Business Equipment Tax Reimbursement (BETR) & Business Equipment Tax Exemption (BETE)

Programs Lower the Cost of Owning Business Equipment

But May Have Limited Influence on Capital Investment Decisions

For this evaluation the GOC determined...

That the goals of BETR and BETE are:

1. To reduce the cost of owning business property in Maine, particularly in comparison to other relevant states and countries
2. To encourage growth of capital investment by businesses in Maine
3. Overcoming the disincentive to capital investment stemming from high cost of business property, thereby promoting the welfare of the People of the State of Maine

That the primary beneficiaries are:

1. Businesses investing in qualifying property
2. The people of the State of Maine

see page 1, page 16 and appendix A

Presentation framework

- About BETR and BETE – how the programs work
- BETR and BETE – whether programs are meeting stated goals
- The benefits of the programs to businesses
- The costs of the programs to the State
- The programs' impacts on municipalities

- Evaluation findings

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BETR & BETE – the basics

- BETR and BETE are State programs that reduce or eliminate the municipal personal property tax on eligible business equipment
- BETR reimburses businesses who have paid municipal personal property tax on eligible equipment
- BETE exempts a business from paying municipal personal property tax
- BETR reimbursement and BETE exemption apply for the life of the qualified asset
- Both programs are primarily administered by Maine Revenue Services – with a reliance on municipal officials

see pages 1-3

BETR & BETE: How the Benefits Work

BETR

Businesses receive reimbursement from the State for municipal personal property tax paid on qualified business equipment.

Business pays personal property tax to municipality

↓

Business submits claim to state (typically August) for reimbursement of taxes paid in prior year on BETR-eligible equipment

↓

State submits reimbursement to business by November 1st or 90 days after application whichever is later

BETE

Businesses are exempted from paying municipal personal property tax on BETE-eligible equipment.

Business exempted from paying personal property tax on eligible equipment

↓

Municipality submits a claim (via MVR) to the State for reimbursement of personal property tax revenue not collected due to exemption

↓

State determines reimbursement amount (Constitution, PPF, Retention TIF) and submits payment to municipality by December 15th

see pages 5-9

Equipment Eligibility -Generally

Eligible

Depreciable business equipment that is used exclusively to further the purpose of the business.

Not eligible

Equipment that is not directly used to further the business purpose, such as office furniture and lighting fixtures

Equipment that is already exempted from property tax for other reasons, and real property (land, most buildings, parking lots, etc.)

Even with exceptions, the vast majority of business equipment in the State is eligible for the BETR or BETE programs.

See page 3

BETR & BETE: Eligibility for Each Program

BETR

- Equipment enrolled in BETR prior to April 1, 2007 by any business (today these are known as grandfathered assets)
- As of April 1, 2007, no new equipment except assets put into service by small, retail-goods businesses

BETE

- As of April 1, 2007 – new equipment put into service by non-retail businesses or retail-services businesses
- As of April 1, 2007 new equipment of large retailers who derive less than 30% of annual revenue from sales in Maine

- Equipment may be eligible for either BETR or BETE but not both.

One business may claim benefits under both programs for different assets per eligibility definitions and date asset was placed into service.

- New equipment purchased by **large** retail-goods businesses is not eligible for either program (with some exceptions) – see page 3.

Complexity in determining eligibility

Municipal assessors and businesses told OPEGA that it can be challenging and time consuming to determine if a piece of equipment qualifies for a benefit and which program it would qualify under.

Examples

- Chair in a doctor's waiting room – eligible
- Chair in a doctor's office – not eligible

Until recent amendment to statute:

- Hair salon: hair dryer, client chair – eligible under BETE
- Hair salon: shelf-unit to display styling products for sale - BETR

BETR Reimbursement to Businesses

State reimburses a business for personal property taxes paid to municipality

Rates for Business Reimbursements	
No. of Years Claimed	Percent Reimbursed
1 through 12	100%
13	75%
14	70%
15	65%
16	60%
17	55%
18 and beyond	50%

see page 3 and 14

BETE Municipal Reimbursement

The State reimburses municipalities for a portion of the amount of personal property tax not collected due to BETE exemption

Factors Which Determine Reimbursement Amount
1. The Constitution of the State of Maine: Article IV, Part Third, Section 23 requires reimbursement for at least 50% of the revenue loss (due to exemption)
2. Personal Property Factor: Enhanced reimbursement depending on the degree to which a municipality is dependent on personal property taxes.
3. Municipal Retention TIF district: Enhanced reimbursement depending on the presence of eligible property in a district established before 2008

See page 3 - 5

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Goals of BETR & BETE

1. To reduce the cost of owning business property in Maine, particularly in comparison to other relevant states and countries
2. To encourage growth of capital investment by businesses in Maine
3. Overcoming the disincentive to capital investment stemming from high cost of business property, thereby promoting the welfare of the People of the State of Maine

see pages 16-18 and 24

Goal: Reducing the Cost of Owning Business Property

Do BETR & BETE accomplish this goal? Yes

- OPEGA finds that the designs of both BETR & BETE guarantee a reduction of the cost of owning business property in Maine.
- The reduction in cost is roughly between 1.1% and 10.8% of the total cost of ownership depending upon the local tax rate and the life of the asset.
- With BETR and BETE, Maine compares more favorably to other states than it would without the program
- The varying methods used by other states to lower business equipment costs does not allow for a direct comparison

see pages 16-18 and 24

Goal: To encourage growth of capital investment by businesses in Maine

Do BETR & BETE accomplish this goal? Unclear. If business behavior is affected, it is likely limited.

- Neither programs have design elements which specifically encourage capital investment, for example – limiting benefits to **new** investments
- Looking at the literature on tax incentives generally and speaking with stakeholders and assessors, OPEGA learned that:
  - Incentives like tax credits or exemptions have a moderate impact, if any, on business behavior
  - a multitude of factors are weighed when a business makes investment decisions
  - It is often the case that businesses are not aware of the programs' benefits until after equipment has been purchased
- Without BETR and BETE the estimated cost of personal property taxes on business equipment ranges between 1% and 11%. While a cost reduction of 11% may influence investment, a 1% reduction likely would not

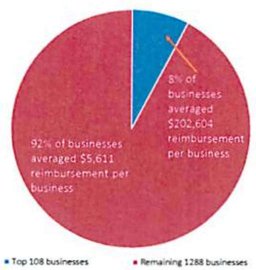
see pages 16-18 and 24

Encourage growth of capital investment, continued

- Only a small portion of the businesses receiving BETR get a substantial benefit (In FY18, 8% of BETR businesses got 75 % of the reimbursements)
- Their average benefit is $200,000
- The remainder (92% of BETR businesses) get an average benefit of $5,671

Encouraging Growth of Capital Investment, continued

In FY18 & other years, the majority of BETR businesses received relatively low benefit



31% of BETR businesses received less than $1,000 in reimbursement in FY18

Goal: Overcoming the Disincentive to Capital Investment in Maine stemming from high cost of business property, thereby promoting the welfare of the People of the State of Maine

Do BETR and BETE accomplish this goal? Yes, in part.

- If property tax on business equipment is a disincentive to capital investment, the programs overcome this disincentive
- The intent assumes that overcoming this disincentive will promote the general welfare of the people of the State
- Statute does not provide how the people of the State are to benefit
- Generally, tax preferences by nature affect segments of the population differently.

see pages 16-18 and 24

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Intended Beneficiaries of BETR & BETE

1. Businesses investing in qualifying property
2. The people of the State of Maine

There is nothing in the design of either program that specifically directs benefits to the people of the State or clearly defines the benefits that the people of Maine are intended to receive.

Intended Beneficiaries of BETR & BETE:
Benefits to Businesses Investing In Qualifying Property

BETR Benefits to Businesses FY18	
Total Value to Businesses	$29.1M
No. of Businesses	1,396
Average Benefit	$20,851
Range of Benefits	$3.90 to $1.5M

Value of BETR reimbursements to businesses has decreased by more than half since FY09.

BETE Benefits to Businesses FY18	
Total Value to Businesses	$58.5M
No. of Business Establishments	6,315
Average Benefit	$9,267

Value of BETE exemptions to businesses has increased 7 times since FY09 and is increasing at 10% per year.

pages 13-16 and 25

BETR vs. BETE – value to business

BETR

- 100 % reimbursement for 12 years
- Reimbursement incrementally reduced until year 18 at which point rate is 50% for the remaining life of the asset
- Reimbursement from can take a year or more after taxes paid to municipality (no access to that money during that period of time)

BETE

- 100% exemption for (useful) life of the asset
- Businesses never lose access to funds that would have otherwise been paid to municipality for personal property tax

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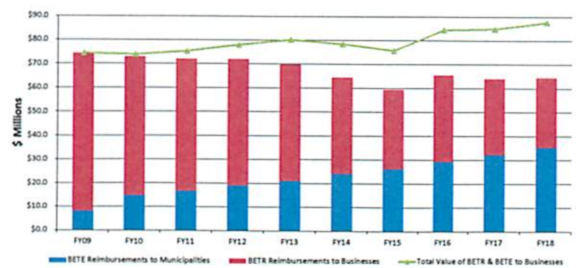
State Costs of BETR & BETE
Benefits to Businesses Compared to State Costs

Between FY09 & FY18, the value to businesses has increased by $13.3M, while State reimbursements have decreased by $9.7M.



Source: Analysis of Data Supplied to OPEGA by Maine Revenue Services.

pages 11-13 and 26

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Municipal Impacts of BETR and BETE

Both BETR and BETE are embedded in a municipal function – which means that impacts on municipalities are unavoidable.

BETR's impact on municipalities is not as substantial as the impact of BETE

Because BETE preempts a municipality from assessing and collecting personal property tax on eligible property – the potential exists for significant municipal financial impacts

pages 19-22 and 28

BETE
Mitigating the Potential Financial Impacts

These elements provide that municipalities are compensated for the lost authority to collect revenue – although only partially

- Constitution of Maine
- Careful initial roll out of the program
- Program design elements
  - Personal Property Factor
  - Municipal Retention TIFs

In total, the State reimbursed municipalities in FY18 for 61% of property taxes that were not collected due to BETE.

Added administrative responsibilities

The sheer number of assets to be recorded (BETR) or evaluated (BETE) plus the complexity of determining eligibility can be challenging

BETR

- Municipal assessors are needed to complete business' application to state for reimbursement – transferring/copying information already collected from when taxes were assessed

BETE

- Municipal assessors determine and record value of assets exempt under program – submitted to MRS via the MVR (work of assessment and collection without actually collecting personal property tax directly from business)

Errors in determining BETE reimbursement impacts municipalities

- When MRS finds an asset was not eligible for exemption, a municipality has not collected the revenue and will not get reimbursement from state
- If reimbursement has already been issued when the error is discovered, the municipality gets a "bill-back" requiring them to return funds
- Between FY14-FY18 there were 79 bill backs
  - 24 bill-backs required repayment of more than 20% of the original municipal reimbursement

Mandate reimbursement

- BETR was enacted with a mandate preamble – meaning, state is not required to reimburse for cost of expanded municipal activities as a result of program
- BETE did not include a mandate preamble – meaning State is required to cover at least 90% of the costs stemming from the expanded municipal activities as a result of the program pursuant to the Constitution of Maine
- Reimbursement rate is $2 per application
  - This rate affords 5.5 minutes per application (using average hourly rate paid to municipal assessors)
  - An application can list just a few to hundreds of assets
  - Denial of an exemption requires notification by certified mail ($6 per letter)

Municipal reimbursement for mandated activities

BETR

Enacted with a mandate preamble exempting State from covering costs (2/3 vote required)

BETE

No mandate preamble – meaning State is required to cover at least 90% of the costs stemming from the expanded municipal activities as a result of the program pursuant to the Constitution of Maine

Reimbursement rate is $2 per application

- This rate affords 5.5 minutes per application (using average hourly rate paid to municipal assessors)
- An application can list just a few to several dozen assets
- Denial of an exemption requires notification by certified mail ($6 per letter)

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Finding #1

Municipalities and businesses are impacted by challenges in determining asset eligibility

- Difficult to determine asset eligibility
  - Concurrent administration of both programs adds to complexity
  - Time and resource intensive for both businesses and municipality
- Errors in determining eligibility have financial repercussions for municipalities and businesses
  - Complicated eligibility requirements increase potential for error
  - MRS reports 1/3 of BETR applications have an error
  - From FY14-FY18 BETE reimbursements resulted in 79 "bill-backs"

Finding #2

Goals and intended outcomes against which BETR and BETE are to be evaluated are unclear.

- Design of the programs align with one of the goals – reducing cost of owning business property
- No program elements to promote increased capital investment or the degree to which it is to be increased
- Promoting the general welfare of the people of the State of Maine is so broadly stated it is immeasurable

Finding #3

Municipalities are not adequately reimbursed for mandated expenses.

- Article IX, Section 21 of the Constitution of Maine requires the State to pay at least 90% of the costs of expanded activities imposed on a municipality
- The rate used to cover these costs is $2 per BETE application – unchanged since enactment
- Using the average hourly wage for assessors, $2 per application affords just 5.5 minutes. A single application can contain from one to several hundred assets.
- A denial of eligibility must be sent to a business by certified mail – at $6 per letter
- Statute authorizes rules which could potentially adjust the rate – but there are none

Finding #4

MRS has not provided DAFS information on the BETE mandates that they administer as required by statute.

- Agencies who administer reimbursement for mandated activities are required to submit a report to DAFS annually by September 1st
- The report should identify specific mandates and the payment schedule for each
- MRS was unaware of this requirement and has not submitted the report (although information is available as budget line item)

Finding #5

MRS' documentation that supports adjustments to BETE payments is inadequate.

- Adjustments to reimbursements and bill-backs are documented on paper which don't always include the source of error or calculation used to make adjustment
- Better documentation will create records that are accessible/understandable through personnel changes
- Complete documentation will aid MRS if determination is appealed
- Documentation may help improve administration by identifying common source of errors