

## ENACTED TAX LEGISLATION – 2023 SESSION

**1<sup>st</sup> Regular Session general (non-emergency) effective date: June 29, 2023**

**1<sup>st</sup> Special Session general (non-emergency) effective date: October 25, 2023**

**(Includes legislation enacted in prior sessions that becomes effective beginning in 2023)**

### **1) Administrative Provisions**

**Mining excise tax report.** The Bureau of Revenue Services, Office of Tax Policy is directed to examine and evaluate the State’s taxation of metallic mineral mining business activity, including the mining excise tax, and shall review mining taxes and fees from other states, including severance taxes, excise taxes, extraction fees and royalties and potential uses of collected revenue, and consult with national mining experts as appropriate. The Office of Tax Policy must report its findings and recommendations, including suggested legislation, that are consistent with the policy and purposes in Title 36, section 2853 to the Joint Standing Committee on Taxation no later than January 15, 2024. Effective October 25, 2023. L.D. 1855; Resolves 2023, c. 83.

**COVID Disaster Relief Payment Program.** The \$850 relief payment checks under the COVID Disaster Relief Payment Program authorized by Public Law 2021, chapter 398, Part HHHH that remain undeposited on January 1, 2023 are to be treated as unclaimed property. The Treasurer of State shall use the unclaimed property systems to find the proper recipients of those checks as quickly as possible. Effective June 29, 2023. L.D. 424; P.L. 2023, c. 17, Pt. S.

**Winter Energy Relief Payment Program.** The \$450 relief payment checks under the Winter Energy Relief Payment Program authorized by Public Law 2023, chapter 1, Part B that remain undeposited on March 31, 2024 are to be treated as unclaimed property.

Effective January 4, 2023. L.D. 3; P.L. 2023, c. 1, Pt. B.

**Fishing Community Tax Incentive Program.** The Office of Tax Policy in the Department of Administrative and Financial Services, Bureau of Revenue Services, in consultation with the Department of Marine Resources and the Governor's Energy Office, is required to develop the Fishing Community Tax Incentive Program to provide tax credits to applicants for qualified investments in offshore wind power projects. The Office of Tax Policy is required to publicize and seek public comment on the proposed program before submitting a report, along with suggested legislation, to the Joint Standing Committee on Taxation and the Joint Standing Committee on Energy, Utilities and Technology by February 1, 2024. L.D. 1895; P.L. 2023, c. 481, § 16.

**Paid Family and Medical Leave Program rulemaking related to taxation of benefits.** The Maine Department of Labor (“MDOL”) is, for the purpose of adopting rules, required to consult with Maine Revenue Services (“MRS”) regarding federal and state tax treatment and related procedures regarding benefits provided under the Maine Paid Family and Medical Leave

program. The rules must address the sharing of necessary information between the MDOL and MRS. Required contributions to the program begin in 2025 and benefits under the program begin in 2026. Effective October 25, 2023. 26 M.R.S. § 850-M; L.D. 258; P.L. 2023, c. 412, Pt. AAA, § 7.

**Review of decisions of the State Tax Assessor/Maine Board of Tax Appeals.** The law limits the filing of a statement of appeal with the Maine Board of Tax Appeals to controversies of tax or refund requests that are at least \$1,000 but no more than \$500,000 at the time of petitioning MRS for reconsideration. Appeals greater than \$500,000 may still be made to the Maine Superior Court. Effective October 25, 2023. 36 M.R.S. §§ 151(2)(C)(2) and 151(2)(E); L.D. 258; P.L. 2023, c. 412, Pt. M.

**Petition for reconsideration.** The law clarifies that a petition for reconsideration related to a notice of determination issued by MRS must also be filed within 60 days of the determination in order to be available for review in Superior Court or by the Maine Board of Tax Appeals. Effective October 25, 2023. 36 M.R.S. § 151(1); L.D. 283; P.L. 2023, c. 360, Pt. B, § 1.

**Disclosure of tax information.** The following changes were made regarding disclosure of certain confidential tax information:

- An exception to the general confidentiality laws that authorizes MRS to disclose information to the State Board of Property Tax Review that is pertinent to an appeal or other action or proceeding before that Board. Effective October 25, 2023. 36 M.R.S. §§ 191(2)(C), 191(2)(XX), and 191(2)(YY); L.D. 283; P.L. 2023, c. 360, Pt. A, §§ 1, 2, and 3.
- An exception to the general confidentiality laws that authorizes the State Tax Assessor to disclose that a person is or is not registered for a tax or disclosure of both the fact that a registration issued under Title 36 has been revoked and the reasons for revocation has been limited to the disclosure of information applicable to the previous 6 years. Effective October 25, 2023. 36 M.R.S. § 191(2)(H); L.D. 283; P.L. 2023, c. 360, Pt. C, § 2.
- An exception to the general confidentiality laws that authorizes the State Tax Assessor to disclose that a person has or has not been issued a certificate of exemption for sales and use tax or service provider tax, or a resale certificate has been limited to the disclosure of information applicable to the previous 6 years. Effective October 25, 2023. 36 M.R.S. § 191(2)(EE); L.D. 283; P.L. 2023, c. 360, Pt. C, § 3.
- An exception to the general confidentiality laws that authorizes MRS to disclose information to the Department of Economic and Community Development necessary for the administration of the Dirigo business incentives program and to the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters for the purposes of providing an annual report to the Legislature required by 36 M.R.S. § 5219-AAA. Effective October 25, 2023. 36 M.R.S. § 191(2)(SSS); L.D. 258; P.L. 2023, c. 412, Pt. J, § 7. See ‘Dirigo business incentives

program tax credit' under Changes applicable to tax years beginning 2025 for more information.

- An exception to the general confidentiality laws that authorizes MRS to disclose the current mailing address for a taxpayer to the Treasurer of State for the purposes of returning unclaimed or abandoned property to the rightful owner or heir, except as prohibited by federal law. Effective July 26, 2023. 36 M.R.S. § 191(2)(SSS); L.D. 1808; P.L. 2023, c. 441, Pt. F.

## 2) General

**Pine Tree Development Zone program; sunset** The law extends the sunset date of the Pine Tree Development Zone certification and benefits by one year. Businesses may not be certified for the program after December 31, 2024 and benefits will cease on December 31, 2034, including the tax credits for income tax, franchise tax, and insurance premiums tax; sales and use tax exemptions for tangible personal property and transmission/distribution of electricity; and reimbursement under the Employment Tax Increment Financing program. Effective October 25, 2023. 30-A M.R.S. § 5250-J(5) and 36 M.R.S. §§ 1760(87), 2016(4), 2529(3), 5219-W(4), and 6754(1)(D); L.D. 258; P.L. 2023, c. 412, Pt. J. See 'Pine Tree Development Zone program' below for more information.

Affected program(s): individual, fiduciary, and corporate income taxes; franchise tax; insurance premiums tax; sales and use tax; and the Employment Tax Increment Financing program.

**Pine Tree Development Zone program; catastrophic occurrence.** Businesses certified under the Pine Tree Development Zone program may apply to the Department of Economic and Community Development for a reduction in the base level of employment if the certified business experiences a catastrophic occurrence (a fire, flood, hurricane, windstorm, earthquake, or other similar event that is not within the control of a business to prevent). To qualify, a business must sustain a minimum 15% loss in employment due to a catastrophic occurrence. The taxpayer must apply for the reduction within two calendar years of the catastrophic occurrence. Effective October 25, 2023. 30-A M.R.S. §§ 5250-I(4), 5250-I(5-A), 5250-J(4-A); L.D. 150; P.L. 2023, c. 173, §§ 1, 2, and 3.

Affected program(s): individual, fiduciary, and corporate income taxes; franchise tax; insurance premiums tax; sales and use tax; and the Employment Tax Increment Financing program.

**Conformity.** References to the United States Internal Revenue Code of 1986 contained in the Maine Revised Statutes, Title 36 are updated to refer to the United States Internal Revenue Code of 1986 as amended through December 31, 2022. Applies to tax years beginning on or after January 1, 2022 and to any prior tax year as specifically provided by the United States Internal Revenue Code of 1986 as amended. Effective October 25, 2023. 36 M.R.S. § 111(1-A); L.D. 258; P.L. 2023, c. 412, Pt. ZZZ, §§ 1 and 12.

Affected program(s): individual, fiduciary, and corporate income taxes, income tax withholding, pass-through entity withholding, and franchise tax.

### **3) Individual, Fiduciary, and Corporate Income Taxes Franchise Tax Insurance Premiums Taxes**

#### **Changes applicable to tax years beginning before 2023 (retroactively)**

**Federal exclusion of benefits for volunteer firefighters and emergency responders addition modification.** The law is changed to retroactively repeal the Maine addition modification related to nonconformity with the federal exclusion of benefits for volunteer firefighters and emergency responders under Internal Revenue Code, Section 139B. The change applies retroactively to tax years beginning on or after January 1, 2020. Effective October 25, 2023. 36 M.R.S. § 5122(1)(Z); L.D. 1808; P.L. 2023, c. 441, Pt. C, §§ 3, 10, and 11.

Affected program(s): individual income tax.

**Military survivor benefits subtraction modification.** The law is changed to eliminate a duplication of benefits by requiring that the military survivor benefits subtraction modification be reduced by the amount of benefits claimed as a pension income deduction under 36 M.R.S. § 5122(2)(M-2). This change applies retroactively to tax years beginning on or after January 1, 2016. Effective October 25, 2023. 36 M.R.S. § 5122(2)(HH); L.D. 1808; P.L. 2023, c. 441, Pt. C, §§ 4, 10, and 11.

Affected program(s): individual income tax.

**Credit for major business headquarters expansions.** Beginning January 1, 2021, the credit for major business headquarters expansions is changed to 1) allow employees that perform more than 50% of employee-related activities for the employer *at any location in Maine* to be counted as employees based in the State for purposes of the credit; and 2) change the date after which the minimum number of new employees must be added from the first day of the first tax year for which the credit is claimed to January 1, 2018. Effective October 25, 2023. 36 M.R.S. §§ 5219-QQ(1)(C), 5219-QQ(3)(B), and 5219-QQ(4)(A); L.D. 1313; P.L. 2023, c. 157.

Affected program(s): corporate income tax.

**Employment Tax Increment Financing (ETIF) Program.** The law is changed to replace a reference to “Maine income tax withholding” with a reference to “gross wages paid” in the ETIF program to reflect a recent change in the program to base the benefit on gross wages paid rather than on income tax withholding. This change applies retroactively to requests for reimbursement for calendar years beginning on or after January 1, 2022. Effective October 25, 2023. 36 M.R.S. § 6753(12); L.D. 1808; P.L. 2023, c. 441, Pt. C, §§ 8, 10, and 11.

Affected program(s): employment tax increment financing program.

## Changes applicable to tax years beginning 2023

**Winter energy relief payment income subtraction modification.** For tax years beginning on or after January 1, 2023, but before January 1, 2024, the amount of winter energy relief payment received is deductible in calculating Maine taxable income, to the extent the payment is included in federal adjusted gross income. Effective January 4, 2023. L.D. 3; P.L. 2023, c. 1, Pt. B, § 4.

Affected program(s): individual income tax.

**Nonadmitted insurance premiums taxes, retaliatory tax.** The retaliatory tax applicable to nonadmitted insurance premiums subject to Maine tax for tax years beginning on or after January 1, 2023, has been repealed. The repealed law would have imposed a tax on premiums subject to Maine tax equal to the greater of 3% and the highest rate of taxation applied to nonadmitted insurance premiums in the jurisdiction in which the insurance company is incorporated. The Maine tax rate for all nonadmitted insurance premiums is 3% of the premiums subject to tax. Effective October 25, 2023. 36 M.R.S. § 2531(2); L.D. 1979; P.L. 2023, c. 372.

Affected program(s): insurance premiums tax.

**Pension income deduction.** The pension income deduction for non-military retirement plan benefits is increased from \$25,000 to \$30,000 for tax years beginning in 2023. Benefits received under a military retirement plan, including survivor benefits, continue to be fully exempt from Maine income tax. 36 M.R.S. § 5122(2)(M-2); L.D. 1995; P.L. 2021, c. 635, Pt. DDD.

Affected program(s): individual income tax.

**Expanded cannabis business expense subtraction modification.** For tax years beginning on or after January 1, 2023, the cannabis business expense subtraction modification is extended to include expenses related to carrying on a trade or business as a manufacturing facility, as defined in Title 22, section 2422, and an adult use cannabis establishment or testing facility, as defined in Title 28-B, section 102. The deduction may be claimed for an amount equal to the deduction that would otherwise be allowable for Maine purposes to the extent the deduction was disallowed under Internal Revenue Code, Section 280E. Effective October 25, 2023. 36 M.R.S. §§ 5122(2)(PP) and 5200-A(2)(BB); L.D. 1063; P.L. 2023, c. 444.

Affected program(s): individual, fiduciary, and corporate income taxes.

**Corporate income tax exemption for the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians.** For tax years beginning on or after January 1, 2023, the law provides that the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, and a tribal corporation organized by the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians under Section 17 of the federal Indian Reorganization Act are not subject to the Maine corporate income tax. Effective August 8, 2022. 36 M.R.S. § 5102(6); L.D. 585; P.L. 2021, c. 681, Pt. G, §§ 2 and 6.

Affected program(s): corporate income tax.

**Maine income tax changes for certain Indian Tribes and tribal members.** For tax years beginning on or after January 1, 2023, the law defines “tribal member residing on tribal land” (36 M.R.S. § 5102(5-A)), “tribal land; (36 M.R.S. § 111(9)), “tribal member” (36 M.R.S. § 111(10)), and other relevant terms; adds income addition and subtraction modifications to exclude from Maine income tax the income and losses of tribal members and estates of tribal members residing on tribal land when the income and losses are derived from or connected with sources on tribal land (36 M.R.S. §§ 5122(1)(PP) and 5122(2)(ZZ)); and provides the calculation of income or loss derived from or connected with sources on tribal land (36 M.R.S. § 5132) as described in the paragraphs below. 36 M.R.S. §§ 111(9), 111(10), 5102(5-A), 5122(1)(PP), 5122(2)(ZZ), and 5132; L.D. 585; P.L. 2021, c. 681 and Revisor’s Report P.L. 2021, c. 2, Pt. A, § 127.

Affected program(s): individual and fiduciary income taxes.

**Definition of “tribal member residing on tribal land.”** The law adds a definition for a tribal member residing on tribal land for purposes of Maine individual and fiduciary (estate) income taxes. Generally, for tax years beginning on or after January 1, 2023, an individual is a tribal member residing on tribal land if the individual is a tribal member who:

A. Is domiciled on tribal land, unless:

- 1) The tribal member does not maintain a permanent place of abode on tribal land, maintains a permanent place of abode off of tribal land and spends in the aggregate not more than 30 days of the taxable year on tribal land: or
- 2) Within any 548 consecutive days, the tribal member:
  - a) Is present in a foreign country or countries for at least 450 days;
  - b) Is not present on tribal land for more than 90 days;
  - c) Does not maintain a permanent place of abode on tribal land at which a minor child of the tribal member or the tribal member’s spouse is present for more than 90 days, unless the tribal member and the tribal member’s spouse are legally separated; and
  - d) During the nonresident portion of the taxable year with which, or within which, such period of 548 consecutive days begins and the nonresident portion of the taxable year with which, or within which, such period ends, is present on tribal land for a number of days that does not exceed an amount that bears the same ratio to 90 as the number of days contained in such portion of the taxable year bears to 548; or

B. Who is not domiciled on tribal land, but maintains a permanent place of abode on tribal land and spends in the aggregate more than 183 days of the taxable year on tribal land, unless the tribal member is in the Armed Forces of the United States.

36 M.R.S. § 5102(5-A); L.D. 585; P.L. 2021, c. 681, Pt. G, §§ 1 and 6.

Affected program(s): individual and fiduciary income taxes.

**Losses derived from sources on tribal land income addition modification.** For tax years beginning on or after January 1, 2023, tribal members residing on tribal land and the estate of a decedent who was a tribal member residing on tribal land are required to add-back the amount of any losses derived from or connected with sources on tribal land determined in accordance with 36 M.R.S. § 5132. 36 M.R.S. § 5122(1)(PP); L.D. 585; P.L. 2021, c. 681, Pt. G, §§ 3 and 6.

Affected program(s): individual and fiduciary income taxes.

**Income derived from sources on tribal land income subtraction modification.** For tax years beginning on or after January 1, 2023, tribal members residing on tribal land and the estate of a decedent who was a tribal member residing on tribal land may claim the income subtraction modification equal to the amount of income derived from or connected with sources on tribal land determined in accordance with 36 M.R.S. § 5132. 36 M.R.S. § 5122(2)(ZZ); L.D. 585; P.L. 2021, c. 681, Pt. G, §§ 4 and 6 and Revisor’s Report 2021, c. 2, Pt. A. § 127.

Affected program(s): individual and fiduciary income taxes.

**Contributions to education savings plans income subtraction modification.** For tax years beginning on or after January 1, 2023, the income subtraction modification for contributions to a qualified tuition program established under Internal Revenue Code, Section 529 is reinstated. The deduction, equal to contributions made to a qualified tuition plan up to \$1,000 for each designated beneficiary, may not be claimed by taxpayers whose federal adjusted gross income exceeds \$100,000 if filing single or married filing separately or \$200,000 if married filing jointly or head of household. Effective August 8, 2022. 36 M.R.S. § 5122(2)(YY); L.D. 23; P.L. 2021, c. 707.

Affected program(s): individual income tax.

**Research expense tax credit.** The law corrects an erroneous reference to the Internal Revenue Code and clarifies that MRS rulemaking authority relative to the research expense tax credit is discretionary. Effective October 25, 2023. 36 M.R.S. §§ 5219-K(3) and 5219-K(6); L.D. 283; P.L. 2023, c. 360, Pt. B, §§ 11 and 12.

Affected program(s): individual, fiduciary, and corporate income taxes.

**Property tax fairness credit.** For tax years beginning on or after January 1, 2023, resident individuals who are veterans and 100% permanently and totally disabled are allowed an additional income tax credit equal to the amount of the property tax fairness credit the individual otherwise qualifies for, effectively doubling the property tax fairness credit. The total credit may not exceed the property taxes paid and rent constituting property taxes paid by the individual and by the State on behalf of the taxpayer pursuant to the property tax deferral program during the tax year. 36 M.R.S. § 5219-KK(2-E); L.D. 1986; P.L. 2021, c. 703 and L.D. 283; P.L. 2023, c. 360, Pt. B, § 14.

Affected program(s): individual income tax.

**Major food processing and manufacturing facility expansion tax credit.** Businesses certified under the major food processing and manufacturing facility expansion tax credit may apply to the Department of Economic and Community Development for a reduction in the base level of employment if the certified business experiences a catastrophic occurrence (a fire, flood, hurricane, windstorm, earthquake, or other similar event that is not within the control of a business to prevent.) To qualify, a business must sustain a minimum 15% loss in employment due to a catastrophic occurrence. The taxpayer must apply for the reduction within two calendar years of the catastrophic occurrence. Effective October 25, 2023. 36 M.R.S. §§ 5219-VV(1)(B-1) and 5219-VV(8); L.D. 150; P.L. 2023, c. 173, §§ 4 and 5.

Affected program(s): individual, fiduciary, and corporate income taxes.

**Estimated tax/installment due dates.** The law is changed to: (1) replace the term “fisherman” to “person who fishes commercially;” (2) clarify that estimated tax installment payments for income taxes are due on the 15<sup>th</sup> day of the 4<sup>th</sup>, 6<sup>th</sup>, 9<sup>th</sup>, and 13<sup>th</sup> month (12<sup>th</sup> month for corporations and financial institutions) following the beginning of the taxpayer’s tax year or, for farmers and persons who fish commercially, on the 15<sup>th</sup> day of the 13<sup>th</sup> month following the beginning of the tax year; and (3) clarify that the penalty for estimated tax may not be imposed with respect to farmers and persons who fish commercially that file a return and pay the full tax liability for the tax year no later than the first day of the 3<sup>rd</sup> month following the end of the tax year. Effective October 25, 2023. 36 M.R.S. §§ 5228(1)(B-1), 5228(4), 5228(5)(B) and 5228(10); L.D. 283; P.L. 2023, c. 360, Pt. B, §§ 15, 16, 17 and 18.

Affected program(s): individual, fiduciary, and corporate income taxes, and franchise tax.

**Extension of time to file corporate income tax and financial institution franchise tax returns.** For tax years beginning on or after January 1, 2023, the extended due date for filing corporate income tax and franchise income tax returns is extended to 30 days following the extended due date for filing the related federal income tax return. Effective October 25, 2023. 36 M.R.S. § 5231(1-A); L.D. 1808; P.L. 2023, c. 441, Pt. C, §§ 7, 9, and 11.

Affected program(s): corporate income tax

**Voluntary checkoff for the easy enrollment health insurance program.** For tax years beginning on or after January 1, 2023, four checkoff boxes must be included on the Maine individual income tax form for taxpayers to indicate, as applicable, that 1) the taxpayer, 2) the taxpayer’s spouse, and 3) dependents of the taxpayer do not have health care coverage, and to 4) authorize MRS to share certain tax information with the Maine Health Insurance Marketplace (“Marketplace”) to facilitate administration of the easy enrollment health insurance program. The form must also include space for the entry of the email address, telephone number, or other preferred method of communication of the taxpayer. The State Tax Assessor must forward to the Marketplace the information of any taxpayer who authorizes information sharing by checking the applicable box. The information and frequency of data sharing is to be established by rule (22 M.R.S. § 5412(1)). Effective August 8, 2022. 36 M.R.S. § 5294; L.D. 1390; P.L. 2021, c. 715, § 4.



Affected program(s): individual income tax.

### **Changes applicable to tax years beginning 2024**

**Nonadmitted insurance premiums tax.** For tax years beginning on or after January 1, 2024, the law is changed to allow nonadmitted insurance surplus line producers or the insured to elect to base estimated tax payment amounts on premiums on contracts written during the estimated tax period of the current calendar year or, under the current basis of the total tax that was due for the prior calendar year or the estimated tax to be paid for the current calendar year.

The law is also changed to clarify that for tax years beginning on or after January 1, 2024, the tax on nonadmitted insurance premiums is based on premiums and annuity considerations on contracts written by insurers, rather than on premiums paid to insurers. Effective October 25, 2023. 36 M.R.S. §§ 2521-A and 2531(1); L.D. 1808; P.L. 2023, c. 441, Pt. C, §§ 1, 2, 9, and 11.

Affected program(s): nonadmitted insurance premiums tax.

**Pension income deduction.** For tax years beginning on or after January 1, 2024, the pension income deduction is increased to the maximum annual benefit that an individual eligible to retire at the retirement age, as defined in 42 United States Code, Section 416(1), as of January 1<sup>st</sup> of the tax year may receive under the federal Social Security Act and amendments to that Act as of June 28, 2023. Benefits received under a military retirement plan, including survivor benefits, continue to be fully exempt from Maine income tax. 36 M.R.S. § 5122(2)(M-2); L.D. 258; P.L. 2023, c. 412, Pt. ZZZ, § 2.

Affected program(s): individual income tax.

**Installment sale election.** For tax years beginning on or after January 1, 2024, the law provides that interest associated with an installment sale of property for which the election is made by a nonresident individual taxpayer to pay the Maine tax on the gain in the year of the sale or in a subsequent tax year is excluded from Maine taxable income in the year of the election and any subsequent tax year. Effective October 25, 2023. 36 M.R.S. § 5147; L.D. 1808; P.L. 2023, c. 441, Pt. C, §§ 5, 9, and 11.

Affected program(s): individual income tax.

**Property tax fairness credit.** For tax years beginning on or after January 1, 2024, the property tax fairness credit is increased for individuals 65 years of age or older by 1) increasing the maximum benefit base to \$4,000, regardless of the individual's filing status and number of qualifying children and other dependents, and 2) increasing the maximum benefit from \$1,500 to \$2,000. The benefit base amount is adjusted annually for inflation for tax years beginning after 2024. Effective October 25, 2023. 36 M.R.S. §§ 5219-KK(1)(A-1)(4), 5219-KK(2-D), and 5403(6); L.D. 258; P.L. 2023, c. 412, Pt. S.

Affected program(s): individual income tax.

**Credit for certain homestead modifications.** For tax years beginning on or after January 1, 2024, the Maine credit for certain homestead modifications is repealed except that unused credit amounts may be utilized to the fullest extent allowed by the carryforward provisions for the credit. Effective October 25, 2023. 36 M.R.S.; § 5219-PP(6); L.D. 1808; P.L. 2023, c. 441, Pt. C, §§ 6, and 11.

Affected program(s): individual income tax.

**Dependent exemption tax credit.** For tax years beginning on or after January 1, 2024, the dependent exemption tax credit is refundable and for tax years beginning after 2024, the credit is adjusted for inflation. The credit is subject to phaseout.

For tax years beginning on or after January 1, 2026, the law is changed to allow taxpayers to claim the dependent exemption credit for each dependent of the taxpayer for whom the taxpayer is eligible to claim the federal personal exemption pursuant to the Internal Revenue Code, Section 151 in an amount greater than zero.

Effective October 25, 2023. 36 M.R.S. §§ 5219-SS, 5403(9), and 5403, 2<sup>nd</sup> ¶; L.D. 258; P.L. 2023, c. 412, Pt. ZZZ, §§ 6, 10, and 11.

Affected program(s): individual income tax.

### **Changes applicable to tax years beginning 2025**

**Employer support for volunteer firefighters and volunteer municipal emergency medical services persons tax credit.** For tax years beginning on or after January 1, 2025, the employer support for volunteer firefighters and volunteer municipal emergency medical services persons credit is extended to include volunteer municipal firefighters that are part-time or on-call municipal firefighters who receive up to 20% of the compensation of a full-time municipal firefighter and who may receive injury and death benefits. The credit may not exceed the tax liability of the taxpayer. Effective October 25, 2023. 30-A M.R.S. § 3151(5) and 36 M.R.S. § 5217-F; L.D. 1802; P.L. 2023, c. 478.

Affected program(s): individual, fiduciary, and corporate income taxes, and franchise tax.

**Maine capital investment credit.** For tax years beginning on or after January 1, 2025, the Maine capital investment credit is repealed except that unused credit amounts may be utilized to the fullest extent allowed by the carryforward provisions for the credit. 36 M.R.S. § 5219-NN(1-A); L.D. 258; P.L. 2023, c. 412, Pt. J, § 12.

Affected program(s): individual, fiduciary, and corporate income taxes.

**Dirigo business incentives program tax credit.** For tax years beginning on or after January 1, 2025, the Dirigo business incentives program (“DIRIGO”) income tax credit may be claimed by qualified businesses that have been certified under the program by the Department of Economic

and Community Development (“DECD”) and make eligible capital investments in eligible business property or that provide qualified training to its employees within the State.

A DIRIGO qualified business must be certified by the DECD as a for-profit business in Maine engaged in one of the following eligible sectors: agriculture, forestry, and fishing; manufacturing; long-distance freight transportation; software publishing, data processing, and computer design services; or engineering, architecture, and scientific research and development services. The following businesses are not eligible to participate in the DIRIGO program: a public utility; a business certified for incentives under the Pine Tree Development Zone program, the employment tax increment financing program, the Maine shipbuilding credit, or the Maine paper manufacturing facility credit; or a business with 20 or more employees that has undergone a layoff within the two taxable years prior to the year during which an application for certification is filed with DECD.

The credit is equal to: (1) 10% of the eligible capital investment for property placed in service in Maine during the taxable year outside of Cumberland, Sagadahoc, and York counties; plus (2) 5% of eligible capital investment in property placed in service during the taxable year in Cumberland, Sagadahoc, and York counties; plus (3) \$2,000 for each qualified employee that completes a qualified training program during the tax year. The credit is limited to \$2 million and is refundable up to \$500,000 for any one tax year. The credit and the refundability cap must be prorated among affiliated businesses or members of pass-through entities. Unused portions of the nonrefundable portion of the credit may be carried forward for up to 4 succeeding tax years.

An eligible capital investment includes that portion of expenditures exceeding \$50,000 by a certified business for eligible business property placed in service during the tax year.

Eligible business property must be placed in service in Maine during the tax year, be used exclusively in a qualified business activity carried on primarily in an eligible business sector, have a useful life of 5 years or more, and be subject to depreciation for the tax year, or would be subject to depreciation if the property had not been expensed under Internal Revenue Code, Section 179. Eligible business property does not include property that is purchased or transferred from an affiliated business, located at a retail sales facility and used primarily in a retail sales activity, a vehicle or watercraft which is subject to the Maine excise tax, qualified rehabilitation property used to compute the rehabilitation of historic properties credit, or real property placed in service in Maine prior to the taxable year for which the credit is claimed. Recapture provisions and/or disallowance of carryforward amounts apply if property on which the credit is claimed is not used in the state for 5 consecutive years or the business undergoes a layoff.

A qualified employee training program must be training that is a registered Maine Apprenticeships Program, an on-the-job training contract, training provided or approved by the Maine Community College, or training provided by an accredited university or college in Maine. To qualify, the program must provide training for 3 or more qualified employees and training must be at least 20 hours for each employee. Employees participating in qualified training must be paid their regular hourly rate of pay or the employer must expend a minimum of \$2,000 for each participating employee.

The State Tax Assessor must, by December 31 annually (beginning in 2026), report certain information to DECD regarding DIRIGO credits claimed for tax years ending during the prior calendar year. DECD is required to submit reports regarding the Dirigo Business Incentives Program, including information about the DIRIGO income tax credits, to the joint standing committees on taxation and economic development by March 1 annually, beginning in 2027.

Effective October 25, 2023. 36 M.R.S. § 5219-AAA; L.D. 258; P.L. 2023, c. 412, Pt. J, § 13.

Affected program(s): individual, fiduciary, and corporate income taxes, and franchise tax.

### **Changes applicable to tax years beginning 2026**

**Standard deduction.** For tax years beginning on or after January 1, 2026, the Maine basic standard deduction is \$12,000 for single individuals and married persons filing separate returns; \$18,000 for heads of households; and \$24,000 for married individuals filing jointly or filing as surviving spouses. For tax years beginning after 2025, the basic standard deduction amount is adjusted for inflation. The Maine additional standard deduction amount for age/blindness is equal to the additional federal standard deduction amount for age/blindness under the Internal Revenue Code, Section 63(c)(3). The Maine standard deduction amount is subject to phase-out. Effective October 25, 2023. 36 M.R.S. §§ 5124-C(1-A), and 5124-C(1-B); L.D. 258; P.L. 2023, c. 412, Pt. ZZZ, §§ 4, 5, and 7.

Affected program(s): individual income tax.

## **4) Sales, Use, and Special Taxes**

**Transfer of sales tax from General Fund to Highway Fund.** Beginning July 1, 2023, the State Controller is required to biannually transfer 40% of the sales tax collected at the rate of 5.5% from automobile dealers licensed by the Bureau of Motor Vehicles (“BMV”) and the sales tax collected at the rate of 5.5% by the BMV from the General Fund to the Highway Fund. Effective June 16, 2023. 36 M.R.S. § 1821; L.D. 259; P.L. 2023, c. 189, Pt. I, § 1.

**Pine Tree Development Zone reimbursement program extended.** The Pine Tree Development Zone (“PTDZ”) program has been extended. Certification of new businesses will continue through December 31, 2024, and qualified PTDZ business will be able to receive certain PTDZ benefits through December 31, 2034. Effective October 25, 2023. 36 M.R.S. §§ 1760(87) and 2016(4)(A); L.D. 258; P.L. 2023, c. 412, Pt. J, §§ 8 and 9.

**Marketplace facilitators required to collect Recycling Assistance Fee.** Beginning October 25, 2023, marketplace facilitators will be required to collect the recycling assistance fee imposed on sales of new tires and new lead-acid batteries facilitated on behalf of marketplace sellers. Marketplace facilitators were already required to collect the recycling assistance fee on any direct sales of new tires and new lead-acid batteries. Effective October 25, 2023. 36 M.R.S. § 1951-C(1); L.D. 1808; P.L. 2023, c. 441, Pt. A, § 1.

**Study and Report – Entity-based exemptions for certain nonprofit organizations.** MRS, Office of Tax Policy is directed to study the legislative history of entity-based sales, use, and service provider tax exemptions provided to qualifying nonprofit organizations, including a review of the “entities currently covered and excluded, the impact of changes to statutes if criteria were broadened[,] and exemptions in other states,” and submit a report to the Joint Standing Committee on Taxation based on that study by January 15, 2024. Effective October 25, 2023. L.D. 68; Resolves 2023, c. 88.

### **Service Provider Tax**

**Service Provider Tax exemption for nonprofit housing development organizations.** The service provider tax exemption for nonprofit organizations whose primary purpose is to develop housing for low-income people was amended to define “low-income” to mean having income that is less than 120% of the median income for the area, as adjusted for family size, as established by the United States Department of Housing and Urban Development or its successor organization. Effective October 25, 2023. 36 M.R.S. § 2557(27); L.D. 1808; P.L. 2023, c. 441, Pt. A, § 2.

**Medical services taxable under the Service Provider Tax repealed.** Beginning January 1, 2025, the Service Provider Tax (“SPT”) provisions applying to the following services are repealed eliminating the SPT on: (1) private nonmedical institution services; (2) community support services for persons with mental health diagnoses; (3) community support services for persons with intellectual disabilities or autism; (4) home support services; (5) ancillary services; and (6) group residential services for persons with brain injuries. Effective January 1, 2025. Title 36, c. 358; L.D. 258; P.L. 2023, c. 412, Pt. XXX §§ 2 through 15.

### **Hospital Tax**

**Update to a hospital’s taxable year.** For state fiscal years beginning on or after July 1, 2024, a hospital’s taxable year is the hospital’s fiscal year that ended during calendar year 2020. Effective October 25, 2023. 36 M.R.S. § 2892; L.D. 258; P.L. 2023, c. 412, Pt. YY, §§ 1 and 2.

### **Tobacco Products Tax**

**Technical changes to Tobacco Products Tax.** Effective for sales occurring on or after January 1, 2024, the Tobacco Products Tax laws had numerous technical changes made to ensure clarity and consistency regarding the imposition of the tax, including:

- The definition of “distributor” and the section regarding returns and payment of the tax were both repealed and replaced for readability and clarity.
- Definitions of “consumer” and “premium cigar” enacted.
- Exemptions and exclusions from the tobacco products tax were moved into their own section of law.

- Definition of “cost price” enacted; beginning January 1, 2024, the tobacco products tax on other tobacco products, including electronic smoking devices, is imposed at the rate of 43% of the cost price. “Cost price” means:
  - in the case of a manufacturer of tobacco products, the price set for those tobacco products or the wholesale value of those products;
  - in the case of a distributor or consumer, the price at which the distributor or consumer purchases tobacco products before the allowance of any discount, trade allowance, rebate or other reduction; or
  - in the case of a remote retail seller, the actual price paid for an item identified using a stock keeping unit, or if the actual price paid for an item is not available, the average of the actual price paid for the item over the 12 calendar months before January 1st of the year in which the remote retail sale occurs.

These changes apply to tobacco products brought into Maine or manufactured or fabricated in Maine on or after January 1, 2024. Effective January 1, 2024. Title 36, c. 704; L.D. 1808; P.L. 2023, c. 441, Pt. E, §§ 2, 3, 4, 5, 8, 9, and 16 through 21.

**Remote retail sellers of premium cigars.** Beginning January 1, 2024, remote retail sellers making remote retail sales of premium cigars are required to report and remit the tobacco products tax due on the premium cigars sold to consumers in Maine if the remote retail seller's gross sales of tangible personal property or taxable services into Maine in the previous calendar year or current calendar year exceeds \$100,000, or the remote retail seller made sales of tangible personal property or taxable services for delivery in to Maine in at least 200 separate transactions in the previous calendar year or current calendar year. A “remote retail sale” is any sale into Maine of premium cigars to a consumer when either:

- The consumer submits the order for the sale by means of a telephone, the internet, the United States mail or other online service, or the remote retail seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or
- The premium cigars are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery; or the remote seller is not in the physical presence of the buyer when the buyer obtains possession of the cigars.

Effective January 1, 2024. Title 36, c. 704; L.D. 1808; P.L. 2023, c. 441, Pt. E, §§ 1 through 3, 5 through 7, 10 through 15, 17, 19, 21, and 23 through 25.

### **Initiator of Deposit**

**Initiator of Deposit reporting no longer required after October 15, 2024.** Maine’s Beverage Container Redemption Program – also known as the “Bottle Bill” – underwent significant reforms and modernization with the passage of L.D. 1909 into law. No later than October 15,

2024, all initiators of deposit (“IOD”) are required to enter into commingling agreements. IODs that are members of comingling agreements are not required to report abandoned deposits to MRS via their IOD returns; as of October 15, 2024, MRS will no longer be administering the IOD fee. IODs should refer to guidance published by the Department of Environmental Protection for further information in the coming months. Effective October 25, 2023. 38 M.R.S. § 3108-A; L.D. 1909; P.L. 2023, c. 482, §§ 1, 27, and 28.

## **5) Property Tax**

### **Current Use Programs**

**Calculation of farmland withdrawal penalty.** Reverts a recent change in the penalty for withdrawing land from farmland tax classification such that the penalty is the recapture of the taxes that would have been paid on the land for the past 5 years if it had not been classified as farmland, less all taxes that were actually paid during those 5 years, plus interest at the rate set by the town from the date or dates the taxes would have been due. Effective July 26, 2023. L.D. 1808; P.L. 2023, c. 441, Part G.

**Working waterfront eligibility.** Expands the types of entities that may hold working waterfront covenants to include nonprofits whose purposes include retaining or protecting coastal community values, culture or heritage, coastal habitat, or real property that provides coastal water access. Effective October 25, 2023. L.D. 574; P.L. 2023, c. 70.

### **Municipal Reimbursement**

**Homestead exemption reimbursement.** Fixes the rate of State reimbursement to municipalities for the taxes lost due to homestead exemptions at 76% for property tax years beginning on or after April 1, 2023. Previously, the reimbursement percentage was set to increase by 3% annually until it reached 100%. Effective October 25, 2023. L.D. 258; P.L. 2023, c. 412, Part II.

### **Tax Assistance**

**Sunset of Property Tax Stabilization Program.** The program now only applies to the property tax year beginning April 1, 2023. Effective October 25, 2023. L.D. 258; P.L. 2023, c. 412, § S-10.

**Expanded eligibility for the State Property Tax Deferral Program.** For applications filed after January 1, 2024, the household income limitation increases to \$80,000, and the liquid asset limitation increases to \$100,000 (or \$150,000 for property held by multiple owners). A municipal lien is no longer an automatic disqualifier from the program if there are no more than two years of delinquent property taxes at the time of the application for deferral. If eligible, the delinquent property taxes are paid by the State and become part of the outstanding tax debt being deferred by the participant. Effective October 25, 2023. L.D. 258; P.L. 2023, c. 412, §§ S-6 through S-9.

**Payment due date under the State Property Tax Deferral Program.** Changes the due date for repayment under the State Property Tax Deferral Program from April 30th of the calendar year following the year in which the participant dies, moves, or sells the homestead to 12 months after such an event. Also changes the date by which an extension must be requested from August 15th of the calendar year following the year in which the participant dies to 12 months after the date of death. Effective October 25, 2023. L.D. 1808; P.L. 2023, c. 441, §§ B-5 and B-6.

### **Unorganized Territory**

**Conveyance of state interest in certain real estate in the unorganized territory.** The resolve authorizes the State Tax Assessor to sell certain tax-acquired parcels located in the unorganized territory. Effective October 25, 2023. L.D. 6; Resolves 2023, c. 11.

**Drew Plantation municipal deorganization.** The Legislature has approved a request by Drew Plantation to proceed with the deorganization of that municipality. Once the process is completed, Drew will become part of the unorganized territory, which is administered by the State. Effective April 10, 2023. L.D. 49; P. & S.L. 2023, c. 2.

**Municipal cost component for 2023-24 fiscal year.** The law is part of the routine annual process for establishing the costs of administering the unorganized territory of Maine. The costs approved by the Maine Legislature must be incorporated into the 2023 property tax levy in the unorganized territory. The unorganized territory property tax is collected as dedicated revenue to the Unorganized Territory Education and Services Fund. Effective June 12, 2023. L.D. 1308; P.L. 2023, c. 150.

### **Exemptions**

**“Just value” for parsonage and personal property exemptions.** Clarifies that the fixed-dollar parsonage and personal property exemptions for houses of religious worship are based on just value. Effective October 25, 2023. L.D. 283; P.L. 2023, c. 360, § A-6.

**Exclusion of non-individuals from the veterans’ property tax exemption.** Clarifies that only individual taxpayers, and not other types of entities, may qualify for veterans’ property tax exemptions. Additionally, removes gender-specific terms in provisions that govern veterans’ property tax exemptions. Effective October 25, 2023. L.D. 283; P.L. 2023, c. 360, §§ A-7 through A-9.

**Eligibility for veterans’ property tax exemption.** Expands eligibility for the property tax exemption to veterans who have received any expeditionary medal for service in the Armed Forces of the United States if they meet the age and disability qualifications (previous law allowed only the Armed Forces Expeditionary Medal). Effective October 25, 2023. L.D. 1808; P.L. 2023, c. 441, § B-1.

**Eligibility for property tax exemption for veterans with specially adapted housing units.** Expands eligibility for the property tax exemption for veterans with specially adapted housing



units to include those who have received any expeditionary medal for service in the Armed Forces of the United States if they meet the age and disability qualifications (previous law allowed only the Armed Forces Expeditionary Medal). Also expands eligibility to include all veterans who receive a federal adaptive housing grant (previous law only allowed the exemption for paraplegic veterans who received a housing grant). Effective October 25, 2023. L.D. 1808; P.L. 2023, c. 441, § B-2.

**Calculation of Business Equipment Tax Exemption (“BETE”).** Adjusts the personal property factor calculation used to determine state business equipment tax exemption reimbursement rates to exclude business personal property exempt from property taxation for reasons other than the business equipment tax exemption. Effective October 25, 2023. L.D. 1808; P.L. 2023, c. 441, § B-3.

### State Valuation

**Calculation of equalized tax rate.** Clarifies that a municipality's equalized tax rate of residential property is the equalized full value tax rate when calculating qualification for sudden and severe disruption assistance. Effective October 25, 2023. L.D. 283; P.L. 2023, c. 360, § A-4.

### Real Estate Transfer Tax

**Exempt transfers to trustees, nominees and straw parties.** Clarifies when property transfers to trustees, nominees and straw parties are exempt from the real estate transfer tax, and other textual changes. Effective October 25, 2023. L.D. 283; P.L. 2023, c. 360, § A-10.

### Tax Increment Financing

**Use of tax increment financing funds for constructing or renovating certain municipal buildings.** Permits revenue from tax increment financing districts to be used for the construction or renovation of municipal offices or other municipal buildings when the legislative body of the municipality determines that certain conditions are met. Effective October 25, 2023. L.D. 286; P.L. 2023, c. 142.

**Expenditure of accumulated tax increment revenues.** Authorizes tax increment revenues to continue to be spent for certain project costs after the date a development district ends and provides for the return of any remaining revenues to the municipal general fund with a corresponding state valuation adjustment by MRS. Effective October 25, 2023. L.D. 1644; P.L. 2023, c. 203.

### Administrative/Miscellaneous

**Return of excess funds from the sale of tax-acquired property.** In response to the recent United States Supreme Court ruling in *Tyler v. Hennepin County*, amends the statute to require municipalities to notify former owners prior to selling tax-acquired property. Former owners have the right to request that the property be sold via a broker rather than by bid. Regardless of

how the property is sold, any excess proceeds from the sale, after deducting certain taxes, costs, and fees, must be paid to the former owner of the property. Effective June 30, 2023. L.D. 101; P.L. 2023, c. 358.

**Assessment manual.** Removes the requirement that updates to the property tax assessment manual be made by the State Tax Assessor by rule. Effective October 25, 2023. L.D. 283; P.L. 2023, c. 360, § A-5.