

Proposal for Re-categorization and Re-classification of the New Machinery for Experimental Research Tax Exemption

Enacted	Statute(s)	Type	Category	Revenue Loss
1973	36 MRSA §1760(32)	Sales and Use Tax Exemption	Business Incentive	FY20 & FY21 \$50,000- \$249,999

Source for Revenue Loss: 2019 Maine State Tax Expenditure Report. Maine Revenue Services estimated the revenue loss as a range of possible values because little or no data is available.

Program Description

The New Machinery for Experimental Research Sales (NMER) Tax Exemption is a paragraph in statute that exempts from sales and use tax the sales of machinery and equipment for use directly in research and development. The exemption is for:

- (1) Machinery and equipment used by the purchaser directly and exclusively for research and development “in the experimental and laboratory sense;” and
- (2) Machinery, equipment, and supplies used by the purchaser directly and primarily for biotechnological applications for specific uses.

The exemption defines “research and development” as not including “the ordinary testing or inspecting of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.”

The first part of the exemption is focused broadly on research and development “in the experimental and laboratory sense” and provides a sales and use tax exemption for machinery and equipment used by the purchaser directly and exclusively in this research. Statute provides no further specificity on this part of the exemption.

The second part of the exemption is more detailed and covers equipment, instruments and supplies (such as microscopes, diagnostic testing materials, glasswares, chemical reagents, computer software and technical manuals) for use directly and primarily in biotechnology applications. These applications include recombinant DNA techniques, biochemistry, biological cell fusion techniques and new bioprocesses using living organisms or parts of organisms to produce or modify products, improve plants or animals, develop microorganisms for specific uses, identify targets for small-molecule pharmaceutical development, transform biological systems and useful processes and products or to develop microorganisms for specific uses. This part of the exemption appears to be focused on the development of particular kinds of products or process improvements in the biotechnology industry.

Proposed Re-categorization and Re-classification

In 2015, NMER was originally classified for evaluation purposes as a Business Incentive and scheduled for a Full Evaluation. OPEGA initially recommended this classification as part of a high-level effort to categorize hundreds of tax expenditures. Now that we have gathered additional information about NMER

specifically, OPEGA is recommending that the exemption be reclassified for evaluation purposes to the Rationale category of Inputs to Tangible Products. Our recommendation is based on the following:

(1) NMER's design is consistent with avoiding multiple layers of sales tax

NMER's design seems to avoid multiple layers of sales tax on inputs to tangible products by exempting manufacturers from paying sales and use tax on items used in research and development, including biotechnology. This design is consistent with the goals of the Inputs to Tangible Products category.

(2) There is evidence suggesting NMER be grouped with another sales tax exemption

NMER seems closely related to another exemption that has been classified in the Inputs to Tangible Products category—the exemption for Sales of Machinery and Equipment (under 36 MRSA §1760(31)). This exemption, and NMER, were enacted together with shared goals in 1973. MRS includes both exemptions in its Bulletin No. 22, which provides Manufacturers with guidance on applicable sales and use tax exemptions.

Given the above, OPEGA recommends that NMER be scheduled for Expedited Review by the Taxation Committee in 2021, as that is when other tax expenditures assigned to the Inputs to Tangible Products Rationale category are up for review.