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Date: (Filing No. H-)

TAXATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1458, L.D. 2047, Bill, “An Act To Amend the State Tax Laws”

Amend the bill in Part D in section 6 in §185-A in subsection 1 in the 5th and 6th lines (page 5, lines 34 and 35 in L.D.) by striking out the following: "any refund to which the person is entitled under this Title" and inserting the following: 'any amount due to the person under this Title, except for amounts due to that person under Part 2 of this Title'

Amend the bill in Part D in section 6 in §185-A in subsection 5 in the first 2 lines (page 6, lines 19 and 20 in L.D.) by striking out the following: "pursuant to this section as to the existence of a liquidated debt" and inserting the following: 'in a hearing pursuant to subsection 2'

Amend the bill in Part G in section 1 in the last line (page 11, line 35 in L.D.) by striking out the following: "granted the taxpayer"

Amend the bill in Part G by striking out all of section 2 and inserting the following:

'Sec. G-2. 36 MRSA §5231, sub-§1-A, as amended by PL 2017, c. 211, Pt. D, §11, is further amended to read:

1-A. Federal extension. When an individual, estate or trust is granted an extension of time within which to file a federal income tax return for any taxable year, ~~the due date for filing an extension to file~~ the taxpayer's income tax return with respect to the tax imposed by this Part is automatically ~~extended~~ granted for an equivalent period from the date prescribed for filing the return. When a taxable corporation or a financial institution subject to the tax imposed by chapter 819 is granted an extension of time within which to file its federal income tax return for any taxable year, ~~the due date for filing an extension to file~~ the taxpayer's income tax or franchise tax return with respect to the tax imposed by this Part is automatically ~~extended~~ granted for an equivalent period from the date prescribed for filing the return.'

Amend the bill by striking out all of Part H.

Amend the bill by striking out all of Part I and inserting the following:

COMMITTEE AMENDMENT

'PART I

Sec. I-1. 36 MRSA §5219-VV, sub-§1, ¶F, as enacted by PL 2019, c. 386, §2, is amended to read:

F. "Facility" means a food processing and manufacturing facility, plant or mill, including one or more structures and including the equipment, machinery, fixtures and personal property located in, on, over, under and adjacent to those structures, by which the applicant, as determined by the commissioner ~~at the time of application~~, processes, produces and manufactures food from agricultural products primarily grown and harvested in the State.

Sec. I-2. 36 MRSA §5219-VV, sub-§1, ¶K, as enacted by PL 2019, c. 386, §2, is amended to read:

K. "Qualified investment" means an ~~investment~~ expenditure of at least \$35,000,000 to design, permit, construct, modify, equip or expand the applicant's facility in the State. ~~The investments and activities expenditures of a qualified applicant and other entities that are members of the qualified applicant's unitary business may, whether or not incorporated, that are part of a single business enterprise must be aggregated to determine whether a qualified investment has been made. A qualified investment does not include an investment expenditure made prior to April 1, 2019 or after December 31, 2024.~~

Sec. I-3. 36 MRSA §5219-VV, sub-§2, ¶D, as enacted by PL 2019, c. 386, §2, is amended to read:

D. The commissioner shall revoke a certificate of approval if the certified applicant or a person to whom a certificate of approval has been transferred pursuant to paragraph C fails to make a qualified investment within 5 years of the date of the certificate of approval. The commissioner shall revoke a certificate of approval or a certificate of completion under paragraph E if the applicant or transferee ceases operations of the facility in the State or the certificate of approval or certificate of completion is transferred to another person without approval from the commissioner pursuant to paragraph C. A certified applicant whose certificate of completion is revoked within 5 years after the date issued shall return ~~within 60 days following revocation of the certificate~~ to the State an amount equal to the total credits claimed for all tax years under this section. A certified applicant whose certificate of completion is revoked during the period from 6 years after through 10 years after the date the certificate was issued shall return ~~within 60 days following revocation of the certificate~~ to the State an amount equal to the total credits claimed under this section for the period from 6 years after through 10 years after the date the certificate was issued. The amount to be returned to the State under this paragraph is, for purposes of this Title, a tax subject to the collection and enforcement provisions contained in Part 1, including the application of applicable interest and penalties. The amount to be returned to the State must be added to the tax imposed on the taxpayer under this Part for the taxable year during which the certificate is revoked. An applicant whose certificate of approval or certificate of completion has been revoked pursuant to this paragraph is not eligible for the tax credit under this section for the tax year in which the certificate is revoked and any year after that.

1 **Sec. I-4. 36 MRSA §5219-VV, sub-§2, ¶E**, as enacted by PL 2019, c. 386, §2,
2 is amended to read:

3 E. A certified applicant shall submit an application to the commissioner for a
4 certificate of completion. If the commissioner determines that the certified applicant
5 has made a qualified investment and ~~satisfied the facility and employment~~ determines
6 that, at the time the application for a certificate of completion is submitted, the
7 certified applicant is itself, or is the parent or subsidiary of, an entity that satisfies all
8 of the criteria in subsection 1, paragraph J, subparagraphs (1) and (5), the
9 commissioner shall issue a certificate of completion to the certified applicant as soon
10 as is practical. The certificate of completion must state the amount of qualified
11 investment made by the certified applicant.

12 **Sec. I-5. 36 MRSA §5219-VV, sub-§3, ¶B**, as enacted by PL 2019, c. 386, §2,
13 is amended to read:

14 B. The credit under this subsection is limited as follows.

15 (1) A credit is not allowed for any tax year during which the taxpayer does not
16 meet or exceed the following employment targets as measured on the last day of
17 the tax year.

18 (a) For each of the first 3 tax years for which the credit is claimed, there
19 must be a total of at least 40 full-time employees based in the State above the
20 certified applicant's base level of employment whose jobs were added since
21 the first day of the ~~first tax year for in~~ in which the ~~credit was claimed~~
22 certificate of approval was issued.

23 (b) For each tax year after the 3rd tax year for which the credit is claimed,
24 the taxpayer must employ a total of at least 60 full-time employees based in
25 the State above the certified applicant's base level of employment whose jobs
26 were added since the first day of the ~~first tax year for in~~ in which the ~~credit was~~
27 claimed certificate of approval was issued.

28 Jobs for additional full-time employees that are counted for determining
29 eligibility for the credit under one certificate of completion under subsection 2,
30 paragraph E may not be counted for determining eligibility for the credit under a
31 separate certificate of completion. For purposes of this subparagraph, "additional
32 full-time employees" does not include employees who are shifted to a certified
33 applicant's facility in the State from an affiliated business in the State. The
34 commissioner shall determine whether a shifting of employees has occurred. For
35 purposes of this subparagraph, "affiliated business" has the same meaning as in
36 section 6753, subsection 1-A.

37 (2) A credit is not allowed for any tax year following 2 consecutive tax years
38 during which the certified applicant did not have between \$5,500,000 and
39 \$12,000,000 in ordinary business income.

40 (3) Cumulative credits under this subsection may not exceed ~~\$34,000,000~~
41 \$30,600,000 under any one certificate.

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

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

12 The total amount of subtraction claimed under this paragraph for all tax years may
13 not exceed the addition modification under subsection 1, paragraph CC, subparagraph
14 (2) for the same property.

15 **PART K**

16 **Sec. K-1. 30-A MRSA §4722, sub-§1, ¶DD**, as corrected by RR 2017, c. 1, §24,
17 is amended by amending subparagraph (4) to read:

18 (4) Annually by every August 1st until and including August 1, ~~2023~~ 2025, the
19 Maine State Housing Authority shall review the report issued pursuant to Title
20 27, section 511, subsection 5, paragraph A to determine the percentage of the
21 total aggregate square feet of completed projects that constitutes new affordable
22 housing, rehabilitated and developed using:

23 (a) Either of the income tax credits under Title 36, section 5219-BB,
24 subsection 2; and

25 (b) The income tax credit increase under Title 36, section 5219-BB,
26 subsection 3.

27 If the total aggregate square feet of new affordable housing does not equal or
28 exceed 30% of the total aggregate square feet of rehabilitated and developed
29 completed projects eligible for a credit under Title 36, section 5219-BB, the
30 Maine State Housing Authority and Maine Historic Preservation Commission
31 shall notify the State Tax Assessor of this fact;

32 **Sec. K-2. 36 MRSA §5219-BB, sub-§1, ¶C**, as amended by PL 2011, c. 453,
33 §7, is further amended to read:

34 C. "Certified qualified rehabilitation expenditure" means a qualified rehabilitation
35 expenditure, as defined by the Code, Section 47(c)(2), made ~~between~~ on or after
36 January 1, 2008 and December 31, 2023. ~~For purposes of subsection 2, paragraph B,~~
37 ~~qualified rehabilitation expenditures incurred in the certified rehabilitation of a~~
38 ~~certified historic structure located in the State do not include a requirement that the~~
39 ~~certified historic structure be substantially rehabilitated.~~ with respect to a certified
40 historic structure, if:

1 (1) For credits claimed under subsection 2, paragraph A, the United States
 2 Department of the Interior, National Park Service issues a determination on or
 3 before December 31, 2025 that the proposed rehabilitation of that structure meets
 4 the Secretary of the Interior's standards for rehabilitation, with or without
 5 conditions; or

6 (2) For credits claimed under subsection 2, paragraph B, the Maine Historic
 7 Preservation Commission issues a determination on or before December 31, 2025
 8 that the proposed rehabilitation of that structure meets the Secretary of the
 9 Interior's standards for rehabilitation, with or without conditions.

10 For purposes of subsection 2, paragraph B, qualified rehabilitation expenditures
 11 incurred in the certified rehabilitation of a certified historic structure located in the
 12 State do not include a requirement that the certified historic structure be substantially
 13 rehabilitated.

14 **Sec. K-3. 36 MRSA §5219-BB, sub-§2,** as amended by PL 2011, c. 240, §38
 15 and c. 453, §8, is further amended to read:

16 **2. Credit allowed.** A taxpayer is allowed a credit against the tax imposed under this
 17 Part:

18 A. Equal to 25% of the taxpayer's certified qualified rehabilitation expenditures for
 19 which a tax credit is claimed under Section 47 of the Code for a certified historic
 20 structure located in the State; or

21 B. Equal to 25% of the certified qualified rehabilitation expenditures of a taxpayer
 22 who incurs not less than \$50,000 and up to \$250,000 in certified qualified
 23 rehabilitation expenditures in the rehabilitation of a certified historic structure located
 24 in the State and who does not claim a credit under the Code, Section 47 with regard
 25 to those expenditures. If the certified historic structure is a condominium, as defined
 26 in Title 33, section 1601-103, subsection 7, the dollar limitations of this paragraph
 27 apply to the total aggregate amount of certified qualified rehabilitation expenditures
 28 incurred by the unit owners' association and all of the unit owners in the rehabilitation
 29 of that certified historic structure. The credit may be claimed for the taxable year in
 30 which the certified historic structure is placed in service.

31 A taxpayer is allowed a credit under paragraph A or B but not both. A credit may not be
 32 claimed for expenditures incurred before January 1, 2008 ~~or after December 31, 2023.~~

33 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
 34 section number to read consecutively.

35 **SUMMARY**

36 This amendment does the following.

37 1. It excludes amounts due pursuant to the Maine Revised Statutes, Title 36, Part 2
 38 from the refund offset expansion in the bill and clarifies a taxpayer's appeal rights during
 39 the process.

1 2. It clarifies the effect of a federal income tax extension on the state income tax
 2 filing dates.

3 3. It strikes Part H of the bill, which makes changes to the real estate transfer tax.

4 4. It makes the following changes to the credit for major food processing and
 5 manufacturing facility expansion.

6 A. It clarifies that the requirement for a facility to process, produce and manufacture
 7 food from agricultural products primarily grown and harvested in the State is an
 8 ongoing requirement.

9 B. It clarifies that the expenditures of a qualified applicant and other entities,
 10 whether or not incorporated, that are part of a single business enterprise must be
 11 aggregated to determine whether a qualified investment has been made.

12 C. It clarifies that jobs that must be added in order to qualify for the credit must be
 13 added after the first day of the year in which the certificate of approval was issued.

14 D. It clarifies that the headquarters and facility of a certified applicant or of a parent
 15 or subsidiary of the certified applicant, must be located in the State and that the
 16 annual income of at least 75% of the certified applicant's employees must exceed the
 17 most recent annual per capita personal income in the county in which the facility is
 18 located in order for the applicant to qualify for a certificate of completion or the
 19 credit.

20 5. It clarifies that property placed in service during tax years beginning on or after
 21 January 1, 2015 but before January 1, 2020 for which a bonus depreciation addition
 22 modification was required and for which the Maine capital investment credit was not
 23 claimed is eligible for a depreciation subtraction modification in tax years beginning after
 24 2019 to allow the taxpayer to fully claim depreciation on that property over the class life
 25 of the property for Maine income tax purposes.

26 6. It extends the credit for rehabilitation of historic properties from allowing a credit
 27 for qualified rehabilitation expenditures made prior to December 31, 2023 to allowing a
 28 credit for qualified rehabilitation expenditures made by certified project if the Maine
 29 Historic Preservation Commission or the United States Department of the Interior,
 30 National Park Service, as required, issues a determination on or before December 31,
 31 2025 that the proposed rehabilitation of that structure meets the Secretary of the Interior's
 32 standards for rehabilitation.

33 **FISCAL NOTE REQUIRED**

34 **(See attached)**