

MAINE REVENUE SERVICES
LD 1216, “An Act To Amend the State Tax Laws”
Proposed Committee Amendment
April 13, 2021

Amend the bill as follows.

Strike the emergency preamble.

Replace Section A-11, amending 36 MRSA §5219-XX, with the following:

Sec. A-11. 36 MRSA §5219-XX, as enacted by PL 2019, c. 628, §3, is amended to read:

§5219-XX. Renewable chemicals tax credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Biobased content" means the total mass of organic carbon derived from renewable biomass, expressed as a percentage, determined by testing representative samples using the ~~ASTM International~~ American Society for Testing and Materials D6866 standard test methods.

A-2. “Cellulose nanomaterials” means any cellulose-based material, extracted from trees, plants, aquaculture sources or by-products from their manufacturing, using either a chemical, mechanical, enzymatic or a combination of these processes, that has at least one external dimension in the nanoscale range of 1-100 nanometers (nm).

B. "Renewable biomass" has the same meaning as in 7 United States Code, Section 8101(13).

C. "Renewable chemical" means a ~~substance, compound or mixture~~ renewable chemical, as defined in 7 United States Code, Section 8101(14), that:

- (1) Is the product of, or reliant upon, biological conversion, thermal conversion or a combination of biological and thermal conversion of renewable biomass, or is cellulose nanomaterials;
- (2) Is sold or used by the taxpayer:
 - (a) For the production of ~~chemicals-products~~, polymers, plastics or formulated products; or

- (b) As a chemical, polymer, plastic or formulated product;
- (3) Is not less than 95% biobased content, as determined by testing representative samples using American Society for Testing and Materials D6866; and
- (4) Is not sold or used for production of, or sold as, any food, feed or fuel, including any biofuel as defined under section 5219-X, subsection 1, except that "renewable chemical" may include:
 - (a) Cellulosic sugars used to produce aquaculture feed; and
 - (b) A food additive, supplement, vitamin, nutraceutical or pharmaceutical that does not provide caloric value and is not considered food or feed.

2. Credit allowed. A taxpayer engaged in the production of renewable chemicals in the State who has complied with subsection 5 and the rules adopted under that subsection is allowed a credit against the tax imposed by this Part on income derived during the taxable year from the production of renewable chemicals in the amount of 8¢ per pound of renewable chemical produced in the State as long as the taxpayer demonstrates to the Department of Economic and Community Development that at least 75% of the employees of the contractors hired or retained to harvest renewable biomass used in the production of the renewable chemicals meet the eligibility conditions specified in the Employment Security Law.

If the taxpayer does not contract directly with those hired or retained to harvest the renewable biomass, the taxpayer may obtain the necessary documentation under this subsection from the landowner or other entity that contracts directly.

3. Reporting. A taxpayer allowed a credit under subsection 2 shall report to the Department of Economic and Community Development, for each tax credit awarded, the dollar amount of the tax credit, the number of direct manufacturing jobs created, ~~the number of related indirect jobs created~~ and the dollar amount of capital investment in manufacturing. ~~Indirect jobs include but are not limited to jobs in logging and support services.~~

4. Limitation. A person entitled to a tax credit under this section for any taxable year may carry over and apply the portion of any unused credits to the tax liability on income derived from the production of renewable chemicals for any one or more of the next succeeding 10 taxable years. The credit allowed, including carryovers, may not reduce the tax otherwise due under this Part to less than zero.

5. Information reporting and 3rd-party testing; rules. A taxpayer engaged in the production of renewable chemicals that is claiming a credit under subsection 2 shall provide information to the assessor regarding the renewable chemicals being produced, including the weight of renewable chemicals produced during the tax year, the type of renewable biomass

utilized and any other information required by the assessor to determine compliance with this section. The assessor shall adopt rules requiring 3rd-party testing of the renewable chemicals to ensure the accuracy of the reported information. Rules adopted pursuant to his subsection are routine technical rules as provided in Title 5, chapter 375, subchapter 2-A.

This section applies to tax years beginning on or after January 1, 2021.

Strike Section A-14. Effective Date.

Add the following new section to Part A:

Sec. A-?. 36 MRSA §5122, sub-§2, ¶X, as amended by PL 2017, c. 170, Pt. D, §3 is further amended to read:

X. The taxpayer's pro rata share of an amount that was previously added back to federal taxable income pursuant to ~~section 5200-A, subsection 1, paragraph N; section 5200-A, subsection 1, paragraph T; section 5200-A, subsection 1, paragraph Y, subparagraph (2); section 5200-A, subsection 1, paragraph AA, subparagraph (2); section 5200-A, subsection 1, paragraph BB; or section 5200-A, subsection 1, paragraph CC, subparagraph (2)~~ by a corporation of which the taxpayer is a shareholder and by which, absent an S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to section 5200-A, subsection 2, paragraph M, R, V, Y, Z, ~~or AA or FF~~;

Strike Section B-6. Effective Date.

Add the following new sections to Part B:

Sec. B-?. 36 MRSA § 1752, sub-§11, ¶B, sub-¶(3), as amended by PL 2019, c. 401, Pt. B, §4 is further amended to read:

(3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented for a period of less than one year. ~~For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds;~~

Sec. B-?. 36 MRSA § 1752, sub-§11, ¶B, sub-¶(3-A) is enacted to read:

(3-A) The sale, to a person primarily engaged in the business of renting automobiles, of pickup trucks or vans with a gross vehicle weight of less than 26,000 pounds, integral parts of such vehicles or accessories for such vehicles, for rental or for use in such a vehicle rented for a period of less than one year.

Strike Section C-7. Effective Date.

Strike Section D-3. Educational opportunity tax credit.

Replace Section D-5 with the following:

Sec. D-5. Credit for income tax paid to other taxing jurisdictions. For tax years beginning in 2021, when determining whether compensation for personal services performed as an employee teleworking from a location in this State is derived from sources in another jurisdiction for purposes of the credit for income tax paid to other taxing jurisdictions, allowed pursuant to the Maine Revised Statutes, Title 36, section 5217-A, notwithstanding section 5142, the compensation is sourced to that jurisdiction if:

1. The employee was engaged in performing services from a location outside of Maine immediately prior to a state of emergency declared by the Governor due to the pandemic related to coronavirus disease 2019, referred to in this section as COVID-19, or declared by the jurisdiction where the employee was engaged in performing those services;
2. The employee commenced working remotely from this State, as to those services or proportion of services referred to in subsection 1, due to the COVID-19 pandemic and during either this State's or the other jurisdiction's state of emergency related to the COVID-19 pandemic;
3. The services were performed prior to January 1, 2022 and during either this State's or the other jurisdiction's state of emergency;
4. The compensation is sourced by that jurisdiction as derived from or connected with sources in that jurisdiction under the law of that jurisdiction; and
5. The employee does not qualify for an income tax credit in that jurisdiction for Maine income taxes paid as a result of the compensation.

The State Tax Assessor may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A as necessary to implement this section.

Strike Section E-5. Effective Date.

Strike Part F.

Strike the emergency clause.

In the Summary, on page 18, strike lines 30 through 32.

Renumber or reletter any nonconsecutive section to be consecutive.

SUMMARY

This amendment does the following:

1. It strikes the emergency preamble, emergency clause, and nonemergency effective dates;
2. It clarifies several definitions in the renewable chemicals tax credit, it defines and specifically includes cellulose nanomaterials in the definition of renewable chemicals;
3. It provides an individual taxpayer with a subtraction modification for amounts previously added back to federal taxable income by a corporation of which the taxpayer is a shareholder and by which, absent an S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to Maine Revised Statutes, Title 36, section 5200-A, subsection 2, paragraph FF, relating to bonus depreciation;
4. It clarifies the exclusion from retail sale of pickup trucks and vans with a gross vehicle weight of less than 26,000 pounds when purchase by a person primarily engaged in the business of renting automobiles;
5. It strikes Part F of the bill, concerning the service provider tax law and consumer purchases of digital media;
6. It strikes the temporary changes to the educational opportunity tax credit; and
7. It applies the temporary changes to the credit for income tax paid to other taxing jurisdictions to tax year 2021 instead of tax year 2020.