

**§691. Definitions; exemption limitations**

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

A. "Eligible business equipment" means qualified property that, in the absence of this subchapter, would first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified property that first became subject to assessment under this Part before April 1, 2008 if the part, addition, equipment, accession or accessory would, in the absence of this subchapter, first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" also includes inventory parts. "Eligible business equipment" does not include property to the extent it is eligible for exemption from property tax under any other provision of law.

"Eligible business equipment" does not include:

- (1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;
- (2) Lamps and lighting fixtures used primarily for the purpose of providing general purpose office or worker lighting;
- (3) Property owned or used by an excluded person;
- (4) Telecommunications personal property subject to the tax imposed by section 457;
- (5) Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:
  - (a) Associated equipment as defined in Title 8, section 1001, subsection 2;
  - (b) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;
  - (c) An electronic video machine as defined in Title 17, section 1831, subsection 4;
  - (d) Equipment used in the playing phases of lottery schemes; and
  - (e) Repair and replacement parts of a gambling machine or device;
- (6) Property located at a retail sales facility and used primarily in a retail sales activity unless the property is owned by a business that operates a retail sales facility in the State exceeding 100,000 square feet of interior customer selling space that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue on a calendar year basis from sales that are made at a retail sales facility located in the State. For purposes of this subparagraph, the following terms have the following meanings:
  - (a) "Primarily" means more than 50% of the time;
  - (b) "Retail sales activity" means an activity 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; and
  - (c) "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. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility;

- (7) Property that is not entitled to an exemption by reason of the additional limitations imposed by subsection 2; or
- (8) Personal property that would otherwise be entitled to exemption under this subchapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457. [PL 2019, c. 659, Pt. B, §1 (AMD).]
- B. "Excluded person" means:
- (1) A public utility as defined in Title 35-A, section 102, subsection 13;
  - (2) A person that provides radio paging service as defined in Title 35-A, section 102, subsection 15;
  - (3) A person that provides mobile telecommunications services as defined in Title 35-A, section 102, subsection 9-A;
  - (4) A cable television company as defined in Title 30-A, section 2001, subsection 2;
  - (5) A person that provides satellite-based direct television broadcast services; or
  - (6) A person that provides multichannel, multipoint television distribution services. [PL 2005, c. 623, §1 (NEW).]
- C. "Exempt business equipment" means eligible business equipment that is exempt under this subchapter. [PL 2005, c. 623, §1 (NEW).]
- D. "Inventory parts" includes repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and stocks or inventories of repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and other machinery and equipment on hand for future use but not in service if acquired after April 1, 2007, regardless of when placed in service. [PL 2005, c. 623, §1 (NEW).]
- E. "Municipal tax increment percentage" means, with respect to tax increment financing districts, the specified percentage of captured assessed value retained as provided in Title 30-A, section 5227 and allocated to the municipality for the municipality's own authorized project costs as provided in Title 30-A, section 5225. With respect to tax increment financing districts authorized pursuant to Title 30-A, former chapter 207, "municipal tax increment percentage" means the specified percentage of captured assessed value retained as provided in Title 30-A, former section 5254, subsection 1 and allocated to the municipality for the municipality's own authorized project costs as provided in Title 30-A, former section 5252, subsection 8. [PL 2005, c. 623, §1 (NEW).]
- F. "Qualified property" means tangible personal property that:
- (1) Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and
  - (2) Either:
    - (a) Was subject to an allowance for depreciation under the Code on April 1st of the property tax year for which a claim for exemption under this subchapter is filed or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or
    - (b) In the case of construction in progress or inventory parts, would be subject under the Code to an allowance for depreciation when placed in service or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated.

"Qualified property" also includes all property that is affixed or attached to a building or other real estate if the property is used primarily to further a particular trade or business activity taking place in that building or on that real estate.

"Qualified property" does not include a building or components or attachments to a building if they are used primarily to serve the building as a building, regardless of the particular trade or activity taking place in or on the building. "Qualified property" also does not include land improvements if they are used primarily to further the use of the land as land, regardless of the particular trade or business activity taking place in or on the land. In the case of construction in progress or inventory parts, the term "used" means "intended to be used." "Qualified property" also does not include any vehicle on which a tax assessed pursuant to chapter 111 has been paid or any watercraft registered for use on state waters on which a tax assessed pursuant to chapter 112 has been paid. [PL 2019, c. 659, Pt. B, §2 (AMD).]

G. "TIF exempt business equipment" means exempt business equipment that is located within a tax increment financing district. [PL 2005, c. 623, §1 (NEW).]  
[PL 2019, c. 659, Pt. B, §§1, 2 (AMD).]

**2. Additional limitations.** The exemptions provided pursuant to this subchapter are limited pursuant to this subsection.

A. Exemption for certain energy facilities under this subchapter is limited as follows.

(1) The exemption provided by this subchapter does not apply to a natural gas pipeline, including pumping or compression stations, storage depots and appurtenant facilities used in the transportation, delivery or sale of natural gas, but not including a pipeline that is less than a mile in length and is owned by a consumer of natural gas delivered through the pipeline.

(2) The exemption provided in this subchapter does not apply to property used to produce or transmit energy primarily for sale. Energy is primarily for sale if during the immediately preceding property tax year 2/3 or more of the useful energy is directly or indirectly sold and transmitted through the facilities of a transmission and distribution utility.

(3) For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Transmission and distribution utility" has the same meaning as in Title 35-A, section 102, subsection 20-B.

(b) "Useful energy" is energy in any form that does not include waste heat, efficiency losses, line losses or other energy dissipation. [PL 2005, c. 623, §1 (NEW).]

B. Pollution control facilities that are entitled to exemption pursuant to section 656, subsection 1, paragraph E are not entitled to an exemption under this subchapter, except if:

(1) The property is entitled to an exemption under section 656, subsection 1, paragraph E but has not yet been certified for exemption under that paragraph;

(2) The property has been placed in service after the December 1st immediately preceding April 1st of the tax year for which the exemption is sought but prior to April 1st of the property tax year for which the exemption is sought; and

(3) The taxpayer has submitted the required application for certification to the Commissioner of Environmental Protection prior to April 1st.

The exemption under this subchapter continues for property that meets the requirements of subparagraphs (1), (2) and (3) only until the certification for exemption under section 656, subsection 1, paragraph E has been granted. If the State Tax Assessor or an assessor denies an exemption on the ground that the property in question is entitled to exemption under section 656,

subsection 1, paragraph E and the taxpayer appeals the denial, the State Tax Assessor or assessor shall, at the taxpayer's request, allow the taxpayer up to one year to obtain a statement from the Commissioner of Environmental Protection that the property at issue is not exempt under section 656, subsection 1, paragraph E. If the taxpayer timely produces such a statement or otherwise demonstrates that the property is not exempt under section 656, subsection 1, paragraph E, the State Tax Assessor or an assessor shall allow the exemption under this subchapter, but only for the year in question. [PL 2005, c. 623, §1 (NEW).]

[PL 2005, c. 623, §1 (NEW).]

#### SECTION HISTORY

PL 2005, c. 623, §1 (NEW). PL 2007, c. 437, §8 (AMD). PL 2009, c. 487, Pt. B, §14 (AMD). PL 2009, c. 571, Pt. II, §1 (AMD). PL 2009, c. 571, Pt. II, §5 (AFF). PL 2017, c. 170, Pt. B, §7 (AMD). PL 2017, c. 211, Pt. A, §10 (AMD). PL 2017, c. 475, Pt. A, §61 (AMD). PL 2019, c. 379, Pt. A, §4 (AMD). PL 2019, c. 659, Pt. B, §§1, 2 (AMD).

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