

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
130<sup>TH</sup> LEGISLATURE  
FIRST REGULAR AND FIRST SPECIAL SESSIONS



Disposition of bills and summaries of all laws enacted or finally passed

**JOINT STANDING COMMITTEE ON  
TAXATION**

December 2021

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## JOINT STANDING COMMITTEE ON TAXATION

### **LD 1193 An Act To Exempt Certain Disabled Veterans from the Motor Vehicle Excise Tax**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 240 provides a motor vehicle excise tax exemption for veterans who are disabled by injury or disease incurred or aggravated during active military service in the line of duty and are receiving any form of pension or compensation from the United States Government for total, service-connected disability.

### **LD 1209 An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2021-22**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 93 establishes municipal cost components for state and county services provided to the unorganized territory that would normally be paid for by a municipality. The municipal cost components constitute the property tax for the unorganized territory.

Public Law 2021, chapter 93 was enacted as an emergency measure effective June 8, 2021.

### **LD 1216 An Act To Amend the State Tax Laws**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 181 was submitted by the Department of Administrative and Financial Services to make minor substantive changes to the tax laws.

Part A makes changes to the insurance premiums and income tax law. Part A:

1. Changes the due dates for community colleges, colleges and universities, Department of Education and Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy to submit reports on the implementation of the educational opportunity tax credit from February 1, 2021, for the colleges, and March 1, 2021, for the Department of Education and Office of Tax Policy, to February 1, 2022;
2. Repeals the requirement that remaining funds in the Medical Use of Marijuana Fund be used to fund the cost of the tax deductions provided pursuant to the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph PP and Title 36, section 5200-A, subsection 2, paragraph BB and the cost of the position in the Department of Administrative and Financial Services, Bureau of Revenue Services that administers the tax deductions;
3. Delays the deadline for the review of the income tax credit for educational opportunity by the joint standing committee of the Legislature having jurisdiction over taxation matters from June 1, 2021 to June 1, 2022;

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4. Expands the so-called Maine insurance premiums retaliatory tax to include insurance companies incorporated in the District of Columbia or a possession of the United States;
5. Clarifies that the Maine reporting and tax payment requirements related to federal partnership adjustments under the new federal centralized partnership audit rules include negative federal adjustments arising from Internal Revenue Service partnership audits and administrative adjustment requests filed with the Internal Revenue Service. It also amends the requirements to allow a refund directly to the partnership in lieu of a refund to the affected partners to the extent that negative adjustments exceed positive adjustments;
6. Provides an individual taxpayer with a subtraction modification for income tax purposes for amounts related to the depreciation of business property previously added back to federal taxable income by a corporation of which the taxpayer is a shareholder and by which, absent an S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to the Maine Revised Statutes, Title 36, section 5200-A, subsection 2, paragraph FF;
7. Clarifies that the Maine reporting and tax payment requirements related to federal partnership adjustments under the new federal partnership audit rules also apply to a partnership that has filed an administrative adjustment request with the federal Internal Revenue Service;
8. Establishes a penalty for persons who fail to provide returns of information to the State Tax Assessor or who willfully furnish to the assessor a false or fraudulent return of information. Generally, returns of information consist of Forms W-2, Forms 1099 and other similar forms containing tax information necessary for filing Maine tax returns. Similar to the penalty imposed for failure to provide information statements, or for willfully providing a false or fraudulent statement to payees, the penalty is \$50 for each failure to provide a return of information to the State Tax Assessor. The penalty applies to returns of information required to be filed on or after January 31, 2022; and
9. Makes the following changes to the renewable chemicals tax credits:
  - A. Adds taxpayer information reporting and 3rd-party testing and verification credit requirements, to be specified by rules of the State Tax Assessor;
  - B. Clarifies that the renewable chemicals may not be sold as food, feed or fuel and that they must be produced in Maine;
  - C. Modifies the February 1, 2024 report on the renewable chemicals tax credit issued by the Department of Economic and Community Development to remove required reporting on the number of indirect jobs created and to include reporting on the newly reinstated credit for biofuel commercial production and commercial use under Title 36, section 5219-X; and
  - D. Clarifies several definitions in the renewable chemicals income tax credit.

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Part B makes changes to the sales tax law, applicable to sales occurring on or after January 1, 2022. Part B:

1. Clarifies that the Title 36, Part 3 definition of "in this State" includes sales of tangible personal property and taxable services sourced in this State pursuant to Title 36, section 1819;
2. Clarifies the exclusion from the definition of "retail sale" for the purposes of the sales and use tax laws of pickup trucks and vans with a gross vehicle weight of less than 26,000 pounds when purchased by a person primarily engaged in the business of renting automobiles;
3. Repeals the presumptive sales and use tax registrations requirements for affiliate-based and certain agent-based connections with the State;
4. Corrects a conflict created when two different public laws enacted the same section of law and:
  - A. Clarifies that the remote seller and marketplace registration requirements apply based on sales in this State and not the location from which they are delivered;
  - B. Repeals the remote seller and marketplace facilitator sales and use tax registration requirement for persons or marketplace facilitators, respectively, with at least 200 separate sales transactions in the State; and
  - C. Clarifies the agent, representative, salesperson, solicitor or distributor registration requirements by removing the redundant term "storage"; and
5. Expands the sales and use tax sourcing provision to apply to all sales and not just retail sales.

Part C makes changes to the property tax law. Part C:

1. Lowers the declared ratio accuracy threshold from within 20% to within 10% of the state valuation ratio last determined to align with the accuracy requirement provided for state reimbursement for the homestead exemption; and
2. Updates and aligns the audit authority for exemptions that are reimbursed by the State to municipalities, allowing for the audit of all reimbursable exemptions.

Part D makes the following updates to respond to certain COVID-19 impacts. Part D:

1. Aligns the Title 36 definitions of "disaster period" with the Title 10, section 9902 definition;
2. Relaxes the primary use requirement of the sales tax exemption for machinery and equipment by determining the equipment's primary use based only on the days in use; and
3. For tax years beginning in 2021, allows taxpayers to use the sourcing law of another jurisdiction when calculating the credit for income tax paid to other jurisdictions in certain COVID-19 pandemic-related teleworking circumstances.

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Part E clarifies and simplifies the corporate income tax law by establishing clearly defined, objective nexus thresholds as a practical structure for the current general "economic nexus" standard. These so-called factor presence thresholds clarify the minimum thresholds that, when exceeded by a corporation, subject that corporation to the Maine corporate income tax. In addition, the new thresholds create a safe harbor for corporations with little activity within the State that nonetheless have nexus under current law due to a small, but greater than de minimis, physical presence in the State. The new thresholds are \$250,000 of property, \$250,000 in payroll or \$500,000 in sales in Maine, or 25% of total property, payroll or sales in Maine, as determined under Title 36, chapter 821. The thresholds apply to tax years beginning on or after January 1, 2022.

### **LD 1468 An Act To Support All-terrain Vehicle Trail Improvement**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 446 provides that 90% of the sales tax on the rental of all-terrain vehicles must be transferred to the ATV Recreational Management Fund administered by the Department of Agriculture, Conservation and Forestry and 10% of the revenue must be transferred to the Multimodal Transportation Fund administered by the Department of Transportation.

### **LD 1651 An Act To Support Working Families through Outreach and Education about Tax Credits for Persons of Low Income**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 479 provides eligibility for the earned income tax credit to individuals who are immigrants who file federal income tax returns using a federally assigned individual taxpayer identification number. Chapter 479 also provides ongoing funds of \$36,500 per year beginning in fiscal year 2021-22 to the New Ventures Maine program within the University of Maine System for a statewide collaboration of nonprofit and for-profit partners to provide free volunteer tax assistance, including the filing of state tax returns; outreach to low-income individuals and families about federal and state tax credits; financial education, connections to financial services and other resources; education for providers and volunteers; and statewide data collection. The law also requires the New Ventures Maine program to submit an annual report describing its activities in the previous calendar year in providing tax assistance to low-income individuals and families.