

MRS draft
7/30/20

MAINE REVENUE SERVICES
LD 2010, "An Act To Update References Contained in the Maine Revised
Statutes to the United States Internal Revenue Code of 1986"
Proposed Senate Amendment "A"
July 30, 2020

Amend the bill by replacing everything after the enacting clause with the following:

PART A

Sec. A-1. 36 MRSA §111, sub-§1-A, as amended by PL 2019, c. 616, §X-1, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of ~~December 31~~ June 30, 2019 2020.

Sec. A-2. Application. This Part applies to tax years beginning on or after January 1, 2018 and to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of June 30, 2020.

PART B

Sec. B-1. 36 MRS §5122, sub-§ 1, ¶MM is enacted to read:

MM. For each taxable year beginning after December 31, 2017 and before January 1, 2021, an amount equal to the taxpayer's excess business loss for the taxable year determined under the Code, section 461(l) applying subsection (1)(B) of that section to the calculation for the tax year, reduced by any amount of the loss included in Maine taxable income for a prior tax year pursuant to paragraph H of this subsection.

Sec. B-2. 36 MRS §5122, sub-§2, ¶UU is enacted to read:

UU. An amount equal to the value of any prior year addition modification under subsection 1, paragraph MM, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The amount has not been previously used as a modification pursuant to this paragraph or otherwise used to reduce Maine taxable income; and
- (3) The taxpayer does not include the amount in computing any net operating loss carryback or carryover pursuant to the Code, section 172, for federal income tax purposes.

PART C

Sec. C-1. 36 MRS §5122, sub-§1, ¶NN is enacted to read:

NN. For taxable years beginning on or after January 1, 2019 and before January 1, 2021, the amount of the taxpayer's federal business interest deduction for the taxable year that exceeds the limitation for such deduction contained in the Code, section 163(j) applying a rate of 30 percent to adjusted taxable income for the purposes of the Code, section 163(j)(1)(B) without regard to the special rule described in the Code, section 163(j)(10)(A)(i).

Sec. C-2. 36 MRS §5122, sub-§2, ¶VV is enacted to read:

VV. For taxable years beginning on or after January 1, 2023, an amount equal to the value of any prior year addition modification under subsection 1, paragraph NN, but only to the extent that:

- (1) Maine taxable income is not reduced below zero; and
- (2) The amount has not been previously used as a modification pursuant to this subsection or otherwise used to reduce Maine taxable income.

Sec. C-3. 36 MRS §5200-A, sub-§1, ¶GG is enacted to read:

GG. For taxable years beginning on or after January 1, 2019 and before January 1, 2021, the amount of the taxpayer's federal business interest deduction for the taxable year that exceeds the limitation for such deduction contained in the Code, section 163(j) applying a rate of 30 percent to adjusted taxable income for the purposes of the Code, section 163(j)(1)(B) without regard to the special rule described in the Code, section 163(j)(10)(A)(i).

Sec. C-4. 36 MRS §5200-A, sub-§2, ¶HH is enacted to read:

HH. For taxable years beginning on or after January 1, 2023, an amount equal to the value of any prior year addition modification under subsection 1, paragraph GG, but only to the extent that:

- (1) Maine taxable income is not reduced below zero; and
- (2) The amount has not been previously used as a modification pursuant to this subsection or otherwise used to reduce Maine taxable income.

PART D

Sec. D-1. 36 MRS §5219-NN, sub-§2, as repealed and replaced by PL 2017, c. 211, Pt. D, §8, is amended to read:

2. Certain property excluded. The following property is not eligible for the credit under this section:

A. Property owned by a public utility as defined by Title 35-A, section 102, subsection 13;

B. Property owned by a person that provides radio paging services as defined by Title 35-A, section 102, subsection 15;

C. Property owned by a person that provides mobile telecommunications services as defined by Title 35-A, section 102, subsection 9-A;

D. Property owned by a cable television company as defined by Title 30-A, section 2001, subsection 2;

E. Property owned by a person that provides satellite-based direct television broadcast services;

F. Property owned by a person that provides multichannel, multipoint television distribution services; ~~and~~

G. Property that is not in service in the State for the entire 12-month period following the date it is placed in service in the State; and

H. Qualified improvement property, as that term is defined in the Code, section 168(e)(6), placed in service after December 31, 2017 and prior to January 1, 2020.

PART E

Sec. E-1. 36 MRS §5200-A, sub-§1, ¶HH, is enacted to read:

HH. For taxable years beginning after January 1, 2019 and before January 1, 2020, an amount equal to the difference between the taxpayer's charitable deduction as determined under the Code, Section 170 excluding application of the amendments made by Section 2205 of the federal Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, and the taxpayer's charitable deduction as determined under the Code, Section 170 applying the amendments of federal Public Law 116-136, Section 2205.

Sec. E-2. 36 MRS §5200-A, sub-§2, ¶II, is enacted to read:

II. For taxable years beginning after January 1, 2020 and before January 1, 2025, an amount equal to the amount by which federal taxable income was increased under subsection 1, paragraph HH, but only to the extent that:

- (1) Maine taxable income is not reduced below zero; and
- (2) The amount has not been previously used as a modification pursuant to this subsection.

PART F

Sec. F-1. 36 MRSA §5122, sub-§1, ¶LL, as corrected by RR 2019, c. 1, Pt. A, §68, is repealed.

Sec. F-2. 36 MRSA §5122, sub-§2, ¶TT, as reallocated by RR 2019, c. 1, Pt. A, §69, is repealed.

Sec. F-3. 36 MRSA §5200-A, sub-§1, ¶DD, as corrected by RR 2019, c. 1, Pt. A, §72, is repealed.

Sec. F-4. 36 MRSA §5200-A, sub-§2, ¶GG, as reallocated by RR 2019, c. 1, Pt. A, §73, is repealed.

Sec. F-5. Application; retroactivity. This Part applies retroactively to tax years beginning on or after January 1, 2018.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

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SUMMARY

The amendment replaces the bill and does the following:

Part A updates references to the United States Internal Revenue Code of 1986 contained in the Maine Revised Statutes, Title 36 to refer to the United States Internal Revenue Code of 1986, as amended through June 30, 2020, for tax years beginning on or after January 1, 2018 and for any prior tax years as specifically provided by the United States Internal Revenue Code of 1986, as amended.

Part B requires an addition modification for federal excess business losses allowed to non-corporate taxpayers pursuant to the CARES Act for taxable years beginning after December 31, 2017 and before January 1, 2021 and a subtraction modification for the carryover and subtraction of this amount in future years.

Part C requires an addition modification of the federal business interest deduction that exceeds 30% of adjusted taxable income pursuant to the CARES Act for taxable years beginning after December 31, 2018 and before January 1, 2021 and a subtraction modification for the carryover and subtraction of this amount in tax years beginning on or after January 1, 2023.

Part D excludes qualified improvement property placed in service after December 31, 2017 and prior to January 1, 2020 from the Maine Capital Investment Credit.

Part E requires an addition modification for the additional charitable contribution deduction allowed to corporations pursuant to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) for taxable years beginning after January 1, 2019 and before January 1, 2020 and a subtraction modification for the carryover and subtraction of this amount in future years.

Part F updates and simplifies Maine income tax law by conforming the Maine income tax with the federal net operating loss (“NOL”) limitation (generally known as the “80-percent taxable income limitation”) and the CARES Act suspension of the limitation. This Part, as well as Maine’s conformity to the CARES Act NOL limitation suspension in Part A, apply retroactively to tax years beginning on or after January 1, 2018. Under the provision, the 80-percent taxable income limitation would apply to tax years beginning after 2020.