

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 H.P. 1198 - L.D. 1671

**An Act To Amend the Laws Governing the Maine Capital Investment Credit
To Ensure Fairness for Maine Businesses and To Reduce Taxes on Lower-
income Working Families**

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

PART A

Sec. A-1. 36 MRSA §5122, sub-§2, ¶OO, as enacted by PL 2015, c. 388, Pt. A, §8, is amended to read:

OO. For taxable years beginning on or after January 1, 2016 and before January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph KK, subparagraph (2) for the taxable year.

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

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

Sec. A-2. 36 MRSA §5122, sub-§2, ¶QQ is enacted to read:

QQ. For taxable years beginning on or after January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such

property placed in service during the taxable year beginning on or after January 1, 2020 for which an addition was required under subsection 1, paragraph KK for the taxable year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph KK and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph KK for the same property.

Sec. A-3. 36 MRSA §5200-A, sub-§2, ¶AA, as enacted by PL 2015, c. 388, Pt. A, §14, is amended to read:

AA. For taxable years beginning on or after January 1, 2016 and before January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph CC, subparagraph (2) for the taxable year.

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

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

Sec. A-4. 36 MRSA §5200-A, sub-§2, ¶FF is enacted to read:

FF. For taxable years beginning on or after January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning on or after January 1, 2020 for which an addition was required under subsection 1, paragraph CC for the taxable year.

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

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph CC for the same property.

Sec. A-5. 36 MRSA §5219-NN, sub-§1, as repealed and replaced by PL 2017, c. 211, Pt. D, §8, is amended to read:

1. Credit allowed. A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during a taxable year that begins on or after January 1, 2015 and before January 1, 2020 is allowed a credit as follows:

A. A taxable corporation is allowed a credit against the taxes imposed by this Part in an amount equal to 9% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5200-A, subsection 1, paragraph CC, subparagraph (1) with respect to that property, except for excluded property under subsection 2; or

B. An individual is allowed a credit against the taxes imposed by this Part in an amount equal to:

(1) For taxable years beginning in 2015, 8% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2; and

(2) For taxable years beginning on or after January 1, 2016, 7% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

Sec. A-6. 36 MRSA §5219-NN, sub-§1-A is enacted to read:

1-A. Credit allowed; on or after January 1, 2020. A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during a taxable year that begins on or after January 1, 2020 is allowed a credit as follows:

A. For a taxable corporation, a credit against the taxes imposed by this Part in an amount equal to 1.2% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5200-A, subsection 1, paragraph CC, subparagraph (1) with respect to that property, except for excluded property under subsection 2; and

B. For an individual, a credit against the taxes imposed by this Part in an amount equal to 1.2% of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

Sec. A-7. 36 MRSA §5219-NN, sub-§3, as repealed and replaced by PL 2017, c. 211, Pt. D, §8, is amended to read:

3. Limitations; carry-forward. The credit allowed under ~~subsection~~ subsections 1 and 1-A may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 20 years.

PART B

Sec. B-1. 26 MRSA §42-C is enacted to read:

§42-C. Notification regarding earned income tax credit eligibility

1. Bureau to provide poster or notice. The bureau shall produce and furnish to employers posters or notices in printed form that state that an employee may be eligible for federal and state earned income tax credits and that the employee may apply for the tax credits on the employee's income tax returns.

2. Employer to post notice. An employer shall post and keep posted in a place accessible to the employer's employees a copy of the printed poster or notice furnished by the bureau pursuant to subsection 1. An employer who violates this subsection is subject to the same penalties as set forth in section 42-B, subsection 3.

Sec. B-2. 36 MRSA §5219-S, as amended by PL 2015, c. 328, §8, is further amended to read:

§5219-S. Earned income credit

1. Resident taxpayer. A resident individual who is an eligible individual is allowed a credit against the tax otherwise due under this Part in the amount of ~~5%~~ 25% of the federal earned income credit for the same taxable year for a resident eligible individual who does not have a qualifying child and 12% of the federal earned income credit for the same taxable year; ~~except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%~~ for all other resident eligible individuals.

2. Nonresident taxpayer. A nonresident individual who is an eligible individual is allowed a credit against the tax otherwise due under this Part in the amount of ~~5%~~ 25% of the federal earned income credit for the same taxable year for a nonresident eligible individual who does not have a qualifying child and 12% of the federal earned income credit for the same taxable year; ~~except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%~~ for all other nonresident eligible individuals, multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122.

3. Part-year resident taxpayer. An eligible individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part in the amount of ~~5%~~ 25% of the federal earned income credit for the same taxable year for an eligible part-year individual who does not have a qualifying child and 12% of the federal earned income credit for the same taxable year; ~~except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%~~ for

all other eligible part-year individuals, multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122.

4. Limitation. The credit allowed by this section may not reduce the Maine income tax to less than zero, except that for tax years beginning on or after January 1, 2016, the credit allowed under subsections 1 and 3 is refundable.

5. Eligible individual under 25 years of age and without a qualifying child. The credit for an eligible individual who is entitled to a credit under subsections 1 to 3, has not attained 25 years of age and does not have a qualifying child for the taxable year must be calculated in the same manner as it would be calculated if that individual were eligible for a federal earned income credit.

6. Eligible individual defined. For tax years beginning on or after January 1, 2020, for the purposes of this section, unless the context otherwise indicates, "eligible individual" has the same meaning as under Section 32(c)(1) of the Code except that "eligible individual" also includes an individual who does not have a qualifying child for the taxable year, who is at least 18 years of age and has not attained 25 years of age before the close of the taxable year and who also meets the qualifications under Section 32(c)(1)(A)(ii)(I) and (III) of the Code.

Sec. B-3. Application. This Part applies to tax years beginning on or after January 1, 2020.

Sec. B-4. Appropriations and allocations. The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF
Revenue Services, Bureau of 0002**

Initiative: Provides funding for one Senior Tax Examiner position and related costs to review, process and audit income tax returns to verify eligibility for the earned income tax credit.

GENERAL FUND	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$76,351	\$102,817
All Other	\$32,858	\$4,778
GENERAL FUND TOTAL	\$109,209	\$107,595