

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND EIGHTEEN

—
S.P. 611 - L.D. 1654

**An Act To Protect Economic Competitiveness in Maine by Extending the
End Date for Pine Tree Development Zone Benefits and Making Other
Changes to the Program**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §5250-I, sub-§16, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

16. Qualified business activity. "Qualified business activity" means a business activity that is conducted within a Pine Tree Development Zone and is directly related to financial services, manufacturing or a targeted technology business for which the business receives a ~~certificate~~ letter of certification from the commissioner pursuant to section 5250-O.

Sec. 2. 30-A MRSA §5250-I, sub-§17, as amended by PL 2005, c. 351, §4 and affected by §26, is further amended to read:

17. Qualified Pine Tree Development Zone business. "Qualified Pine Tree Development Zone business" or "qualified business" means any for-profit business in this State engaged in or that will engage in financial services, manufacturing or a targeted technology business that has added or will add at least one qualified Pine Tree Development Zone employee above its base level of employment in this State and that meets the following criteria:

A. It demonstrates that the establishment or expansion of operations within the Pine Tree Development Zone would not occur within the State absent the availability of the Pine Tree Development Zone benefits and provides, at a minimum, a signed and notarized statement to this effect. The department shall determine whether the business has met the requirements of this paragraph; and

B. It has received a ~~certificate~~ letter of certification as a qualified business pursuant to section 5250-O.

Sec. 3. 30-A MRSA §5250-J, sub-§5, as repealed and replaced by PL 2009, c. 461, §22, is amended to read:

5. Termination. A qualified Pine Tree Development Zone business located in a tier 1 location may not be certified under this subchapter after December 31, ~~2018~~ 2021, and a qualified Pine Tree Development Zone business located in a tier 2 location may not be certified under this subchapter after December 31, 2013. All Pine Tree Development Zone benefits provided under this subchapter are terminated on December 31, ~~2028~~ 2031.

Sec. 4. 30-A MRSA §5250-O, as amended by PL 2007, c. 263, §1, is further amended to read:

§5250-O. Certification of qualified business

A business may apply to the commissioner for certification as a qualified Pine Tree Development Zone business. Upon review and determination by the commissioner that a business is a qualified Pine Tree Development Zone business, the commissioner shall issue a ~~certificate of qualification~~ letter of certification to the business that includes a description of the qualified business activity for which the ~~certificate~~ letter is being issued. Prior to issuing a ~~certificate of qualification~~ letter of certification, the commissioner must find that the business activity will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider those factors the commissioner determines necessary to measure and evaluate the effect of the proposed business activity on existing businesses, including whether any adverse economic effect of the proposed business activity on existing businesses is outweighed by the contribution to the economic well-being of the State. The State Economist must review applications under this section and provide an advisory opinion to assist the commissioner in making findings under this section. The commissioner shall provide a copy of the letter of certification to the State Tax Assessor.

The commissioner shall issue a certificate of qualification to a qualified Pine Tree Development Zone business after the commissioner has verified that the business has added at least one qualified Pine Tree Development Zone employee above its base level of employment. This verification may be obtained in such manner as the commissioner may prescribe. The commissioner shall provide a copy of the certificate of qualification to the State Tax Assessor.

Sec. 5. 30-A MRSA §5250-P, as enacted by PL 2003, c. 688, Pt. D, §2, is repealed and the following enacted in its place:

§5250-P. Annual reporting; evaluation

1. Annual reports. A qualified Pine Tree Development Zone business, the State Tax Assessor and the commissioner each shall report annually in accordance with this subsection.

A. On or before April 15th annually, beginning in 2019, a qualified Pine Tree Development Zone business shall file a report with the commissioner for the immediately preceding calendar year, referred to in this subsection as "the report

year," that contains the following information with such additional information and on forms as the commissioner may require:

- (1) The total number of Maine employees and total salary and wages for those employees for the report year;
- (2) The total number of qualified Pine Tree Development Zone employees and total salary and wages for those employees for the report year;
- (3) The number of qualified Pine Tree Development Zone employees hired within the report year;
- (4) The amount of investments made during the report year at the qualified Pine Tree Development Zone business location or directly related to the qualified business activity; and
- (5) In aggregate, the estimated or total value of Pine Tree Development Zone benefits received or claimed in the report year.

B. On or before October 1st annually, beginning in 2019, the State Tax Assessor shall report to the commissioner and to the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters the aggregate revenue loss to the State for the most recently completed state fiscal year resulting from Pine Tree Development Zone benefits under section 5250-I, subsection 14, paragraphs B, C and D.

C. On or before June 1st annually, beginning in 2019, the commissioner shall report to the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters information on qualified Pine Tree Development Zone businesses, including, but not limited to:

- (1) The names of qualified Pine Tree Development Zone businesses for the report year;
- (2) The estimated or total aggregate amount of Pine Tree Development Zone benefits received by qualified Pine Tree Development Zone businesses in the report year; and
- (3) Aggregate information for each of the most recent 3 report years on:
 - (a) Employment levels for all Maine employees and for qualified Pine Tree Development Zone employees and associated salary and wages for both groups of employees;
 - (b) Average annual salary and wages and access to health insurance and retirement benefits for all Maine employees and for qualified Pine Tree Development Zone employees; and
 - (c) Amount of investment associated with the qualified Pine Tree Development Zone business locations or directly related to the qualified business activities.

2. Evaluation; specific public policy objective; performance measures. The Pine Tree Development Zone program established by this subchapter is subject to ongoing legislative review in accordance with Title 3, chapter 37. In developing evaluation

parameters to perform the review, the Office of Program Evaluation and Government Accountability, the Legislature's government oversight committee and the joint standing committee of the Legislature having jurisdiction over taxation matters shall consider:

A. That the specific public policy objective of the Pine Tree Development Zone program established by this subchapter is to create and retain quality jobs in this State by reducing the tax burden experienced by businesses and thereby making this State's business tax burden more comparable to other states, encouraging location and expansion of businesses in this State and improving the competitiveness of this State's businesses; and

B. Performance measures, including:

(1) Change in employment levels of qualified Pine Tree Development Zone employees;

(2) Amount of investment directly related to a qualified business activity;

(3) Comparison of business tax burden in this State to other states;

(4) Comparison of other cost burdens in this State to other states;

(5) Comparison of the amount of public incentives received from the Pine Tree Development Zone program to the amount of public incentives received from other incentive programs in the State;

(6) Measures of industry competitiveness for businesses receiving Pine Tree Development Zone benefits;

(7) Measures of fiscal impact and overall economic impact to the State; and

(8) Other measures as may be relevant to the evaluation of program outcomes.

The Office of Program Evaluation and Government Accountability shall provide a report of its evaluation of the Pine Tree Development Zone program established by this subchapter in accordance with Title 3, section 999 by January 15, 2021 and shall also provide this report to the joint standing committee of the Legislature having jurisdiction over economic development matters, which may report out a bill to the First Regular Session of the 130th Legislature in response to the report's recommendations.

Sec. 6. 35-A MRSA §3210-E, sub-§6, as enacted by PL 2009, c. 627, §5 and affected by §12, is amended to read:

6. Repeal. This section is repealed December 31, ~~2028~~ 2031.

Sec. 7. 36 MRSA §1760, sub-§87, as amended by PL 2011, c. 285, §5, is further amended to read:

87. Sales of tangible personal property and transmission and distribution of electricity to qualified development zone businesses. Beginning July 1, 2005, sales of tangible personal property, and of the transmission and distribution of electricity, to a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for use directly and primarily in one or more qualified business activities, as defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this

subsection is limited for each qualified Pine Tree Development Zone business to sales occurring within a period of 10 years in the case of a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the business is certified pursuant to Title 30-A, section 5250-O or until December 31, ~~2028~~ 2031, whichever occurs first. For a business that applies for certification as a qualified Pine Tree Development Zone business with the Commissioner of Economic and Community Development on or after January 1, 2019, the exemption provided by this subsection requires a qualified Pine Tree Development Zone business to obtain a certificate of qualification issued by the Commissioner of Economic and Community Development pursuant to Title 30-A, section 5250-O. As used in this subsection, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

Sec. 8. 36 MRSA §2016, sub-§2, as enacted by PL 2005, c. 351, §9 and affected by §26, is repealed and the following enacted in its place:

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid pursuant to this Part with respect to:

A. The sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified Pine Tree Development Zone business and that is used directly and primarily by that business in one or more qualified business activities; or

B. The sale or use of tangible personal property and the transmission and distribution of electricity to a qualified Pine Tree Development Zone business that is used directly and primarily in one or more qualified business activities.

Sec. 9. 36 MRSA §2016, sub-§3, as enacted by PL 2005, c. 351, §9 and affected by §26, is amended to read:

3. Claim for reimbursement. Claims under this section for reimbursement of taxes are controlled by this subsection.

A. A claim for reimbursement under this section pursuant to subsection 2, paragraph A must be filed by the contractor or subcontractor with the State Tax Assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified Pine Tree Development Zone business certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily in a qualified business activity. All records pertaining to such certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified Pine Tree Development Zone business and by the person, if any, that sold the real property in question to that business. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales or use tax is included in

the contractor's or subcontractor's contract price, the contractor or subcontractor shall file, at the request of the qualified Pine Tree Development Zone business, a claim for reimbursement in accordance with this section and pay the reimbursement to the qualified Pine Tree Development Zone business.

B. If, by agreement between the contractor or subcontractor and the qualified Pine Tree Development Zone business, the contractor or subcontractor assigns its right to claim and receive reimbursement pursuant to subsection 2, paragraph A, the qualified Pine Tree Development Zone business must file a claim for reimbursement in accordance with this subsection. A reimbursement may not be issued to a qualified Pine Tree Development Zone business under this paragraph unless the contractor or subcontractor has previously submitted to the bureau a certificate, signed by the contractor or subcontractor, releasing the contractor's or subcontractor's claim to the reimbursement. The certificate must be in a format prescribed by the assessor.

C. A claim for reimbursement under subsection 2, paragraph B by a qualified Pine Tree Development Zone business must include proof that the business was issued a certificate of qualification by the Commissioner of Economic and Community Development pursuant to Title 30-A, section 5250-O.

Sec. 10. 36 MRSA §2016, sub-§4, as amended by PL 2009, c. 627, §7 and affected by §12, is further amended to read:

4. Limitations. The following are the limitations on reimbursements made pursuant to this section.

A. Reimbursements made by the assessor pursuant to ~~this section~~ subsection 2, paragraph A are limited to taxes paid in connection with sales of tangible personal property that occur within a period of 10 years in the case of a qualified Pine Tree Development Zone business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a qualified Pine Tree Development Zone business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the qualified Pine Tree Development Zone business receiving the property is certified pursuant to Title 30-A, section 5250-O or by December 31, ~~2028~~ 2031, whichever occurs first.

B. Reimbursement pursuant to ~~this section~~ subsection 2, paragraph A of taxes paid in connection with the sale of tangible personal property subsequently attached to real property may not be made when those real property improvements:

- (1) Are owned by more than one person prior to their acquisition by the qualified Pine Tree Development Zone business whose certification accompanies the reimbursement claim pursuant to subsection 3; or
- (2) Have been used for a business purpose by a person other than the qualified Pine Tree Development Zone business whose certification accompanies the reimbursement claim pursuant to subsection 3.

C. Reimbursements pursuant to subsection 2, paragraph B are limited to taxes paid in connection with the sale or use of tangible personal property and the transmission and distribution of electricity that has occurred within the period of time between the date a qualified Pine Tree Development Zone business was issued a letter of certification

pursuant to Title 30-A, section 5250-O and the date the business received a sales tax exemption certificate pursuant to eligibility for a sales tax exemption under section 1760, subsection 87, but in no case may this period of time exceed a period of time beyond 2 years from the date of issuance of the letter of certification.

Sec. 11. 36 MRSA §5229, sub-§3, as amended by PL 2009, c. 627, §9, is further amended to read:

3. Limitation. The credit provided by this section may not be claimed for calendar years beginning on or after January 1, ~~2029~~ 2032.

Sec. 12. 36 MRSA §5219-W, sub-§4, as amended by PL 2009, c. 627, §11, is further amended to read:

4. Limitation. The credit provided by this section may not be claimed for tax years beginning on or after January 1, ~~2029~~ 2032.

Sec. 13. 36 MRSA §6754, sub-§1, ¶D, as amended by PL 2011, c. 240, §44, is further amended to read:

D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A, section 5250-I, subsection 18, employed directly in the qualified business activity of a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for whom a certificate of qualification has been issued in accordance with Title 30-A, section 5250-O, the reimbursement under this subsection is equal to 80% of Maine income tax withheld each year for which reimbursement is requested and attributed to those qualified employees for a period of no more than 10 years for a tier 1 location as defined in Title 30-A, section 5250-I, subsection 21-A and no more than 5 years for a tier 2 location as defined in Title 30-A, section 5250-I, subsection 21-B. Reimbursement under this paragraph may not be paid for years beginning after December 31, ~~2028~~ 2031.

Sec. 14. Department of Economic and Community Development; study and report.

1. Study. By January 15, 2019, the Department of Economic and Community Development shall study:

A. Whether the income requirements with respect to qualified Pine Tree Development Zone employees pursuant to the Maine Revised Statutes, Title 30-A, section 5250-I, subsection 18 should be amended in order to more effectually describe high-quality jobs; and

B. Whether geographical limitations under the Pine Tree Development Zone program should be amended in light of the public policy objectives of the program, given the current geographical distribution of qualified Pine Tree Development Zone businesses.

While performing this study, the Department of Economic and Community Development shall consult with, at a minimum, the Department of Labor and the Department of Administrative and Financial Services, Maine Revenue Services.

2. Report. The Department of Economic and Community Development shall submit a report of its findings and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over economic development matters by January 15, 2019. The committee may report out a bill in response to the study to the First Regular Session of the 129th Legislature.

Sec. 15. Department of Economic and Community Development; annual reports before June 1, 2021. With respect to aggregate information for the most recent 3 report years that must be reported to the relevant joint standing committees of the Legislature pursuant to the Maine Revised Statutes, Title 30-A, section 5250-P, subsection 1, paragraph C, the Commissioner of Economic and Community Development is not required to report information for a year in which the data upon which such aggregate information would be based are not available and were not collected by virtue of such data collection not being required pursuant to statute. By June 1, 2021 the commissioner shall fully report all requisite information in the commissioner's annual reports to the Legislature.

Sec. 16. Application. Those sections of this Act that amend the Maine Revised Statutes, Title 30-A, section 5250-I, subsections 16 and 17 and section 5250-O and Title 36, section 1760, subsection 87 and section 2016, subsections 3 and 4 and repeal and replace Title 36, section 2016, subsection 2 apply to businesses that apply to the Commissioner of Economic and Community Development for certification as a qualified Pine Tree Development Zone business on or after January 1, 2019.

Sec. 17. Appropriations and allocations. The following appropriations and allocations are made.

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF
Business Development 0585**

Initiative: Provides one-time funds to update tax incentive software in order to expand data collection and reporting.

GENERAL FUND	2017-18	2018-19
All Other	\$0	\$33,750
GENERAL FUND TOTAL	\$0	\$33,750