

§5219-AAA. Dirigo business incentives program

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

A. "Affiliated business" means a member of a group of 2 or more businesses in which more than 50% of the voting stock of each member corporation or more than 50% of the ownership interest in a business other than a corporation is directly or indirectly owned by a common owner, either corporate or noncorporate. [PL 2023, c. 412, Pt. J, §13 (NEW).]

B. "Catastrophic event" means a fire, flood, hurricane, windstorm, earthquake or other similar event or a declared state disaster or emergency within the meaning of Title 10, section 9902, subsection 1 that is not within the control of a business to prevent. [PL 2023, c. 412, Pt. J, §13 (NEW).]

C. "Commissioner" means the Commissioner of Economic and Community Development. [PL 2023, c. 412, Pt. J, §13 (NEW).]

D. "Department" means the Department of Economic and Community Development. [PL 2023, c. 412, Pt. J, §13 (NEW).]

E. "Eligible business property" means business property placed in service in this State in the tax year and used exclusively for a qualified business activity described in a letter of certification issued under subsection 3. [PL 2023, c. 412, Pt. J, §13 (NEW).]

F. "Eligible capital investment" means the total of business expenditures incurred by a taxpayer after receiving a letter of certification under subsection 3 that exceed \$50,000 to purchase eligible business property that was placed in service during the tax year. [PL 2023, c. 412, Pt. J, §13 (NEW).]

G. "Eligible sector" means one of the following industries only:

- (1) Agriculture, forestry and fishing;
- (2) Manufacturing;
- (3) Long-distance freight transportation;
- (4) Software publishing, data processing and computer design services; or
- (5) Engineering, architecture and scientific research and development services. [PL 2023, c. 412, Pt. J, §13 (NEW).]

H. "Facility" means one or more buildings and includes the real and personal property located in those buildings. [PL 2023, c. 412, Pt. J, §13 (NEW).]

I. "Layoff" means a reduction in workforce at a qualified business with 20 or more persons employed during any one of the preceding 4 quarters that results in an employment loss for at least 2 consecutive months within the same tax year of at least 20% of the qualified business's employees in this State. "Layoff" does not mean a reduction in workforce due to a catastrophic event. [PL 2023, c. 412, Pt. J, §13 (NEW).]

J. "Placed in service" means the date the property is placed in service for purposes of depreciation under Section 167 or 168 of the Code or would be eligible for depreciation if the property had not been expensed under Section 179 of the Code. [PL 2023, c. 412, Pt. J, §13 (NEW).]

K. "Primarily" means more than 50% of the time and, with respect to a building or other structure, more than 50% of the usable space. [PL 2023, c. 412, Pt. J, §13 (NEW).]

L. "Program" means the Dirigo business incentives program created under subsection 2. [PL 2023, c. 412, Pt. J, §13 (NEW).]

M. "Qualified business" means any for-profit business in this State engaged in an eligible sector that has received a letter of certification as a qualified business pursuant to subsection 3. [PL 2023, c. 412, Pt. J, §13 (NEW).]

N. "Qualified business activity" means a business activity carried on primarily in an eligible sector. [PL 2023, c. 412, Pt. J, §13 (NEW).]

O. "Qualified employee" means an employee who is employed in this State by a qualified business and works primarily in a qualified business activity in this State. [PL 2023, c. 412, Pt. J, §13 (NEW).]

P. "Qualified employee training program" means a qualified business's training activities for a qualified business activity described in a letter of certification issued under subsection 3 for a minimum of 3 qualified employees that provide a minimum of 20 total training hours for each qualified employee and are:

- (1) An apprenticeship program registered under the Maine Apprenticeship Program pursuant to Title 26, chapter 37;
- (2) An on-the-job training contract pursuant to Title 26, section 2172;
- (3) A training provided by or approved for funding from the Maine Community College System; or
- (4) Education or training provided by the University of Maine System or other accredited university or college in this State.

"Qualified employee training program" includes only training hours during which the qualified business pays a participating qualified employee the employee's regular hourly rate or training hours for which the qualified business pays more than \$2,000 per participant. [PL 2023, c. 412, Pt. J, §13 (NEW).]

[PL 2023, c. 412, Pt. J, §13 (NEW).]

2. Program. The commissioner shall create the Dirigo business incentives program. [PL 2023, c. 412, Pt. J, §13 (NEW).]

3. Certification of qualified business. A business may apply to the commissioner for certification as a qualified business for purposes of the program. Upon review and determination by the commissioner that a business is a qualified business, the commissioner shall issue a letter of certification to the business that includes a description of the qualified business activity for which the letter is being issued. A letter of certification for a qualified business activity is valid for 5 years for purposes of this section. A letter of certification may describe qualified business activities in multiple locations and multiple eligible business sectors. The commissioner may issue more than one letter of certification to a qualified business. A business may not be a qualified business if the business is:

- A. A public utility as defined by Title 35-A, section 102, subsection 13; [PL 2023, c. 412, Pt. J, §13 (NEW).]
- B. A business certified as a qualified Pine Tree Development Zone business as provided by Title 30-A, section 5250-O; [PL 2023, c. 412, Pt. J, §13 (NEW).]
- C. A business with a certificate of approval for the Maine Employment Tax Increment Financing Program as provided by Title 36, section 6755; [PL 2023, c. 412, Pt. J, §13 (NEW).]
- D. A business with a certificate of approval for one of the tax credits allowed under section 5219-RR or 5219-YY; or [PL 2023, c. 412, Pt. J, §13 (NEW).]
- E. A business that has undergone a layoff within the past 2 tax years. [PL 2023, c. 412, Pt. J, §13 (NEW).]

[PL 2023, c. 412, Pt. J, §13 (NEW).]

4. Credit allowed. For tax years beginning on or after January 1, 2025, a taxpayer who is a qualified business is allowed a credit as provided in this section. Subject to subsections 5 and 6, the credit allowed is equal to the total of the following:

- A. Ten percent of the eligible capital investment placed in service outside of Cumberland, Sagadahoc and York counties; [PL 2023, c. 412, Pt. J, §13 (NEW).]
 - B. Five percent of the eligible capital investment placed in service in Cumberland, Sagadahoc and York counties; and [PL 2023, c. 412, Pt. J, §13 (NEW).]
 - C. Two thousand dollars for each qualified employee engaged in a qualified employee training program provided by the business completed in the tax year. [PL 2023, c. 412, Pt. J, §13 (NEW).]
- [PL 2023, c. 412, Pt. J, §13 (NEW).]

5. Credit refundable. The credit allowed under this section is refundable up to \$500,000 per tax year, with the following exceptions.

- A. In the case of a taxpayer that is a partner in a partnership or a shareholder in an S corporation, the credit under this section is refundable up to an amount equal to \$500,000 multiplied by the pro rata share of the partner or shareholder determined in accordance with section 5219-G, subsection 1. [PL 2023, c. 412, Pt. J, §13 (NEW).]
 - B. In the case of a taxpayer that is a beneficiary of an estate or trust that is a partner in a partnership or shareholder in an S corporation, the credit under this section is refundable up to an amount equal to the amount determined in accordance with paragraph A for the estate or trust multiplied by each beneficiary's pro rata share of tax credits determined in accordance with section 5219-G, subsection 2. [PL 2023, c. 412, Pt. J, §13 (NEW).]
 - C. In the case of a taxpayer that is a partner in a partnership or a shareholder in an S corporation that is an affiliated business, the credit under this section is refundable up to an amount equal to \$500,000 multiplied by the ratio determined in accordance with paragraph A, the result of which is multiplied by a ratio, the numerator of which is the eligible capital investment of the affiliated business during the tax year plus \$2,000 for each qualified employee of the affiliated business engaged in a qualified employee training program completed during the tax year and the denominator of which is the total eligible capital investment of all members of the affiliated business group during the tax year plus \$2,000 for each qualified employee of all members of the affiliated business group engaged in a qualified employee training program completed during the tax year. [PL 2023, c. 412, Pt. J, §13 (NEW).]
 - D. In the case of corporations that are members of an affiliated business group engaged in a unitary business, the credit under this section is refundable up to \$500,000 for the entire group. The credit limit of \$500,000 must be apportioned among the taxable corporations in the affiliated business group in the same proportion that the tax liability of each taxable corporation in the affiliated business group bears to the total tax liability of all the taxable corporations in the affiliated business group. [PL 2023, c. 412, Pt. J, §13 (NEW).]
- [PL 2023, c. 412, Pt. J, §13 (NEW).]

6. Limitation; carry-over. A taxpayer entitled to a credit under this section for any tax year may carry over any unused portion of the credit determined in accordance with subsection 4, as reduced from year to year, and apply it to the tax liability for any one or more of the next succeeding 4 tax years. Carry-over amounts may be applied to tax years after the expiration of a taxpayer's letter of certification issued pursuant to subsection 3. The credit allowed pursuant to this section, including carry-overs, may not exceed \$2,000,000 for any one tax year, with the following exceptions.

- A. In the case of a taxpayer that is a partner in a partnership or a shareholder in an S corporation, the credit under this section may not exceed \$2,000,000 multiplied by the pro rata share of the

partner or shareholder determined in accordance with section 5219-G, subsection 1. [PL 2023, c. 412, Pt. J, §13 (NEW).]

B. In the case of a taxpayer that is a beneficiary of an estate or trust that is a partner in a partnership or shareholder in an S corporation, the credit under this section may not exceed \$2,000,000 multiplied by the ratio determined in accordance with paragraph A, the result of which is multiplied by each beneficiary's pro rata share of tax credits determined in accordance with section 5219-G, subsection 2. [PL 2023, c. 412, Pt. J, §13 (NEW).]

C. In the case of a taxpayer that is a partner in a partnership or a shareholder in an S corporation that is an affiliated business, the credit under this section may not exceed \$2,000,000 multiplied by the ratio determined in accordance with paragraph A, the result of which is multiplied by a ratio, the numerator of which is the eligible capital investment of the affiliated business during the tax year plus \$2,000 for each qualified employee of the affiliated business engaged in a qualified employee training program completed during the tax year and the denominator of which is the total eligible capital investment of all members of the affiliated business group during the tax year plus \$2,000 for each qualified employee of all members of the affiliated business group engaged in a qualified employee training program completed during the tax year. [PL 2023, c. 412, Pt. J, §13 (NEW).]

D. In the case of corporations that are members of an affiliated business group engaged in a unitary business, the credit under this section may not exceed \$2,000,000 for the entire group. The credit limit of \$2,000,000 must be apportioned among the taxable corporations in the affiliated business group in the same proportion that the tax liability of each taxable corporation in the affiliated business group bears to the total tax liability of all the taxable corporations in the affiliated business group. [PL 2023, c. 412, Pt. J, §13 (NEW).]

[PL 2023, c. 412, Pt. J, §13 (NEW).]

7. Disallowance. The credit allowed under this section must be recaptured and unused carry-over amounts under this section must be disallowed if the eligible business property forming the basis of the credit under subsection 4 is not used in the State for the entire 5-year period following the date it is placed in service. Unused carry-over amounts allowed under this section must be disallowed if the taxpayer undergoes a layoff. The amount recaptured or disallowed is equal to the credit amount allowed based on subsection 4 multiplied by a fraction, the numerator of which is the number of years remaining in the 5-year period, rounded up to the nearest whole number, and the denominator of which is 5. The amount recaptured must be added to the tax imposed on the taxpayer under this Part for the tax year during which the property is first removed from service in the State. Unused carry-over amounts are not required to be disallowed and the credit is not required to be recaptured for eligible business property temporarily removed from service for maintenance or repair or as a result of a catastrophic event.

[PL 2023, c. 412, Pt. J, §13 (NEW).]

8. Eligible business property. To qualify as eligible business property, a property must be placed in service in the State and must be subject to an allowance for depreciation under the Code during the tax year or would be subject to an allowance for depreciation under the Code if the property had not been expensed under Section 179 of the Code.

A property does not qualify as eligible business property if that property is:

A. Property with a depreciable useful life of less than 5 years; [PL 2023, c. 412, Pt. J, §13 (NEW).]

B. Property purchased or transferred from an affiliated business; [PL 2023, c. 412, Pt. J, §13 (NEW).]

C. Property located at a retail sales facility and used primarily in a retail sales activity. For purposes of this paragraph, the following terms have the following meanings.

(1) "Retail sales activity" means an activity primarily associated with the selection and retail purchase of goods or rental of tangible personal property. "Retail sales activity" does not include production as defined in section 1752, subsection 9-B.

(2) "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selection and retail purchase of goods or rental of tangible personal property; [PL 2023, c. 412, Pt. J, §13 (NEW).]

D. A vehicle on which a tax has been imposed under chapter 111 or a watercraft on which a tax has been imposed under chapter 112; [PL 2023, c. 412, Pt. J, §13 (NEW).]

E. Qualified rehabilitation property used to calculate the credit for rehabilitation of historic properties under section 5219-BB; or [PL 2023, c. 412, Pt. J, §13 (NEW).]

F. Real property placed in service in the State before the tax year for which a credit is sought. [PL 2023, c. 412, Pt. J, §13 (NEW).]
[PL 2023, c. 412, Pt. J, §13 (NEW).]

9. Rules. The assessor and the commissioner may adopt joint rules necessary to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2023, c. 412, Pt. J, §13 (NEW).]

10. Annual report to department and Legislature. On or before December 31st annually, beginning in 2026, the assessor shall report to the department the following information for each qualified business that received a credit pursuant to this section for the tax year ending during the immediately preceding calendar year:

A. The name, municipality in this State in which the business's primary place of business is located and business type, including the parent company, if applicable, of the qualified business; [PL 2023, c. 631, §2 (AMD).]

B. The number of qualified employees engaged in a qualified employee training program completed during the tax year; [PL 2023, c. 412, Pt. J, §13 (NEW).]

C. The value of eligible capital investment expenditures in the county in which the property was placed into service; [PL 2023, c. 412, Pt. J, §13 (NEW).]

D. The credit amount received under subsection 4, paragraph A, B or C for the tax year; and [PL 2023, c. 412, Pt. J, §13 (NEW).]

E. The eligible sector of the business's qualified business activity. [PL 2023, c. 412, Pt. J, §13 (NEW).]

On or before March 1st annually, beginning in 2027, the department shall report to the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters information on the program, including the information reported by the assessor under this subsection.
[PL 2023, c. 631, §2 (AMD).]

11. Evaluation; specific public policy objective; performance measures. The credit provided under this section is subject to legislative review in accordance with Title 3, section 999. In developing evaluation parameters to perform the review, the Office of Program Evaluation and Government Accountability, the joint legislative committee established to oversee program evaluation and government accountability matters and the joint standing committee of the Legislature having jurisdiction over taxation matters shall consider:

A. That the specific public policy objective of the credit provided under this section is to improve the productivity of workers and businesses in the State by encouraging businesses to invest in capital and worker training; and [PL 2023, c. 412, Pt. J, §13 (NEW).]

B. Performance measures, including, but not limited to:

- (1) The amount of eligible capital investment;
- (2) The number of workers trained;
- (3) The amount of credit used to offset tax liability;
- (4) The amount of credit refunded pursuant to subsection 5; and
- (5) The economic productivity of credit recipients. [PL 2023, c. 412, Pt. J, §13 (NEW).]

[PL 2023, c. 412, Pt. J, §13 (NEW).]

SECTION HISTORY

PL 2023, c. 412, Pt. J, §13 (NEW). PL 2023, c. 631, §2 (AMD).

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