councils of government. The Bureau of Taxation has always considered such organizations exempt as agencies of government.

B. Groups or Individuals Benefited:

Groups assisted are regional planning commissions and councils of government and the municipalities which participate in them. There are 10 such agencies in Maine.

C. Effectiveness:

The exemption may be redundant; however, its existence clarifies legislative intent that these organizations have a sales tax exemption.

D. Recommendation:

The Taxation Committee does not recommend any change in this exemption at the present time.

Subsection 39 - Residential Water

A. Purpose:

This subsection exempts from taxation sales of water, both utility and bottled, for residential use. Its purpose is similar to the exemption for food products, this purpose being to lessen the effect of taxes for the purchase of necessities. The second purpose relates to the fact that 95% of Maine's water utilities are municipal agencies, and it might be judged inappropriate for the State to tax the sales of another state agency.

B. Groups or Individuals Benefited:

Persons who buy water in Maine for residential use are those who are benefited by this exemption.

C. Effectiveness:

Since water companies in Maine are regulated by the Public Utilities Commission, it seems quite certain that a reinstitution of the sales tax would be passed directly to the consumer and, as estimated by the Water Utilities Association, would result in a 5% increase in the price of water.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 40 - Mobile and Modular Homes

A. Purpose:

The wording of this section is somewhat unclear, according to the sales tax division, a rewording will be proposed to the next Legislature.

Sales Tax Instruction Bulletin #31 indicates how the Division is currently interpreting this subsection.

1. All homes purchased on a foundation are considered real property and not subject to the sales tax. Those that build a new home on a foundation must pay the tax on the materials that went into the home.

2. All other used mobile and modular homes are exempted from the sales tax by this section.

3. The labor involved in all other new mobile and modular homes is exempt, except that exemptions for labor shall not exceed 50% of the retail price.

The purpose of this exemption is to put taxation of mobile and modular homes on the same basis as homes, site built which are only taxed on the materials portion, not the labor portion, of their construction. It also relieves the purchaser of these homes from the necessity of paying a sales tax, which is of particular benefit since the purchasers of these homes tend to be low income individuals.

B. Groups or Individuals Benefited:

This exemption benefits buyers of mobile and modular homes by not requiring them to pay a sales tax. It benefits sellers of such homes by reducing their cost against the competition of site built homes and rental homes.

C. Effectiveness:

There is no reason to believe that this exemption is not effective in reducing the cost of manufactured housing thereby benefiting the typical low income purchaser and the seller.

D. Recommendation:

The Committee gave particular attention to this exemption and specifically to the issue of reducing the ceiling on unsubstantiated expenditures from 50% to 40%.

The Committee recommends that this exemption be retained but that it be reworded so as to make clear that it applies to new as well as used homes.

Subsection 41 - Certain Instrumentalities of Interstate or Foreign Commerce

LD 2261 of the 112th Legislature sought to repeal this subsection. The reasoning behind that section of LD 2261 was that new court cases indicate that the United States Constitution does not prohibit taxing property used as an instrumentality of interstate commerce. LD 2261 received an ONTP from the Legislature.

A. Purpose:

This subsection exempts transportation vehicles used by the purchaser within 30 days for interstate or foreign commerce, said use being at least 80% of total use for the next two years. This exemption was based on the assumption that transportation vehicles used in interstate commerce for which initial delivery and use was outside the State could not be taxed because of the interstate commerce provisions of the United States Constitution. In order to be competitive with other states and to remove Maine dealers from the time and cost of making out-of-state delivery, an exemption on such sales by Maine dealers for delivery in Maine was granted.

B. Groups and Individuals Benefited:

This exemption benefits from a cost and logistics standpoint the buyers and sellers of transportation vehicles used in interstate commerce.

C. Effectiveness:

Based on the information provided with LD 2261, there appears to be some question whether this exemption is still necessary.

D. Recommendation:

The Committee gave particular attention to this exemption and specifically to the legal necessity of continuing it, to the preference it gives firms in interstate commerce versus intrastate firms and to the fact that it does not cover those who purchase the equipment to lease to others.

The Committee recommends that this exemption be retained in its present form.

Subsection 42 - Historical Societies and Museums

A. Purpose:

This subsection provides tax exemption on sales to incorporated, non-profit historical societies and museums. The purpose is to reduce the cost of running these institutions so that a maximum amount of their funds can go into their efforts in obtaining, maintaining and researching items of historical and artistic merit.

B. Groups or Individuals Benefited:

The direct beneficiaries of this exemption are historical societies and museums. The indirect beneficiaries are the citizens of the State for whom these organizations preserve society's items of historic and artistic value.

C. Effectiveness:

The effectiveness of this subsection is delineated in its purpose. Any tax savings will allow the use of the saved moneys for purposes more directly related to the objectives of the organization.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 43 - Nursery Schools and Day-care Centers

A. Purpose:

This exemption is for licensed, incorporated, nonprofit nursery schools and day care centers. Its purpose is to provide tax exemptions to institutions which benefit the citizens of the State by educating and caring for preschool age children. The exemption puts these activities on the same tax basis as public and private schools for older children.

B. Groups or Individuals Benefited:

The direct beneficiaries of this exemption are the persons whose children attend these nonprofit institutions.

C. Effectiveness:

This exemption either frees up funds for additional services by the institution or permits the reduction of fees charged to parents. The representative of the Department of Human Resources who supervises institutions of this type does not have any specific measure of effectiveness. Sixty-eight institutions receive this exemption.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 44 - Certain Church Affiliated Residential Homes

A. Purpose:

This exemption was enacted in 1983. It started out as a bill to amend the Charter of St. Marks Home for Women in Augusta (changed from needy women in 1981). St. Marks Home is a corporation owned by the rector and wardens of the local Episcopal Church. It was incorporated by the Legislature in 1871. Such incorporation was the practice with organizations of this type until about 20 years ago at which time the practice of the Legislature providing incorporation was gradually discontinued.

The initial bill sought to provide St. Marks with tax exempt status as a charitable and nonprofit institution. The bill was amended to include all incorporated, nonprofit boarding care facilities which are affiliated with a house of worship. A new draft of the original bill was the version finally passed. It provides exemption to nonprofit adult residential homes which are affiliated with a church and are chartered by the Legislature.

The purpose of this exemption is to put church sponsored care on the same basis as governmentally sponsored care, to avoid taxing religious organizations and to allow the maximum funds of the organization to go directly to charitable work rather than to pay state sales tax.

B. Groups or Individuals Benefited:

This exemption benefits nonprofit church affiliated, Legislature chartered, adult homes and, indirectly, it would be assumed, the residents of such homes. The records at the Secretary of State's Office are not organized for the purpose of tax exemptions so it is possible to be certain; but, a search of these records turns up only St. Marks as meeting the criteria of this bill. Also, St. Marks is the only home which the Sales Tax Section is aware of as qualifying for this exemption.

C. Effectiveness:

This exemption saves St. Marks Home sales tax payments as it was intended to do.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 45 - Certain Property Purchased Outside the State

A. Purpose:

Property brought into the State of Maine is subject to a use tax if a sales or use tax has not been paid to another State. This section exempts from the sales and use tax property purchased and used for a minimum period outside the State before it it is brought into the State. There are three possible purposes for this exemption:

1. That the exemption removes a tax disincentive for businesses doing business in two states and for those thinking of moving to Maine.

2. A philosophical purpose which says that the State should not tax a purchase which was not originally intended for use in Maine.

3. An equity purpose which recognizes that other subsections exempt non-residents from sales tax on Maine purchases of motor vehicles, boats and aircraft used for twelve months outside the State. This subsection removes out-of-state purchases by out-of-state (and Maine) residents from the sales tax when the purchased item is used for a period out-of-state and then brought to Maine.

B. Groups or Individuals Benefited:

The individuals benefited are persons bringing into Maine property, particularly registerable property, which they have purchased and used for a minimum period in another state.

C. Effectiveness:

This section has been effective in accomplishing its purpose.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 46 - Residential Facilities for Medical Patients and their Families

A. Purpose:

This exemption was intended specifically to benefit Ronald McDonald houses. The exemption removes from the sales tax requirement non-profit institutions providing temporary residential accommodations to critically ill children, adults with cancer and the families of these patients. The object is to put these institutions on the same basis as hospitals and nursing homes, as specified in subsection 18. The purpose of putting institutions of this type on a tax exempt basis is to reduce the cost of such illnesses.

B. Groups or Individuals Likely to Benefit:

The persons who benefit from this exemption are persons requiring the use of a temporary residence because of serious illness in the case of children and their families and in the case of adult cancer sufferers and their families.

C. Effectiveness:

There is every reason to believe that this exemption is successful in accomplishing its purpose.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 47 - Emergency Shelter and Feeding Organizations

A. Purpose:

This subsection exempts from tax sales of household and sanitary supplies to incorporated, non-profit organizations which provide free, temporary emergency shelter or food for underprivileged individuals. The purpose is to allow the maximum funding of these organizations to be directed at their basic purpose and not be diverted to paying a sales tax.

B. Groups or Individuals Benefited:

The beneficiaries of this exemption are incorporated, non-profit organizations which provide temporary shelter or food for underprivileged individuals, the individuals themselves, and the citizens of the State who would have to provide the services if they were not provided by these organizations.

However, once this is said, there is a problem of definition of the terms "temporary" and "underprivileged". For example, does the exemption intend to cover those who are homeless because of mental or alcohol/drug problems who may not be underprivileged?

C. Effectiveness:

The last year has seen 2 State studies dealing with the homeless:

1. Maine Task Force to Study Homelessness, Feb. 1986

2. Report to the Governor of the Cabinet Committee on Homelessness, Oct. 1986

Both emphasize the magnitude of the problem of the homeless. However, they also serve to point out an additional semantic problem of this exemption. This exemption deals with emergency shelter for the underprivileged. It does not deal with other homeless constituencies, those people whose need for a home is based on physical or mental health or on age. Examples of this group are runaway children, battered women, the elderly, drug users, the mentally ill. Some of these may be homeless but not because they are underprivileged.

It is estimated that the State has 38 shelters available for the 250-350 people in need of such shelter on a given night. In terms of effectiveness, the Community Services

Office says that this program is really just reaching high gear and there is not yet a lot of information available that would allow a judgment on its effectiveness.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 48 - Scheduled Airlines

A. Purpose:

This exemption removes the sale or lease of aircraft to scheduled airlines based in Maine from the need to pay a sales tax. This exemption was enacted at the request of Bar Harbor Airlines (now Eastern Express) in order to put their lease of planes on the same tax footing as purchase of aircraft, which is tax exempt as an instrumentality of interstate commerce. Unless extended, this exemption expires on July 1, 1987.

B. Groups or Individuals Benefited:

This exemption benefits scheduled airlines based in Maine, which at the moment means Eastern Express and Valley Airways. Hopefully, at least a portion of this tax saving is passed on to the passengers of these airlines.

C. Effectiveness:

According to Eastern Express this exemption has been effective. Should they wish a continuation of this exemption beyond the July 1, 1987 sunset, they are prepared to present data as to its effectiveness.

D. Recommendation:

This exemption is to sunset July 1, 1987. Eastern Express has not determined if they will make an effort to have the exemption extended. This decision will be based on their plans for acquiring new aircraft. It is satisfactory with them to continue to have sunsets on this exemption.

Subsection 49 - Community Action Agencies

A. Purpose:

This subsection was revised last year so that now tax exemption is only granted on that portion of community action agency purchases which do not go to for-profit aspects of the agency. This revision was to remove the tax advantage that these agencies had when competing with private industry. The negative side of doing so was a reduction on the net available funds of what are, in total, non-profit agencies.

Community action agencies are non-profit organizations designated by the Community Services Office which seek to alleviate the problems of low income individuals, primarily through activities that seek to make them self-sufficient but also through subsidies. The primary activities are a fuel assistance program and a home winterization program. It is the latter which is the major reason for the purchases of these organizations and was the reason for this exemption. These agencies are funded by the federal government through the Community Services Office. There are twelve of these agencies.

B. Groups and Individuals Benefited:

The groups benefited are the clients of the community action agencies in that more of the resources of the agency can be devoted to client needs. Indirectly, the public benefits in terms of reduced requirements to assist low income individuals and in terms of reduced energy consumption.

C. Effectiveness:

The decrease in the availability of federal funds is likely to increase the financial needs of these agencies. On the other hand, the reduced cost of energy should reduce that expense as a factor in the budgets of low income individuals. This exemption results in a savings of $300,000 to $500,000 for these agencies last year, according to their estimates.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 50 - Certain Libraries

A. Purpose:

This exemption provides for purchases on a tax free basis by free public libraries funded at least in part by a governmental body. The purpose is to reduce the cost of purchases by these libraries, thereby allowing either the purchase of more books or the operation of the library on a reduced budget.

B. Groups or Individuals Benefited:

The groups directly benefited are free public libraries that receive some governmental support. Indirectly, this should benefit the citizens of the State, either in the terms of larger library collections or less expensive libraries.

C. Effectiveness:

The effectiveness of the exemption lies in the freeing up of the amount listed in D below for the purchase of additional books or the reduction of library operating expenses.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 51 - Veterans' Memorial Cemetery Association

A. Purpose:

The private, nonprofit Veterans' Memorial Cemetery Association each year provides several thousand dollars in equipment and other materials for the maintenance and upkeep of the State owned Maine Veterans' Cemetery. The purpose of this exemption is to remove purchases by this organization from the necessity to pay a sales tax so that the maximum income of the organization can go to its work in providing for the Veterans' Cemetery.

B. Groups or Individuals Benefited:

The group directly benefited is the Veterans' Memorial Cemetery Association. The groups indirectly benefited are the families with relatives or friends buried in the Veterans' Cemetery and the taxpayers, whose cost of cemetery maintenance is reduced by the activities of the Association.

C. Effectiveness:

This exemption was only enacted in 1985. However, there is no reason to believe that this exemption does not accomplish its purpose of reducing the taxes of the Association and thus allowing maximum funds to be available for its work in cemetery maintenance.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 52 - Rail Track Materials

A. Purpose:

The purpose of this exemption is to put the railroads on the same tax basis as the trucking industry.

B. Groups or Individuals Benefited:

The primary beneficiaries are the railroads, while the secondary beneficiaries are those who ship by railroad and the eventual beneficiaries are the citizens of the State through the benefits to the State's economy of having strong railroads.

It should be noted that the wording of this subsection benefits some railroads more than others. It eliminates from the tax advantage railroads that have instituted since 1981 a charge for maintaining crossings and rights-of-way. The Maine Central Railroad has always had this charge and doesn't fall under this exemption. The Bangor and Aroostook Railroad did not have these charges prior to 1981 and, therefore, is faced with the option of not initiating them or of losing the tax break.

C. Effectiveness:

This subsection was passed in 1985 and it is too early to judge its efficiency. Currently, the Bangor and Aroostook is taking advantage of it, thereby losing its right to charge landowners for maintenance. The Maine Central reports savings of $70,000 since its inception a year ago, about half that time with strike curtailed activities.

D. Recommendation:

The Committee gave particular attention to this exemption and specifically to eliminating the provision which acts to favor one railroad over another or eliminating the 1981 date and prohibiting all charges for private crossing maintenance.

The Committee recommends that this exemption be retained in its current form.

Subsection 53 - Nonprofit Volunteer Search and Rescue Organizations

A. Purpose:

This subsection exempts incorporated, non-profit volunteer search and rescue organizations from the sales tax. These organizations perform work that would otherwise have to be performed by State organizations. This tax exemption encourages organizations of this type to form and allows them to devote resources to their objective, rather than have funds diverted to sales tax.

B. Groups or Individuals Benefited:

The beneficiaries are the State government organizations charged with search and rescue and the citizens of Maine.

C. Effectiveness:

This exemption was only passed in 1985. There is to date no reason to doubt its effectiveness.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 54 - Food stamp purchasers

This subsection exempts from sales tax items which are purchased using federal food stamps.

A. Purpose:

This provision is required by federal law by October 1, 1987 as a condition of state participation in the federal food stamp program. The exemption becomes effective October 1, 1987.

B. Groups or Individuals Benefited:

Persons benefitting are recipients of foodstamps who do not need to pay sales tax.

C. Effectiveness:

This exemption does not become effective until October 1, 1987.

D. Recommendation:

It is recommended that this exemption be retained.

Subsection 55 - Incorporated Non-profit Hospice Organizations

There are currently 23 hospice programs in the State, up one from when this exemption was instituted. Of these, one is an in-patient, for profit program and three are associated with tax exempt home health agencies, thereby leaving 19 eligible for this exemption. All these programs are entirely funded by the local community and none make a charge to their constituents. Their budgets range from $2,000 to $30,000, with the higher budgets involving the nine programs that have a part-time paid coordinator.

A. Purpose:

The purpose of this exemption is to place nonprofit hospices on the same tax footing as facilities such as nursing homes, home health care agencies and community health centers. Its purpose is to hold down the cost to persons with serious illnesses and to allow the money spent by hospice organizations to go directly to caring for its constituents rather than to paying a state sales tax.

B. Groups or Individuals Benefited:

The primary beneficiaries are non-profit incorporated hospice organizations. The secondary beneficiaries are potential constituents of such organizations and the taxpayers whose dollars would otherwise, in some cases, have to provide for the hospice provided services.

C. Effectiveness:

This exemption was only enacted in 1985. However, there is no reason to believe that the benefits of this exemption are not being received and serving the states purpose.

D. Recommendation:

It is recommended that this exemption be retained.

TITLE 36, SECTIONS 1811-A, 1862, 1863

Section 1811-A - Credit for Worthless Accounts

A. Purpose:

This exemption was granted originally in 1965. Its purpose is to give a credit on a sales tax paid on a charge sale, the payment for which was not subsequently made.

B. Groups or Individuals Benefited:

The persons benefiting from this exemption are businesses with accounts receivable that prove uncollectable. In turn, this should result in a reduction in the cost of doing business, a portion of which will likely be passed on to the customer.

C. Effectiveness:

There is no evidence that this exemption has not accomplished its purpose.

D. Recommendation:

It is recommended that this exemption be retained.

Section 1862 - Taxes Paid in Other Jurisdictions

A. Purpose:

This exemption was enacted originally in 1954. The purpose of this exemption is to exclude the necessity of paying the same tax in 2 jurisdictions by not requiring a tax payment in Maine on an item for which an equal or greater tax was paid in another state.

B. Groups or Individuals Benefited:

Persons benefited are those individuals or businesses who move to Maine or live in Maine and have made purchases out-of-state.

C. Effectiveness:

This exemption has principally as its purpose a matter of fairness in not taxing the citizens of the State twice. Thus, in eliminating the second tax, the exemption is, per se, being effective.

D. Recommendation:

It is recommended that this exemption be retained.

Section 1863 - No Tax on Returned Merchandise Donated to Charity

A. Purpose:

This section provides an exemption from the use tax when a retailer donates returned merchandise to a tax free charity. The purpose is not to tax the retailer on a transaction from which he received no remuneration.

B. Groups or Individuals Benefited:

The persons benefited are retailers who donate returned merchandise to charity, recipients of the charity and, it could be assumed, eventually customers of the business donating merchandise.

C. Effectiveness:

There is no reason to believe that this exemption has not been effective in accomplishing its purpose.

D. Recommendation:

It is recommended that this exemption be retained.

TITLE 36, SECTIONS 2012 - 2014

Section 2012 - Refund on Sales Tax on Goods Removed from the State

A. Purpose:

This exemption was first enacted in 1967. It provides a sales tax refund on supplies and equipment purchased in Maine for use in another state by a business which operates from fixed locations in Maine and in other states, but only if the other state does not levy a tax on items of the same kind. The purpose of this exemption is to remove the advantage that a non-taxing state would have over Maine businesses in selling items of this sort to businesses which have the option of purchasing in Maine or another state.

B. Groups or Individuals Benefited:

Maine businesses selling supplies and equipment to firms with Maine and other state locations are the beneficiaries of this exemption.

C. Effectiveness:

It is assumed that there would be business lost by Maine firms if this exemption did not exist. There is no practical way of ascertaining the degree of this loss, since it is impossible to determine the amount of such purchases or the change in purchasing behavior that would result from a loss of the exemption. It should be noted that the Bureau of Taxation has made a liberal interpretation of the fixed location in other states qualification. For example, they consider a construction site or leasing of an auto as qualifying.

D. Recommendation:

It is recommended that this exemption be retained.

The Committee recommends that the requirement for doing business in more than one state be broadened to match the Bureau's current interpretation of this statute.

Section 2013 - Refund of Sales Tax on Depreciable Machinery and Equipment Purchases

A. Purpose:

This subsection allows a refund of the sales tax on smaller sales and an exemption on larger sales for depreciable machinery and equipment used in commercial agriculture or fishing. The purpose of this exemption is to reduce the cost of doing business of these two industries which are so important to the State in providing a living for its citizens, particularly in areas without other industry, in making the State self-supporting, and in retaining the traditional rural character lifestyle.

B. Groups or Individuals Benefited:

Commercial farmers and fishermen are the primary groups benefited. The secondary groups benefited are the citizens of the State who profit by lower prices, the availability of locally obtained produce and fish, the contribution to the economy of the State of these important industries and the maintenance of viable farmland and harbors.

C. Effectiveness:

Both of these industries are coming under increasing pressure from Canada, which offers major government assistance to them and are in general very economically hard-pressed. Commercial fishermen now have the benefit of the 200 mile limit and must be encouraged to modernize their equipment to be competitive and to produce a quality catch. In the case of agricultural machinery, it is estimated that farmers increase the value of their machinery each year by a minimum of $2.5 million. This would make the tax credit worth about $474,000 a year to Maine farmers, alone.

D. Recommendation:

It is recommended that this exemption be retained.

Section 2014 - Fish Passage Facilities

A. Purpose:

This subsection provides for a refund on taxes for materials used in the construction of fish passage facilities. Such facilities are beneficial to the maintenance and propagation of the fresh and salt water fish population of the State and their installation is, in some instances, mandated by the State. The purpose of this exemption is to encourage the voluntary construction of such fishways and to provide tax relief for that construction which is State mandated.

B. Groups or Individuals Benefited:

The groups benefited are the builders of these facilities, the responsible government departments which would otherwise have to build these facilities, and the citizens who profit from these facilities and who, in some cases, might have to pay to have them built.

C. Effectiveness:

There is no reason to believe that this is not an effective exemption.

D. Recommendation:

It is recommended that this refund provision be retained.

TABLE 3: TAX EXPENDITURES REVIEWED,
ESTIMATED COST TO GENERAL FUND, FY 87-88

SECTION	SUB-SECTION	CATEGORY	COST
1760	31.	Machinery and Equipment	$21,595,000
	32.	Machinery for Experimental Research	less than 50,000
	33.	Diabetic Supplies	351,000
	34.	Coin Operating Vending Machines	950,000
	35.	Goods and Services for Seeing Eye Dogs	1,570
	37.	Regional Planning Agencies	13,300
	39.	Water Used in Private Residences	1,236,000
	40.	Mobile and Modular Homes	1,669,000
	41.	Property Used in Interstate Commerce	1,424,000
	42.	Historical Societies and Museums	36,600
	43.	Day Care Centers & Nursery Schools	12,100
	44.	Church Affiliated Residential Home	256
	45.	Certain Property Purchased Out of State	less than 50,000
	46.	Organizations Who Provide Res. Facility for Med. Patients	610
	47.	Emergency Shelters & Feeding Organizations	20,100
	48.	Aircraft and Repair Parts	966,000 (FY 86-87)
	49.	Community Action Agencies	271,500

TABLE 3 cont'd.

SECTION	SUB-SECTION	CATEGORY	COST
	50.	Nonprofit Free Libraries	38,400
	51.	Veterans Memorial Cemetary Associations	670
	52.	Railroad Track Materials	179,400
	53.	Nonprofit Search and Research Operations	458
	54.	Food Stamps	142,400
	55.	Hospice Organizations	4,180
1811-A		Sales Tax Credit on Worthless Accounts	less than 50,000
1862		Credit for Sales Taxes Paid Another State	less than 50,000
1863		Returned Merchandise Donated to Charity	54,300
2012		Refund of Sales Tax on Goods Removed From The State	less than 50,000
2013		Refund of Sales Tax on Depreciable Machinery	588,000
2014		Fish Passage Facilities	42,700
	TOTAL		$29,597,544 to $29,847,544

APPENDIX A

TAX EXPENDITURE REVIEW

1986

31. Machinery and equipment. Sales of machinery and equipment for use by the purchaser directly and primarily in the production of tangible personal property, which property is intended to be sold or leased ultimately for final use or consumption. 1985, c. 276, §3 (amd).

32. Machinery and equipment for research. Sales of machinery and equipment for use by the purchaser directly and exclusively in research and development in the experimental and laboratory sense. The research and development shall not be deemed to include the ordinary testing or inspecting of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects. 1985, c. 276, §4 (amd).

33. Diabetic supplies. All equipment and supplies, whether medical or otherwise, used in the diagnosis or treatment of diabetes; 1977, c. 238 (rpr).

34. Coin-operated vending machines. Sales of products for internal human consumption when sold through coin-operated vending machines by a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. 1981, c. 163, § 4 (rpr).

35. Seeing eye dogs. Sales of goods and services which are essential for the care and maintenance of seeing eye dogs which are used to aid any blind person. 1975, c. 279 (new).

36. Spirituous and vinous liquors. 1983, c. 859, Pt. M, §§5, 13 (rp).

37. Regional planning commissions and councils of government. Sales to regional planning commissions and councils of government, which are established in accordance with Title 30. 1977, c. 342, § 2 (new).

38. Solar energy equipment. 1985, c. 506, Pt. B, §34-A (rp).

39. Residential water. Sales of water purchased for use in homes, mobile homes, boarding homes and apartment houses and other buildings designed for both human habitation and sleeping, with the exception of hotels and motels. 1977, c. 686, § 3 (new).

40. Mobile and modular homes. Sales of used mobile or modular homes and all costs included in the sale price other than cost of materials, except that that amount shall not be in excess of 50% of the sale price of a new mobile or modular home. 1979, c. 663, § 221 (real).

41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft which is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and which is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 30 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation which exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate commerce. 1981, c. 705, Pt K, (amd).

42. Historical societies and museums. Sales to incorporated nonprofit historical societies and museums. 1983, c. 560, §3 (new).

43. Nursery schools and day-care centers. Sales to licensed, incorporated nonprofit nursery schools and day-care centers. 1983, c. 828, §6 (amd).

44. Certain church affiliated residential homes. Sales to any church affiliated nonprofit organization which operates, under a charter granted by the Legislature, a residential home for adults. 1983, c. 562 (ral).

45. Certain property purchased outside the 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, section 1, and if the owner was, at the time of purchase, a resident of the other state and either employed or registered to vote there; or 1985, c. 419 (new).

B. For more than 12 months in all other cases. 1985, c. 419 (new).

For purposes of this subsection, "use" does not include storage, but means actual utilization of the property for a purpose consistent with its design. Property, other than automobiles, which is required to be registered for use in this State does not qualify for exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State. 1985, c. 419 (new).

46. Residential facilities for medical patients and their families. Incorporated nonprofit organizations providing temporary residential accommodations to pediatric patients suffering from critical illness or disease, such as cancer, or who are accident victims, and adult patients with cancer, or the families of the patients. 1983, c. 851 (new).

47. Emergency shelter and feeding organizations. Sales of household and sanitary supplies to incorporated nonprofit organizations which provide free temporary emergency shelter or food for underpriviledged individuals in this State. 1983, c. 855, §7 (new).

48. Scheduled airlines. The sale or lease of an aircraft, or replacement or repair parts thereof, used by a scheduled airline, based in this State, and which is regularly used in the performance of service under the regulations of the Civil Aeronautics Board, Part 298. This subsection is repealed on July 1, 1987. 1985, c. 504, §2 (new).

49. Community action agencies. Sales to community action agencies designated in accordance with Title 5, section 3519. 1983, c. 855, §7 (new).

50. Certain libraries. Sales to any nonprofit free public lending library which is funded in part or wholly by the State or any political subdivision or the federal government. 1983, c. 859, Pt. M, §§6, 13 (new).

51. Veterans' Memorial Cemetery Associations. Sales to incorporated nonprofit Veterans' Memorial Cemetery Associations. 1985, c. 417 (new).

52. Rail track materials. Railroad track materials purchased and installed on railroad lines located within the boundaries of the State. The track materials shall include rail, ties, ballast, joint bars and associated materials such as bolts, nuts, tie plates, spikes, culverts, steel, concrete or stone, switch stands, switch points, frogs, switch ties, bridge ties and bridge steel.

In order for a taxpayer to qualify for an exemption under this subsection, the taxpayer may not require any landowner to pay any fee or charge for maintenance or repair or to assume liability for crossings or rights-of-way if the landowner was not required to do so prior to July 1, 1981, and the taxpayer must continue to maintain crossings and rights-of-way which it was required to maintain on that date and may not remove the crossings if there is any objection to their being removed. 1985, c. 477, §1 (new).

53. Nonprofit volunteer search and rescue organizations. Sales to incorporated, nonprofit volunteer search and rescue organizations. 1985, c. 473 (new).

54. Food stamp purchasers. Sales of items purchased with federal food stamps distributed by the Department of Human Services.

55. Incorporated nonprofit hospice organizations. Sales to incorporated nonprofit hospice organizations which provide a program or care for the physical and emotional needs of terminally ill patients.

§ 1811-A. Credit for worthless accounts

The tax paid on sales represented by accounts charged off as worthless may be credited against the tax due on a subsequent report filed within 3 years of the charge-off, but, if any such accounts are thereafter collected by the retailer, a tax shall be paid upon the amounts so collected. 1981, c. 706, § 22 (amd).

§1862. Taxes paid in other jurisdictions

The use tax provisions of chapters 211 to 225 shall not apply in respect to the use, storage or consumption in this State of purchases at retail sale outside the State where the purchaser has paid a sales or use tax equal to or greater than the amount imposed by shapters 211 to 225 in another taxing jurisdiction, the proof of payment of the tax to be according to rules made by the State Tax Assessor. If the amount of tax paid in another taxing jurisdiction is not equal to or greater than the amount of tax imposed by chapters 211 to 225, then the purchaser shall pay to the State Tax Assessor an amount sufficient to make the tax paid in the other taxing jurisdiction and in this State equal to the amount imposed by chapters 211 to 225.

§ 1863. No tax on returned merchandise donated to charity

No use tax may be imposed on the donation of merchandise by a retailer to an organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3), as amended, when the merchandise has been returned to the retailer by the purchaser and the retailer then gives to the purchaser an allowance in cash or by credit pursuant to warranty or when the full price of the merchandise returned is refunded, either in cash or by credit, to the purchaser. 1981, c. 503 (new).

§ 2012. Refund of sales tax on goods removed from State

When a business which operates from fixed locations within and without this State purchases supplies and equipment in this State, places them in inventory in this State, and subsequently withdraws them from inventory either for use at a location of the business in another taxing jurisdiction or for fabrication, attachment or incorporation into other tangible personal property for use at a location of the business in another taxing jurisdiction, without having made use other than storage or such fabrication, attachment or incorporation within this State, it may request a refund of Maine sales tax paid at the time of purchase, provided it maintains inventory records by which the acquisition and disposition of such supplies and equipment purchased can be traced. No refund shall be made where the taxing jurisdiction to which the supplies and equipment are removed levies a sales or use tax. Such refunds must be requested in accordance with section 2011. 1967, c. 88 (amd).

§2013. Refund of sales tax on depreciable machinery and equipment purchases

1. Definitions. As used in this section, unless the context otherwise indicates, the following words shall have the following meanings.

A. "Agricultural production" means commercial production of crops for human and animal consumption, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and production of livestock. 1981, c. 680 (rpr).

B. "Commercial fishing" means attempting to catch fish or any other marine animals with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport fishermen to available fish-

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the United States Internal Revenue Code:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles, but excluding motor vehicles as defined in section 1752, subsection 7, attachments and equipment for the production of field and orchard crops; new or used machinery and equipment used in production of milk and in animal husbandry and production of livestock, including poultry; or

(2) New or used watercraft used directly and primarily for commercial fishing; and nets, traps, cables, tackle and related equipment necessary to the operation of a commercial fishing venture, but excluding motor vehicles as defined in section 1752, subsection 7.

§2014. Fish passage facilities

Taxes on the sale or use of materials used in the construction of fish passage facilities in new, reconstructed or redeveloped dams, when the fish passage facilities are built in accordance with plans and specifications approved by the Department of Inland Fisheries and Wildlife or the Department of Marine Resources, shall be refundable. 1983, c. 560, §§4 and 6 (new).

The State Tax Assessor shall refund sales or use tax paid on these construction materials upon the submission by a person of the following: 1983, c. 560, §§4 and 6 (new).

1. Certification concerning construction. A certification from the Department of Inland Fisheries and Wildlife or the Department of Marine Resources that the fish passage facilities were constructed in accordance with approved plans and specifications; and 1983, c. 560, §§4 and 6 (new).

2. Application for tax rebate. An application for a tax rebate which shall state at a minimum the construction materials purchased, its manufacturers, its cost, the use of which the purchaser has made of the materials and the seller from whom the purchase was made, and shall be accompanied by a copy of the purchase invoices. 1983, c. 560, §§4 and 6 (new).