

Proposed Adjustments to Tax Expenditure Review Category Assignments for 2023

Category Adjustments

3 MRS §998(3) Annual review of assignments and schedule. “By October 1st of each year, beginning in 2016, the committee, in consultation with the policy committee, shall review and make any necessary adjustments to the review category assignments and schedule pursuant to subsections 1 and 2, including adjustments needed to incorporate tax expenditures enacted, amended or repealed during the preceding year.”

3 MRS §998(1) Assignment of review categories.

“A. Full evaluation for tax expenditures that are intended to provide an incentive for specific behaviors, that provide a benefit to a specific group of beneficiaries or for which measurable goals can be identified.

B. Expedited review for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and

C. No review for tax expenditures with an impact on state revenue of less than \$50,000 or that otherwise do not warrant either a full evaluation or expedited review.”

Based on statutory changes in 2023 and review of revenue loss estimates, OPEGA proposes the following category adjustments:

(1) Add Dirigo Business Incentive Program Tax Credit to Category A

Policy Group: Business Incentive

Citation: 36 MRS §5219-AAA

Revenue Loss Estimates: \$0 FY24, \$3,111,250 FY25.¹

The Dirigo Business Incentive Program Tax Credit was enacted by PL 2023, c. 412 Pt J §13. It is an income tax credit that may be claimed by qualified businesses that have been certified under the program and make eligible capital investments in eligible business property or that provide qualified training to employees within the State. It is intended to replace the Pine Tree Development Zone program. OPEGA proposed addition to Category A due to the fiscal impact and because it is an incentive for a specific group of beneficiaries.

(2) Remove Property Tax Stabilization Program from Category A

Policy Group: Tax Relief—Individuals

Citation: 36 MRS §6281

Revenue Loss Estimates: \$2,252,472 FY24, \$7,044,315 FY25 (estimates from fiscal note)

The Property Tax Stabilization Program was enacted by PL 2021, c. 751 and repealed by 2023, c. 412 §S-10. The repeal removes a provision allowing certain senior residents to stabilize, or freeze, the property taxes on their homestead. OPEGA suggests removal because the program has been repealed.

(3) Remove Pine Tree Development Zones from Category A

Policy Group: Business Incentive

Citation: 36 MRS §2016; §2529; §1760(87); §5219-W; and Ch. 917.

Revenue Loss Estimates: \$9.8M to \$11.2M for both FY24 & FY25

The Pine Tree Development Zones was repealed by PL 2023, c. 412 Pt J §1. The program provides incentives for qualified businesses that expand or begin operations in the State including a reimbursement of sales & use taxes on certain tangible personal property; exemption from sales taxes on tangible personal property and electricity; and tax credits. OPEGA suggests removal because the program ends for new applicants after 12.31.24, with benefits ending 12.31.34.

¹ Revenue Loss Estimates from Maine State Tax Expenditure Report (Red Book)

(4) Add Cannabis Business Expense Modification to Category B

Policy Group: Tax Fairness

Citation: 36 MRS §5122(2)(PP) & §5200-A(2)(BB)

Revenue Loss Estimates: \$1,140,000 FY24, \$1,444,000 FY25.

This is a subtraction modification allowing a tax deduction for business expenses for the cannabis industry that are not allowed under federal rules. Modifications of this sort are considered to implement the broad tax policy goal of tax fairness; as comparable deductions are allowed for other industries.

(5) Add Service Provider Tax Exemption for Nonprofit Housing Development Organizations to Category B

Policy Group: Charitable

Citation: 36 MRS §2557(27)

Revenue Loss Estimates: \$50,000-\$249,999 each year for FY24 and FY25.

Enacted by PL 2023, c. 441 Pt. A §2, this provision makes sales to nonprofit organizations whose primary purpose is to develop housing for low income people exempt from service provider tax. OPEGA suggests the inclusion in Category B as it is similar to other exemptions classified in Category B in purpose and fiscal impact.

(6) Adjust the Electricity Used for Net Billing Tax Exemption from Category C to Category B

Policy Group: Tax Fairness

Citation: 36 MRS §1760(80)

Revenue Loss Estimates: \$5,676,000 FY24; \$5,615,000 FY25.

This provision is a tax exemption on the sale or delivery of electricity to net energy billing customers for which no money is paid, enacted by PL 1999, c. 286, §1. OPEGA suggests the adjustment of the expenditure because of an increase over time in the revenue loss associated with the exemption. When it was first categorized in 2015, the revenue loss estimate was \$0-\$49,999 each year. As a result of this low revenue loss estimate, it was assigned to category C for no review. Now that its estimated revenue loss has increased to roughly \$5.6M for FY25, OPEGA suggests that it be grouped in Category B with other Tax Fairness items of comparable magnitude.

(7) Add Maine Income Tax Provisions for Certain Indian Tribes and Tribal Members to Category C

Policy Group: Not classified

Citation: 36 MRS §5122(1)(PP) & §5122(2)(ZZ)

Revenue Loss Estimates: \$45,000 FY24; \$45,000 FY25.

Enacted by PL 2021, 681 Pt G §§ 3, 4, 6.² These are income modification provisions to exclude from Maine income tax the income earned by tribal members on tribal land. OPEGA suggests inclusion in Category C due to the size of the revenue loss.

² While not enacted in 2023, OPEGA identified these provisions in the review of the Maine Revenue Service's 2023 Summary of Tax Law Changes.

Updated Tax Expenditure Review Schedule for Category A (Full Evaluations)

Schedule Approval

3 MRS §998(3) Annual review of assignments and schedule. “By October 1st of each year, beginning in 2016, the committee, in consultation with the policy committee, shall review and make any necessary adjustments to the review category assignments and schedule pursuant to subsections 1 and 2, including adjustments needed to incorporate tax expenditures enacted, amended or repealed during the preceding year.”

3 MRS §998(2) Schedule. “The committee, in consultation with the policy committee, shall establish a prioritized schedule of ongoing review of the tax expenditures assigned to the full evaluation and expedited review categories pursuant to subsection 1, paragraphs A and B. To the extent practicable, the committee shall group the review of tax expenditures with similar goals together.”

Based on OPEGA review of statutory changes in 2023, OPEGA suggests the following adjustments to the Category A³ Review Schedule:

- Add the newly enacted Dirigo Business Incentives Program Tax Credit to the schedule in the Business Incentives category.
- Remove the repealed Property Tax Stabilization Program from the schedule.
- Remove the repealed Pine Tree Development Zones from the schedule.
- PL 2023, Ch. 417 directs the GOC that “Beginning in 2024, when prioritizing ongoing review of tax expenditures assigned to the full evaluation category, the committee, in consultation with the policy committee, shall give priority to tax expenditures that are intended to provide an incentive to businesses over tax expenditures that are directed primarily towards individual tax relief and shall consider the impact of any statutory provisions regarding the expiration of a tax expenditure that may be the subject of legislation to extend the tax expenditure.” As a result, OPEGA proposes moving expenditures in the “Tax Relief—Targeted Industry” Policy Group ahead of “Non-Business Incentives” in the Proposed Schedule. This represents a change from last year. Additionally, while a Business Incentive, OPEGA suggests placing the Dirigo Business Incentives Program Tax Credit ahead of the other business incentives already reviewed, given that it will not take effect until 2025.

See the attached table for further detail of tax expenditures scheduled for full evaluation.

³ Establishing a schedule for Expedited Review (B) is no longer necessary as PL 2023, Chapter 417 has ended the expedited review process for the Taxation Committee. Statute continues to include the expedited category for categorization purposes. The effective date for this law is October 25, 2023. OPEGA will be proposing changes to the categorization process and the treatment of the expedited category, incorporating other changes from PL 417, to be implemented in the 2024 process next fall.

Proposed Tax Expenditure Review Schedule for Category A (Full Evaluations)

Policy Group	Expenditure Program Name	Brief Description	Tax Type	Expenditure Type	FY24 Revenue Loss Estimate*	FY25 Revenue Loss Estimate*	Citation in Title 36	Enactment	Sunset
REVIEWS IN PROGRESS									
Business Incentive- Targeted Industry	Shipbuilding Facility Credit	Nonrefundable income tax credit for major investments in a shipbuilding facility when criteria are met. Requires the credit to be reviewed by 2024 by OPEGA.	Income	Credit	\$3,087,500	\$3,087,500	\$5219-RR	2018	2034
Business Incentive- Targeted Industry	Credit for Paper Manufacturing Facility Investment	Refundable income tax credit for major investments in a paper manufacturing facility when criteria are met.	Income	Credit	\$0	\$0	\$5219-YY	2021	Investment by 12.31.23; credits claimed for 10 years.
Business Incentive	Major Business Headquarters Expansion**	Refundable income tax credit for investment of a major business that expands or locates its headquarters in Maine when criteria are met.	Income	Credit	\$760,000	\$760,000	\$5219-QQ	2017	Investment by 12.31.22; credits claimed for 20 years.
Business Incentive- Targeted Industry	Major Food Processing & Manufacturing Facilities Expansion Credit	Refundable income tax credit for construction or expansion of a qualifying food processing and manufacturing facility in Maine.	Income	Credit	\$1,453,500	\$1,453,500	\$5219-VV	2019	Can be claimed in 2022, or first tax year after certificate of completion, and 19 years after.
FUTURE REVIEWS									
Tax Relief- Targeted Industry	Railroad Track Materials	Tax exemption on sales of railroad track materials for installation on railroad lines within the State.	Sales & Use	Exemption	\$909,000	\$927,000	\$1760(52)	1986	No Sunset
Tax Relief- Targeted Industry	Refund of Sales Tax on Purchases of Parts and Supplies for Windjammers	Refund of sales tax paid on purchases of parts and supplies for use for operation, repair or maintenance of a windjammer providing commercial cruises.	Sales & Use	Refund	\$50,000 - \$249,999	\$50,000 - \$249,999	\$2020	2011	No Sunset
Tax Relief- Targeted Industry	Certain Telecommunications Services	Tax exemption on sales of interstate and international telecommunications services.	Service Provider	Exemption	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	\$2557(33), 2557(34)	2015	No Sunset
Non-Business Incentives	Employer Credit for Family and Medical Leave	Nonrefundable tax credit under the income tax and insurance premium tax equal to the federal credit for employer-paid family and medical leave.	Income	Credit	\$40,000	\$40,000	\$5219-UU, \$2536	2018	2025 (federal credit sunset)
Non-Business Incentives	Student Loan Repayment Tax Credit	Tax credit for certain educational loan payments made by participants in the Job Creation Through Educational Opportunity Program and their employers; participants must be residents who remain in Maine after obtaining a degree.	Income	Credit	\$69,605,000	\$75,660,000	\$5217-E	2022	No Sunset
Non-Business Incentives	Deduction for Interest and Dividends on Maine State and Local Securities - Individual Income Tax	Individual income tax deduction for interest or dividends on securities issued by the State and its political subdivisions.	Income	Deduction	\$113,000	\$116,000	\$5122(2)(N)	2001	No Sunset
Non-Business Incentives	Deduction for Interest and Dividends on U.S., Maine State and Local Securities- Corporate Income Tax	Corporate income tax deduction for interest or dividends on securities issued by the State and its political subdivisions.	Income	Deduction	\$20,000 - \$100,000	\$20,000 - \$100,000	\$5200-A(2)(A), \$5200-A(2)(K)	2000	No Sunset
Non-Business Incentives	Earned Income Credit	Tax credit equal a percentage of the federal earned income tax credit (EITC) received that year; EITC is a credit for individuals who have earned income under a certain limit.	Income	Credit	\$40,190,000 [#]	\$44,750,000 [#]	\$5219-S	2000	No Sunset
Tax Relief- Individuals	Additional Standard Deduction for the Blind and Elderly	Additional \$1,550 standard deduction if single, or \$1,250 if married available to taxpayers who are blind beginning in tax year 2016.	Income	Deduction	\$9,800,000	\$10,050,000	\$5124-C	N/A	No Sunset

Proposed Tax Expenditure Review Schedule for Category A (Full Evaluations)

Policy Group	Expenditure Program Name	Brief Description	Tax Type	Expenditure Type	FY24 Revenue Loss Estimate*	FY25 Revenue Loss Estimate*	Citation in Title 36	Enactment	Sunset
Tax Relief-Individuals	Income Tax Credit for Child & Dependent Care Expense	Tax credit for child and dependent care expenses in the amount of 25% of the federal tax credit; the credit doubles for expenses incurred for quality child care services. Max of \$500.	Income	Credit	\$4,110,000	\$4,110,000	§5218	2001	No Sunset
Tax Relief-Individuals	Deduction for Pension Income & IRA Distributions	Deduction for pension benefits received under employee retirement plans and taxable distributions from individual retirement accounts.	Income	Deduction	\$78,300,000	\$88,700,000	§5122(2)(M)	N/A	No Sunset
Tax Relief-Individuals	Deduction for Social Security Benefits Taxable at Federal Level	Deduction for social security benefits and railroad retirement benefits.	Income	Deduction	\$147,050,000	\$155,500,000	§5122(2)(C)	N/A	No Sunset
Tax Relief-Individuals	Property Tax Fairness Credit	Income tax credit for Maine residents based on a formula, involving the taxpayer's income, age and amount of property taxes paid.	Income	Credit	\$70,055,000	\$74,453,000	§5219-KK	2014	No Sunset
Tax Relief-Individuals	Sales Tax Fairness Credit	Tax credit to provide sales tax relief to low and middle income families.	Income	Credit	\$28,067,000	\$30,162,000	§5213-A, §5403(5)	2015	No Sunset
Tax Relief-Individuals	REPEALED Property Tax Stabilization Program	Allows certain senior residents to stabilize, or freeze, the property taxes on their homestead.	Property	Exemption	\$2,252,472	\$7,044,315	§6281	2022	Repealed
Specific Policy Goal/Mandate	Credit for Affordable Housing	Taxpayer receiving a tax credit certificate from MSHA for an affordable housing project located in Maine, may claim a refundable tax credit for that taxable year.	Income	Credit	\$9,531,000	\$6,541,000	§5219-WW	2020	2028
Specific Policy Goal/Mandate	Partial Cigarette Stamp Tax Exemption for Licensed Distributors	Allows licensed cigarette distributors to purchase cigarette stamps at a discount.	Other	Exemption	\$1,284,534	\$1,262,532	§4366-A(2)	2005	No Sunset
Specific Policy Goal/Mandate	Air & Water Pollution Control Facilities	Tax exemption on sales of certified air and water pollution control facilities and parts or accessories, construction materials, and chemicals or supplies of these facilities.	Sales & Use	Exemption	\$500,000 - \$1,999,999	\$500,000 - \$1,999,999	§1760(29), §1760(30)	1969	No Sunset
Administrative Burden	Sales Through Coin Operated Vending Machines	Tax exemption on sales of certain products through vending machines by retailers who make the majority of their sales via vending machines.	Sales & Use	Exemption	\$1,334,000	\$1,386,000	§1760(34)	1981	No Sunset
Business Incentive	NEW Dirigo Business Incentives Program Tax Credit	Income tax credit for qualified businesses that have been certified under the program and make eligible capital investments in eligible business property or that provide qualified training to its employees within the State.	Income	Credit	\$0	\$3,111,250	§5219-AAA	2023	No Sunset
COMPLETED REVIEWS; AWAITING ROUND 2 OF EVALUATION									
Business Incentive-Financial Incentives	New Markets Capital Investment Credit (2017)	Tax credits of up to 39% of a project's total cost for qualified equity investments in low-income community businesses made via a community development entity, with limitations.	Income	Credit	\$3,679,550	\$2,973,883	§5219-HH	2012	No Sunset; but program cap
Business Incentive-Job Creation	REPEALED Pine Tree Development Zones (2017)	Reimbursement of sales & use taxes on certain tangible personal property; exemption from sales taxes on tangible personal property and electricity; and credits for qualified businesses that expand or begin operations in the State.	Sales & Use, Income	Credit, Exemption, Reimbursement	\$9.8M - \$11.8M	\$9.2M - \$11.2M	§2016-§2529 §1760(87)-§5219-W, Ch.917	2003	Certification ends 12.31.24 and benefits end on 12.31.34

Proposed Tax Expenditure Review Schedule for Category A (Full Evaluations)

Policy Group	Expenditure Program Name	Brief Description	Tax Type	Expenditure Type	FY24 Revenue Loss Estimate*	FY25 Revenue Loss Estimate*	Citation in Title 36	Enactment	Sunset
Business Incentive- Job Creation	Employment Tax Increment Financing (2019)	Reimbursement to certain businesses of income tax attributed to qualified employees (those receiving a designated level of wages, health and retirement benefits), subject to limitations including unemployment rates in the area.	Income	Reimbursement	\$5.8M	\$6.2M	Ch. 917	1996	No Sunset; enhanced benefits end in 2034 with PTDZ.
Business Incentive- Equip Investment	Reimbursement For Business Equipment Tax Exemption to Municipalities (BETE) (2020)	Reimbursement to municipalities of revenue losses, with limitations, due to the property tax exemption for qualified business equipment.	Property	Reimbursement	\$66,190,000	\$70,660,000	Ch. 105 (4-C)	2006	No Sunset
Business Incentive- Equip Investment	Reimbursement for Taxes Paid on Certain Business Property (BETR) (2020)	Reimbursement of property tax paid on qualified business property, with limitations.	Property	Reimbursement	\$17,500,000	\$16,500,000	Ch.915	1995	No Sunset; restrictions enacted in 2006 limit program entrance
Conformity with IRC	Maine Capital Investment Credit (2020)	Tax credit for depreciable property placed in service in Maine.	Income	Credit	\$5,830,000	\$4,910,000	§5219-NN	2011	Repealed as of 2025; except for carry-forwards
Business Incentive- Financial Investment	Maine Seed Capital Tax Credit (2021)	Tax credit of up to 50% for capital investment in eligible businesses with limitations.	Income	Credit	\$5,240,000	\$4,918,000	§5216-B	1988	No Sunset
Business Incentive- Targeted Industry	Maine Historic Rehabilitation Tax Credit (2021)	Income tax credit for expenditures in rehabilitation of certified historic properties, with limitations. Tied to federal credit.	Income	Credit	\$11,127,000	\$12,645,000	§5219-BB	2008	2030
Business Incentive- Research Investment	Research Expense Tax Credit (2022)	Tax credit for qualified research expenses associated with certain technological and experimental research, with limitations.	Income	Credit	\$3,090,000	\$3,240,000	§5219-K	1995	No Sunset
Business Incentive- Targeted Industry	Tax Benefits for Media Production Companies (2023)	Tax credit and wage reimbursement for certified productions of visual media production companies.	Income	Credit	\$860,000	\$860,000	§5219-Y, §6902	2006	No sunset

* FY24/FY25 Revenue Loss Estimates are from the Maine State Tax Expenditure Report (MSTER) with the exception of the Dirigo Business Incentives Tax Program which come from a fiscal note.

**A limited scope design review of the Major Business Headquarters Expansion was conducted following enactment of the program.

#The estimate is net of the transfer of TANF funds that partially offsets the General Fund loss. Without this transfer, the General Fund revenue loss would be approximately C37 million in FY24 and \$52.8 million in FY25.