

**§5200-A. Modifications**

**1. Additions.** The taxable income of the taxpayer under the laws of the United States shall be increased by:

A. The amount of any deduction for tax imposed by this Part or by the equivalent taxing statute of another state; [PL 1981, c. 704, §4 (NEW).]

B. For income tax years beginning before January 1, 2002, the amount of any net operating loss in the taxable year that has been carried back to previous taxable years pursuant to the Code, Section 172; [PL 2003, c. 390, §38 (AMD); PL 2003, c. 390, §53 (AFF).]

C. The amount of any deduction claimed for the taxable year under the Code, Section 172, which has previously been used to offset the modifications provided by this subsection; [PL 1987, c. 504, §19 (AMD).]

D. [PL 1987, c. 504, §20 (RP).]

E. [PL 1981, c. 704, §9 (RP).]

F. [PL 1987, c. 504, §21 (RP).]

G. [PL 2001, c. 583, §17 (RP).]

H. The absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 1989 but before January 1, 1993 and the absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 2002 that, pursuant to the United States Internal Revenue Code, Section 172, are being carried back for federal income tax purposes to the taxable year by the taxpayer; [PL 2001, c. 559, Pt. J, §3 (AMD).]

I. Interest or dividends on obligations or securities of any state other than this State, or of a political subdivision or authority of any state other than this State, to the extent that interest or those dividends are not included in the taxpayer's federal taxable income; [PL 2003, c. 390, §39 (AMD).]

J. [PL 1995, c. 641, §6 (RP); PL 1995, c. 641, §7 (AFF).]

K. The amount claimed as a deduction in determining federal taxable income that is included in the investment credit base for the high-technology investment tax credit; [PL 2003, c. 390, §40 (AMD).]

L. For income tax years beginning on or after January 1, 1997, all items of loss, deduction and other expense of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. An addition may not be made under this paragraph for any losses recognized on the disposition by a taxpayer of an ownership interest in a financial institution; [PL 2001, c. 559, Pt. GG, §14 (AMD); PL 2001, c. 559, Pt. GG, §26 (AFF).]

M. The absolute value of the amount of any net operating loss arising from a tax year beginning or ending in 2001 that the taxpayer, pursuant to Section 102 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147, carries back more than 2 years to the taxable year for federal income tax purposes; [PL 2001, c. 700, §5 (AMD).]

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

- (1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal

Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but prior to January 1, 2011, the increase in aggregate cost under Section 179 of the Code arising from amendments to the Code applicable to tax years beginning on or after January 1, 2003; [PL 2011, c. 380, Pt. O, §9 (AMD).]

O. [PL 2009, c. 434, §74 (RP).]

P. [PL 2009, c. 434, §75 (RP).]

Q. [PL 2003, c. 451, Pt. E, §7 (RP).]

R. [PL 2003, c. 451, Pt. E, §7 (RP).]

S. [PL 2023, c. 360, Pt. B, §8 (RP).]

T. For taxable years beginning on or after January 1, 2008 but before January 1, 2011, an amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) arising from amendments to the Code applicable to taxable years beginning on or after January 1, 2008; [PL 2011, c. 380, Pt. O, §10 (AMD).]

U. For tax years beginning in 2008, 10% of the absolute value in excess of \$100,000 of any net operating loss that, pursuant to the Code, Section 172, is being carried over for federal income tax purposes to the taxable year by the taxpayer; [PL 2011, c. 240, §33 (AMD).]

V. For any taxable year beginning in 2009, 2010 or 2011, an amount equal to the absolute value of any net operating loss carry-forward claimed for purposes of the federal income tax; [PL 2011, c. 90, Pt. H, §4 (AMD); PL 2011, c. 90, Pt. H, §8 (AFF).]

**REVISOR'S NOTE:** (Paragraph V as enacted by PL 2009, c. 213, Pt. BBBB, §12 is REALLOCATED TO TITLE 36, SECTION 5200-A, SUBSECTION 1, PARAGRAPH W)

W. **(REALLOCATED FROM T. 36, §5200-A, sub-§1, ¶V)** [PL 2023, c. 360, Pt. B, §9 (RP).]

X. The amount claimed as a deduction in determining federal taxable income that is included in the credit for wellness programs under section 5219-FF; [PL 2011, c. 644, §20 (AMD).]

Y. For taxable years beginning in 2011 and 2012:

(1) An amount equal to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-GG; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-GG; [PL 2013, c. 368, Pt. TT, §12 (AMD).]

Z. [PL 2019, c. 401, Pt. C, §8 (RP).]

AA. For taxable years beginning in 2013:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-JJ for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-JJ; [PL 2015, c. 388, Pt. A, §9 (AMD).]

BB. For taxable years beginning in 2014:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-MM for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-MM; and [PL 2015, c. 388, Pt. A, §10 (AMD).]

CC. For taxable years beginning on or after January 1, 2015:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-NN for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-NN. [PL 2015, c. 388, Pt. A, §11 (NEW).]

DD. [PL 2021, c. 1, Pt. H, §3 (RP).]

EE. An amount equal to the taxpayer's deduction claimed in accordance with the Code, Section 965(c). [PL 2017, c. 474, Pt. D, §1 (NEW).]

FF. An amount equal to the taxpayer's global intangible low-taxed income deduction claimed in accordance with the Code, Section 250(a)(1)(B) and, for tax years beginning on or after January 1, 2020, an amount equal to the taxpayer's deduction claimed in accordance with the Code, Section 250(a). [PL 2021, c. 1, Pt. U, §1 (AMD).]

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 that deduction contained in the Code, Section 163(j) applying a rate of 30% 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). [PL 2021, c. 1, Pt. E, §3 (NEW).]

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 including application of the amendments made by federal Public Law 116-136, Section 2205. [PL 2021, c. 1, Pt. G, §1 (NEW).]

KK. For each taxable year beginning on or after January 1, 2021, an amount equal to any increase in deductions allowed for federal income tax purposes pursuant to Division EE, Section 210 of the federal Consolidated Appropriations Act, 2021, Public Law 116-260. [PL 2021, c. 1, Pt. X, §2 (NEW).]

[PL 2023, c. 360, Pt. B, §§8, 9 (AMD).]

**2. Subtractions.** The taxable income of the taxpayer under the laws of the United States shall be decreased by:

- A. Income included in the taxpayer's federal taxable income that, under the laws of the United States, is exempt from taxation by states; [PL 2003, c. 390, §41 (AMD).]
- B. The amount, "foreign dividend gross-up," added to income under the Code, Section 78; [PL 1987, c. 504, §22 (RPR).]
- C. An amount equal to the reduction in salaries and wages expense for federal income tax purposes associated with the taxpayer's federal work opportunity credit as determined under the Code, Section 51 or empowerment zone employment credit as determined under the Code, Section 1396; [PL 2005, c. 218, §55 (AMD).]
- D. [PL 1987, c. 504, §23 (RP).]
- E. [PL 2001, c. 177, §4 (RP).]
- F. Income this State is prohibited from taxing under the Constitution of Maine or the United States Constitution to the extent that it is included in the taxpayer's federal taxable income. The amount subtracted must be decreased by any expenses incurred in production of that income that were deducted in determining federal taxable income; [PL 2003, c. 390, §43 (AMD).]
- G. Fifty percent of the apportionable dividend income, net of related expenses and other related deductions deducted in computing federal taxable income, the taxpayer received during the taxable year from an affiliated corporation that is not included with the taxpayer in a Maine combined report. Dividend income does not include subpart F income, as defined in the Code, Section 952, income included in federal taxable income in accordance with the Code, Section 951A or income included in federal taxable income in accordance with the Code, Section 965. Any amount subtracted from federal taxable income under this paragraph must be excluded from the sales factor of any apportionment formula employed to attribute income to this State; [PL 2017, c. 474, Pt. D, §2 (AMD).]
- H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value of the net operating loss arising from tax years beginning on or after January 1, 1989 but before January 1, 1993 and the absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 2002, for which federal taxable income was increased under subsection 1, paragraph H and that, pursuant to the Code, Section 172, was carried back for federal income tax purposes, less the absolute value of loss used in the taxable year of loss to offset any addition modification required by subsection 1, but only to the extent that:
- (1) Maine taxable income is not reduced below zero;
  - (2) The taxable year is within the allowable federal period for carry-over;
  - (3) The amount has not been previously used as a modification pursuant to this subsection;
  - (4) For taxable years beginning in 2008, the amount does not exceed \$100,000. In the case of an affiliated group of corporations engaged in a unitary business, the \$100,000 threshold applies with respect to the entire affiliated group of corporations; and
  - (5) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011. The amount not deducted as the result of the restriction with respect to tax years beginning in 2009, 2010 or 2011 may be deducted in any tax year beginning after December 31, 2011, but only to the extent that the requirements of subparagraphs (1) and (3) are met and the taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011; [PL 2011, c. 240, §34 (AMD).]
- I. For income tax years beginning on or after January 1, 1997, all items of income, gain, interest, dividends, royalties and other income of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax

purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. A subtraction may not be made under this paragraph for:

- (1) Income of the taxpayer earned on interest-bearing or similar accounts of the taxpayer at a financial institution as a customer of that financial institution;
- (2) Any dividends or other distributions with respect to a taxpayer's ownership interest in a financial institution; and
- (3) Any gain recognized on the disposition by the taxpayer of an ownership interest in a financial institution; [PL 1999, c. 708, §39 (AMD).]

J. An amount equal to an income tax refund to the taxpayer by this State or another state of the United States that is included in that taxpayer's federal taxable income for the taxable year under the Code, but only to the extent that:

- (1) Maine net income is not reduced below zero; and
- (2) The amount to be refunded from this State or another state of the United States has not been previously used as a modification pursuant to this subsection.

If this modification results in Maine net income that is less than zero for the taxable year, the excess negative modification amount may be carried forward in the same manner as a net operating loss deduction to a taxable year that is within the allowable federal period for carrying forward net operating losses, subject to the above limitations; [PL 2003, c. 390, §45 (AMD); PL 2003, c. 390, §53 (AFF).]

K. Interest or dividends on obligations or securities of this State and its political subdivisions and authorities to the extent included in federal taxable income; [PL 2001, c. 559, Pt. GG, §17 (AMD); PL 2001, c. 559, Pt. GG, §26 (AFF).]

L. An amount equal to the absolute value of any net operating loss arising from a tax year beginning or ending in 2001 for which federal taxable income was increased under subsection 1, paragraph M and that, pursuant to Section 102 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147, was carried back more than 2 years to the taxable year for federal income tax purposes, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is either within 2 years prior to the year in which the loss arose or within the allowable federal period for carry-over of net operating losses;
- (3) The amount has not been previously used as a modification pursuant to this subsection;
- (4) For taxable years beginning in 2008, the amount does not exceed \$100,000. In the case of an affiliated group of corporations engaged in a unitary business, the \$100,000 threshold applies with respect to the entire affiliated group of corporations; and
- (5) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011. The amount not deducted as the result of the restriction with respect to tax years beginning in 2009, 2010 or 2011 may be deducted in any tax year beginning after December 31, 2011, but only to the extent that the requirements of subparagraphs (1) and (3) are met and the taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011; [PL 2009, c. 213, Pt. ZZZ, §10 (AMD).]

M. A fraction of any amount previously added back by the taxpayer to federal taxable income pursuant to subsection 1, paragraph N.

(1) With respect to property first placed in service during taxable years beginning in 2002, the adjustment under this paragraph is available for each year during the recovery period, beginning 2 years after the beginning of the taxable year during which the property was first placed in service. The fraction is equal to the amount added back under subsection 1, paragraph N with respect to the property, divided by the number of years in the recovery period minus 2.

(2) With respect to all other property, for the taxable year immediately following the taxable year during which the property was first placed in service, the fraction allowed by this paragraph is equal to 5% of the amount added back under subsection 1, paragraph N with respect to the property. For each subsequent taxable year during the recovery period, the fraction is equal to 95% of the amount added back under subsection 1, paragraph N with respect to the property, divided by the number of years in the recovery period minus 2.

In the case of property expensed pursuant to Section 179 of the Code, the term "recovery period" means the recovery period that would have been applicable to the property had Section 179 not been applied; [PL 2005, c. 644, §8 (AMD).]

N. [PL 2003, c. 20, Pt. EE, §5 (RP).]

O. [PL 2003, c. 20, Pt. EE, §5 (RP).]

P. For income tax years beginning on or after January 1, 2015, the gain attributable to the sale of sustainably managed, eligible timberlands as calculated pursuant to this paragraph.

(1) As used in this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Commercial harvesting" or "commercially harvested" means the harvesting of forest products that have commercial value.

(b) "Eligible timberlands" means land of at least 10 acres located in the State and used primarily for the growth of trees to be commercially harvested. Land that would otherwise be included within this definition may not be excluded because of:

(i) Use of the land for multiple public recreation activities;

(ii) Statutory or governmental restrictions that prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting;

(iii) Deed restrictions, restrictive covenants or organizational charters that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and that were effective prior to January 1, 1982; or

(iv) Past or present multiple use for mineral exploration.

(c) "Forest products that have commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.

(d) "Sustainably managed" means:

(i) A forest management and harvest plan, as defined in section 573, subsection 3-A, has been prepared for the eligible timberlands and has been in effect for the entire time period used to compute the amount of the subtraction modification under this paragraph; and

(ii) The taxpayer has received a written statement from a licensed forester certifying that, as of the time of the sale, the eligible timberlands have been managed in accordance with the plan under subdivision (i) during that period.

- (2) To the extent included in the taxpayer's taxable income under the laws of the United States, the taxable income of the taxpayer under the laws of the United States must be decreased by:
- (a) For eligible timberlands held by the taxpayer for at least a 10-year period beginning on or after January 1, 2005 but less than an 11-year period beginning on or after January 1, 2005,  $1/15$  of the gain recognized on the sale of the eligible timberlands;
  - (b) For eligible timberlands held by the taxpayer for at least an 11-year period beginning on or after January 1, 2005 but less than a 12-year period beginning on or after January 1, 2005,  $2/15$  of the gain recognized on the sale of the eligible timberlands;
  - (c) For eligible timberlands held by the taxpayer for at least a 12-year period beginning on or after January 1, 2005 but less than a 13-year period beginning on or after January 1, 2005,  $1/5$  of the gain recognized on the sale of the eligible timberlands;
  - (d) For eligible timberlands held by the taxpayer for at least a 13-year period beginning on or after January 1, 2005 but less than a 14-year period beginning on or after January 1, 2005,  $4/15$  of the gain recognized on the sale of the eligible timberlands;
  - (e) For eligible timberlands held by the taxpayer for at least a 14-year period beginning on or after January 1, 2005 but less than a 15-year period beginning on or after January 1, 2005,  $1/3$  of the gain recognized on the sale of the eligible timberlands;
  - (f) For eligible timberlands held by the taxpayer for at least a 15-year period beginning on or after January 1, 2005 but less than a 16-year period beginning on or after January 1, 2005,  $2/5$  of the gain recognized on the sale of the eligible timberlands;
  - (g) For eligible timberlands held by the taxpayer for at least a 16-year period beginning on or after January 1, 2005 but less than a 17-year period beginning on or after January 1, 2005,  $7/15$  of the gain recognized on the sale of the eligible timberlands;
  - (h) For eligible timberlands held by the taxpayer for at least a 17-year period beginning on or after January 1, 2005 but less than an 18-year period beginning on or after January 1, 2005,  $8/15$  of the gain recognized on the sale of the eligible timberlands;
  - (i) For eligible timberlands held by the taxpayer for at least an 18-year period beginning on or after January 1, 2005 but less than a 19-year period beginning on or after January 1, 2005,  $3/5$  of the gain recognized on the sale of the eligible timberlands;
  - (j) For eligible timberlands held by the taxpayer for at least a 19-year period beginning on or after January 1, 2005 but less than a 20-year period beginning on or after January 1, 2005,  $2/3$  of the gain recognized on the sale of the eligible timberlands;
  - (k) For eligible timberlands held by the taxpayer for at least a 20-year period beginning on or after January 1, 2005 but less than a 21-year period beginning on or after January 1, 2005,  $11/15$  of the gain recognized on the sale of the eligible timberlands;
  - (l) For eligible timberlands held by the taxpayer for at least a 21-year period beginning on or after January 1, 2005 but less than a 22-year period beginning on or after January 1, 2005,  $4/5$  of the gain recognized on the sale of the eligible timberlands;
  - (m) For eligible timberlands held by the taxpayer for at least a 22-year period beginning on or after January 1, 2005 but less than a 23-year period beginning on or after January 1, 2005,  $13/15$  of the gain recognized on the sale of the eligible timberlands;
  - (n) For eligible timberlands held by the taxpayer for at least a 23-year period beginning on or after January 1, 2005 but less than a 24-year period beginning on or after January 1, 2005,  $14/15$  of the gain recognized on the sale of the eligible timberlands; or

(o) For eligible timberlands held by the taxpayer for at least a 24-year period beginning on or after January 1, 2005, all of the gain recognized on the sale of the eligible timberlands.

(3) Taxpayers claiming this credit must attach a sworn statement from a forester licensed pursuant to Title 32, chapter 76 that the timberlands for which the credit is claimed have been managed sustainably. For the purposes of this subparagraph, "sustainably" means that the timberlands for which the credit is claimed have been managed to protect soil productivity and to maintain or improve stand productivity and timber quality; known occurrences of threatened or endangered species and rare or exemplary natural communities; significant wildlife habitat and essential wildlife habitat; and water quality, wetlands and riparian zones.

Upon request of the State Tax Assessor, the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry may provide assistance in determining whether timberlands for which the credit is claimed have been managed sustainably. When assistance is requested under this subparagraph, the director or the director's designee may enter and examine the timberlands for the purpose of determining whether the timberlands have been managed sustainably.

In the case of timberlands owned by an entity that is treated as a pass-through entity for income tax purposes, the land must be treated as eligible timberland if ownership and use of the land by the pass-through entity satisfies the requirements of this paragraph. If the owner of the eligible timberlands is an S corporation, the taxpayer must subtract the owner's pro rata share of the gain. If the owner of the timberlands is a partnership or limited liability company taxed as a partnership, the taxpayer must subtract the taxpayer's distributive share of the gain, subject to the percentage limitations provided in this paragraph.

This modification may not reduce Maine taxable income to less than zero. To the extent this modification results in Maine taxable income that is less than zero for the taxable year, the excess negative modification amount may be carried forward and applied as a subtraction modification for up to 10 taxable years. The entire amount of the excess negative modification must be carried to the earliest of the taxable years to which, by reason of this subsection, the negative modification may be carried and then to each of the other taxable years to the extent the unused negative modification is not used for a prior taxable year. Earlier carry-forward modifications must be used before newer modifications generated in later years; [PL 2007, c. 539, Pt. CCC, §16 (AMD); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

Q. For income tax years beginning on or after January 1, 2006, to the extent included in federal taxable income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable housing property by the Maine State Housing Authority in accordance with Title 30-A, section 4722, subsection 1, paragraph AA; [PL 2007, c. 700, Pt. B, §4 (AMD).]

R. For taxable years beginning on or after January 1, 2009, an amount equal to the net increase in the depreciation deductions allowable under Sections 167 and 168 of the Code that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service on or after January 1, 2008 for which an addition was required under subsection 1, paragraph T in a prior year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph T and the subtraction modifications allowed pursuant to this paragraph.



The total amount of subtraction claimed for property under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph T for the same property; [RR 2009, c. 2, §114 (COR).]

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

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carryover of the net operating loss plus one year; and
- (3) The amount has not been previously used as a modification pursuant to this subsection; [PL 2011, c. 240, §35 (AMD); PL 2011, c. 454, §10 (AMD).]

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

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 and 2011;
- (3) The amount has not been previously used as a modification pursuant to this subsection; and
- (4) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011; [PL 2011, c. 380, Pt. O, §14 (AMD); PL 2011, c. 454, §11 (AMD).]

U. [PL 2023, c. 360, Pt. B, §10 (RP).]

V. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph Y, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph Y, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of the subtraction modification claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph Y, subparagraph (2) for the same property; [PL 2013, c. 424, Pt. A, §27 (RPR).]

**REVISOR'S NOTE:** (Paragraph V as enacted by PL 2011, c. 454, §13 is REALLOCATED TO TITLE 36, SECTION 5200-A, SUBSECTION 2, PARAGRAPH W)

**W. (REALLOCATED FROM T. 36, §5200-A, sub-§2, ¶V)** To the extent included in federal taxable income, an amount equal to the refundable portion of the credit allowed under section 5216-B and an amount equal to the distribution from a private venture capital fund of the refundable portion of the credit allowed under section 5216-B; [PL 2013, c. 368, Pt. TT, §15 (AMD).]

X. To the extent included in federal taxable income, an amount equal to the refundable portion of the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z; [PL 2015, c. 1, §11 (AMD).]

Y. For taxable years beginning on or after January 1, 2014, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2013 for which an addition was required under subsection 1, paragraph AA, subparagraph (2) for the taxable year beginning in 2013.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph AA, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph AA, subparagraph (2) for the same property; [PL 2015, c. 388, Pt. A, §12 (AMD).]

Z. For taxable years beginning on or after January 1, 2015, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2014 for which an addition was required under subsection 1, paragraph BB, subparagraph (2) for the taxable year beginning in 2014.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph BB, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph BB, subparagraph (2) for the same property; and [PL 2015, c. 388, Pt. A, §13 (AMD).]

AA. For taxable years beginning on or after January 1, 2016, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during any taxable year beginning on or after January 1, 2015 but before January 1, 2020 for which an addition was required under subsection 1, paragraph CC, subparagraph (2) for the taxable year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph CC, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph CC, subparagraph (2) for the same property. [PL 2019, c. 659, Pt. I, §2 (AMD).]

BB. For taxable years beginning on or after January 1, 2018, for business expenses related to carrying on a trade or business as a registered caregiver or a registered dispensary, as defined in Title 22, section 2422, an amount equal to the deduction that would otherwise be allowable under this chapter to the extent that the deduction is disallowed under the Code, Section 280E. For taxable years beginning on or after January 1, 2023, for business expenses related to carrying on a trade or

business as a registered caregiver, a registered dispensary or a manufacturing facility, as defined in Title 22, section 2422, or a cannabis establishment or testing facility, as defined in Title 28-B, section 102, an amount equal to the deduction that would otherwise be allowable under this chapter to the extent that the deduction is disallowed under the Code, Section 280E. [PL 2023, c. 444, §3 (AMD).]

**REVISOR'S NOTE:** Paragraph BB as enacted by PL 2017, c. 474, Pt. C, §7 is REALLOCATED TO TITLE 36, SECTION 5200-A, SUBSECTION 2, PARAGRAPH GG

CC. An amount equal to 50% of the apportionable subpart F income, as defined in the Code, Section 952, net of related expenses and other related deductions deducted in computing federal taxable income, that the taxpayer included in federal gross income during the taxable year. Any amount subtracted from federal taxable income under this paragraph must be excluded from the sales factor of any apportionment formula employed to attribute income to this State. [PL 2017, c. 474, Pt. D, §3 (NEW).]

DD. An amount equal to 80% of the apportionable deferred foreign income that the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 965(a) as adjusted by Section 965(b). Any amount subtracted from federal taxable income under this paragraph must be excluded from the sales factor of any apportionment formula employed to attribute income to this State. [PL 2017, c. 474, Pt. D, §3 (NEW).]

EE. An amount equal to 50% of the apportionable global intangible low-taxed income that the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 951A, net of related expenses and other related deductions deducted in computing federal taxable income. The amount included in the sales factor of any apportionment formula employed to attribute apportionable income to this State the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 951A is 50% of the amount included in federal gross income. [PL 2017, c. 474, Pt. D, §3 (NEW).]

FF. For taxable years beginning on or after January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning on or after January 1, 2020 for which an addition was required under subsection 1, paragraph CC for the taxable year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph CC and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph CC for the same property. [PL 2019, c. 527, Pt. A, §4 (NEW).]

GG. (REALLOCATED FROM T. 36, §5200-A, sub-§2, ¶BB) [PL 2021, c. 1, Pt. H, §4 (RP).]

HH. For taxable years beginning on or after January 1, 2021, 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;
- (2) No more than 25% of the amount is used as a modification in any taxable year; and
- (3) The amount has not been previously used as a modification pursuant to this paragraph or otherwise used to reduce Maine taxable income. [PL 2021, c. 1, Pt. E, §4 (NEW).]

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 paragraph or otherwise used to reduce Maine taxable income. [PL 2021, c. 1, Pt. G, §2 (NEW).]

[PL 2023, c. 360, Pt. B, §10 (AMD); PL 2023, c. 444, §3 (AMD).]

#### SECTION HISTORY

PL 1981, c. 704, §4 (NEW). PL 1981, c. 704, §9 (AMD). PL 1983, c. 590, §2 (AMD). PL 1983, c. 855, §§18-22 (AMD). PL 1987, c. 504, §§18-23 (AMD). PL 1987, c. 841, §§4,5 (AMD). PL 1989, c. 880, §§G5-9,J1-2 (AMD). PL 1991, c. 528, §§N9,11,12 (AMD). PL 1991, c. 528, §§N10,13,RRR (AFF). PL 1991, c. 548, §§A26-29 (AMD). PL 1991, c. 591, §§N9,11,12 (AMD). PL 1991, c. 591, §§N10,13 (AFF). PL 1991, c. 824, §D6 (AMD). PL 1993, c. 349, §70 (AMD). PL 1995, c. 368, §§GGG4-6 (AMD). PL 1995, c. 639, §20 (AMD). PL 1995, c. 641, §§4-6 (AMD). PL 1995, c. 641, §7 (AFF). PL 1997, c. 557, §§B7-9 (AMD). PL 1997, c. 557, §G1 (AFF). PL 1997, c. 746, §§7-12 (AMD). PL 1997, c. 746, §24 (AFF). PL 1999, c. 521, §§B3-5 (AMD). PL 1999, c. 521, §B11 (AFF). PL 1999, c. 708, §§39-41 (AMD). PL 2001, c. 177, §§3,4 (AMD). PL 2001, c. 559, §GG26 (AFF). PL 2001, c. 559, §§J3,4,GG-13 -18 (AMD). PL 2001, c. 583, §17 (AMD). PL 2001, c. 700, §§5,6 (AMD). PL 2001, c. 700, §10 (AFF). PL 2001, c. 714, §§AA5-7 (AMD). PL 2003, c. 20, §§EE3-5 (AMD). PL 2003, c. 20, §§II3,4 (AMD). PL 2003, c. 390, §§38-45 (AMD). PL 2003, c. 390, §53 (AFF). PL 2003, c. 451, §E7 (AMD). PL 2003, c. 479, §§5,6 (AMD). PL 2003, c. 588, §16 (AMD). PL 2003, c. 705, §13 (AMD). PL 2003, c. 705, §14 (AFF). PL 2005, c. 12, §§P7-9 (AMD). PL 2005, c. 12, §P10 (AFF). PL 2005, c. 218, §§54-56 (AMD). PL 2005, c. 416, §§4-6 (AMD). PL 2005, c. 644, §§8-10 (AMD). PL 2007, c. 240, Pt. CCC, §3 (AMD). PL 2007, c. 240, Pt. CCC, §4 (AFF). PL 2007, c. 539, Pt. AAAA, §1, 2 (AMD). PL 2007, c. 539, Pt. CCC, §§13-18 (AMD). PL 2007, c. 700, Pt. B, §§1-6 (AMD). RR 2009, c. 2, §114 (COR). PL 2009, c. 213, Pt. BBBB, §§10-15 (AMD). PL 2009, c. 213, Pt. BBBB, §17 (AFF). PL 2009, c. 213, Pt. ZZZ, §§6-13 (AMD). PL 2009, c. 434, §§74, 75 (AMD). PL 2009, c. 496, §23 (AMD). PL 2009, c. 652, Pt. A, §§53-57 (AMD). PL 2009, c. 652, Pt. A, §58 (AFF). RR 2011, c. 1, §§57, 58 (COR). PL 2011, c. 90, Pt. H, §§4-6 (AMD). PL 2011, c. 90, Pt. H, §8 (AFF). PL 2011, c. 240, §§33-35 (AMD). PL 2011, c. 380, Pt. O, §§9-16 (AMD). PL 2011, c. 454, §§10-13 (AMD). PL 2011, c. 548, §28 (AMD). PL 2011, c. 548, §36 (AFF). PL 2011, c. 644, §§20-26 (AMD). PL 2011, c. 644, §§32, 33 (AFF). PL 2011, c. 657, Pt. W, §§5, 7 (REV). RR 2013, c. 1, §53 (COR). PL 2013, c. 368, Pt. TT, §§12-17 (AMD). PL 2013, c. 405, Pt. A, §23 (REV). PL 2013, c. 424, Pt. A, §27 (AMD). PL 2015, c. 1, §§8-13 (AMD). PL 2015, c. 388, Pt. A, §§9-14 (AMD). PL 2017, c. 452, §32 (AMD). PL 2017, c. 474, Pt. C, §§5-7 (AMD). PL 2017, c. 474, Pt. D, §§1-3 (AMD). PL 2019, c. 401, Pt. C, §8 (AMD). PL 2019, c. 527, Pt. A, §§3, 4 (AMD). RR 2019, c. 1, Pt. A, §§72, 73 (COR). PL 2019, c. 659, Pt. I, §2 (AMD). PL 2021, c. 1, Pt. E, §§3, 4 (AMD). PL 2021, c. 1, Pt. G, §§1, 2 (AMD). PL 2021, c. 1, Pt. H, §§3, 4 (AMD). PL 2021, c. 1, Pt. U, §1 (AMD). PL 2021, c. 1, Pt. X, §2 (AMD). PL 2023, c. 360, Pt. B, §§8-10 (AMD). PL 2023, c. 444, §3 (AMD).

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