

TAX EXPENDITURE REVIEW – 2020 (OPEGA report dater January 2021)

TAX EXPENDITURE WORKSHEET – EXPEDITED REVIEW

PROVISIONS FOR 2020 EXPEDITED REVIEW:

I. TAX POLICIES: Interstate or Foreign Commerce

TAX POLICY WORKSHEET:

A. INTERSTATE AND FOREIGN COMMERCE	
Statutory criteria for evaluation	Notes
a. Reasons for tax policy	<p><u>OPEGA definition of policy area:</u> <i>“Exempting certain items from tax to create an incentive to purchase them in Maine, or helping align Maine’s tax policy with other jurisdictions so Maine is not at a competitive disadvantage.”</i></p> <p>The provisions reviewed in this category include sales tax and fuel taxes.</p> <p>SAMPLE FROM PRIOR REPORT: The committee believes that reconsideration of this policy is not warranted at this time.</p>
b. The extent to which the reasons for the adoption of this policy remain or whether reconsideration is needed	<p>SAMPLE FROM PRIOR REPORT: The reasons for adoption of this policy continue. Reconsideration is not warranted at this time.</p>
c. The extent to which the tax policy is consistent with other state goals	<p><u>SAMPLE FROM PRIOR REPORT:</u> This policy is consistent with principals of maintaining a tax system that is competitive with other states in order to not disadvantage Maine businesses. The reasons for adoption of this policy continue. Reconsideration is not warranted at this time</p>
d. The past and future fiscal impact of the tax policy	<p>The OPEGA report provides estimates for FY 16 through FY 21 for the revenue loss attributable to this tax policy (Table 3, p. 4) and each individual tax expenditure subject to review (Appendix B, p.24). The estimates are derived from information provided by Maine Revenue Services in its biennial tax expenditure reports.</p>

		<p>The estimated sales tax revenue loss attributable to this policy ranges from \$19,280,027 in FY16 to \$103,749,998 in FY 21. A dramatic increase in estimated revenue loss for this policy category as a whole between FY 17 and FY 18 results from the MRS biennial tax expenditure report not including estimates for fuel tax prior to FY 18.</p> <p>The OPEGA report indicates (p.5) that fiscal estimates by MRS are based on economic forecasts using the best information available at the time, and neither OPEGA nor MRS are able to identify how close the estimates are to actual revenue loss. The report indicates <i>“If the Legislature is interested in understanding fiscal impact trends and/or actual impacts from policy changes on these tax expenditures, we suggest that the Joint Standing committee on Taxation confer with MRS and OFPR on options for obtaining such analyses in the future.”</i></p>
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**TAX EXPENDITURE WORKSHEET:
INTERSTATE OR FOREIGN COMMERCE**

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
1	Fuel tax exemption for sales of internal combustion engine fuel sold wholly for exportation from this State by a licensed distributor or an exporter 36§2903.4.A	19	205	Highway Fund Other Spec Rev \$66,950,000	Highway Fund Other Spec Rev \$68,290,000	Revenue loss based on info reported on fuel tax returns
	Summary:					

¹ Office of Program Evaluation and Government Accountability. *Information to Support 2020 Expedited Reviews of Maine State Tax Expenditures; “Interstate & Foreign Commerce Exemption” Tax Expenditures Sales and Use Tax & Fuel Excise Taxes. January 2021*

² MRS report page number on this chart refer to the *Maine State Tax Expenditure Report 2022-2023*

³ Revenue estimates reflect General Fund impacts (unless otherwise indicated). Estimates are based on data provided by Maine Revenue Services.

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
	Provides fuel tax exemption for sales of gasoline sold wholly for exportation from this State by a licensed distributor or an exporter					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					<u>SAMPLE:</u> The Committee received no information indicating that there are administrative burdens connected with this exemption.
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					<u>SAMPLE:</u> The Committee sees no inconsistency related to this exemption
	D. Extent to which the design of the TE is effective in accomplishing its purpose					<u>SAMPLE FROM PRIOR REPORT:</u> This exemption appears to be effective in accomplishing its purpose
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					<u>SAMPLE FROM PRIOR REPORT:</u> The Committee sees no issue with the benefits of this provision reaching its intended beneficiaries.
	F. Extent to which the original reasons for the TE still exist					<u>SAMPLE FROM PRIOR REPORT:</u> The Committee believes that these items still warrant exemption.
	G. Are there other reasons to amend or repeal					<u>SAMPLE FROM PRIOR REPORT:</u> None noted.
	H. Other recommendations (retain, repeal, amend)					<u>SAMPLE FROM PRIOR REPORT:</u> Retain

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
2	Fuel tax exemption for sales of special fuel sold only for exportation from the State by a licensed supplier 36 MRS §3204-A.5	21	209	Highway Fund \$16,390,000	Highway Fund \$ 16,720,000	Revenue loss based on info reported on fuel tax returns
	Summary:					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
3	Fuel tax exemption for internal combustion engine fuel bought or used to propel a jet engine aircraft in international flights. 36§2903.4.A	20	212	\$120,000	\$120,000	Revenue loss based on info reported on fuel tax returns
	Summary:					See OPEGA report (Appendix B)
	A. Past and future fiscal impact					
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
4	Sales tax exemption for ships stores. 36§1760.4	6	74	\$250,000 to \$999,999	\$250,000 to \$999,999	Estimated range – little or no data available

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
	Summary: Sales tax exemption for sales of cabin, deck, engine supplies and bunkering oil to ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce.					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
5	Sales tax exemption for sales of internal combustion engine fuel bought and used for the purpose of propelling jet engine aircraft 36§1760.8.B	7	85	\$4,990,000	\$5,120,000	Based on info provided on fuel tax returns
	Summary: ,					

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
6	Sales tax exemption for certain vehicles if sold or leased to nonresident 36§1760.23-C	8	104	\$250,000 to \$999,999	\$250,000 to \$999,999	Estimated range – little or no data available
	Summary: Sales tax exemption for the following vehicles if sold or leased to a person who is not a resident of this State, if the vehicle is intended to be driven or					36§1760.25-C exempts sales of snowmobiles and ATVs to a nonresident unless the seller is a retailer in this State.

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
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	<p>transported outside the State immediately upon delivery.</p> <p>A. Motor vehicles other than those leased for less than one year</p> <p>B. Semitrailers</p> <p>C. Aircraft not exempt under §1760.88-A</p> <p>D. Repealed</p> <p>E. Camper trailers, including truck campers other than those being leased for less than one year</p> <p>If the vehicle is registered in Maine within 12 months of purchase, use tax is due based on original purchase price.</p>					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
	H. Recommendations (retain, repeal, amend)					
7	Sales tax exemption for certain vehicles sold or leased to qualifying resident business 36§1760.23-D	10	105	\$1,090,000	\$1,110,000	Based on review of audit activity
	Summary: Sales tax exemption for sale of lease of a motor vehicle (except an automobile rented for less than one year or an ATV or snowmobile) to a qualifying resident business if the vehicle is intended to be driven or transported outside the State immediately on delivery and intended to be used exclusively in the business's out-of-state business activities. If not used exclusively in out-of-state business activities a use tax is due based on the original purchase price.					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					

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	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
8	Sales tax exemption for sales of certain watercraft or materials used in a watercraft to a nonresident 36§1760.25	11	107	\$250,000 to \$999,999	\$250,000 to \$999,999	Estimated range – little or no data available
	Summary: Sales tax exemption for sales of certain watercraft or materials used in a watercraft to a person who is not a resident of this State. A. Watercraft is sailed or transported outside state within 30 days of purchase B. Watercraft purchased outside the State and not used within the State for more than 30 days (not including temporary storage) within 12 months after storage C. If watercraft is present in State for more than 30 days (excluding temporary storage) a use tax is due equal 60% of sales price.					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
9	Certain property used in interstate or foreign commerce: 36§1760.41-A	13	121	\$1,000,000 to \$2,999,999	\$1,000,000 to \$2,999,999	Estimated range – little or no data available
	Summary:					

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
				FY 20	FY 21	
	<p>Sales tax exemption for sales of certain instrumentalities of interstate or foreign commerce:</p> <ul style="list-style-type: none"> A. vehicles B. railroad rolling stock C. aircraft D. watercraft <p>Placed in service as an instrumentality of interstate or foreign commerce within 30 days after sale and used for those purposes at least 80% of next two years.</p>					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					

	Tax Expenditure	OPEGA 1 rept page	MRS TER page ²	Est. revenue loss ³		Notes
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10	Sales tax exemption for tangible personal property delivered outside the State 36§1760.82	15	159	\$6,000,000 or more	\$6,000,000 or more	Estimated range – little or no data available
	Summary: Sales tax exemption for tangible personal property delivered outside the State by the seller or a third party carrier (USPS, common carrier or contract carrier hired by seller) for transportation outside the State. Subsequent use of the property in the state disables the exemption.					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					

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	H. Recommendations (retain, repeal, amend)					
11	Sales of certain printed materials. 36§1760.83	16	160	\$250,000 to \$999,999	\$250,000 to \$999,999	Estimated range – little or no data available
	Summary: Sales tax exemption for sales of advertising and promotional materials printed on paper and purchased for the purpose of subsequently transporting the materials outside the State for use by the purchaser solely outside the State.					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					

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	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
12	Sales tax exemption for sales of certain aircraft. 36§1760.88	17	165	\$510,000	\$530,000	Estimated range – little or no data available
	Summary: Sales tax exemption for sales or leases of aircraft that weigh more than 6,000 pounds, that are propelled by one or more turbine engines or that are in use by an FAA classified 135 operator					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
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	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
13	Sales tax exemption for certain aircraft and repair and replacement parts 36§1760.88-A	18	166	\$1,290,000	\$1,360,000	Micro-simulation model; data not available
	Summary: Sales tax exemption for sales, use or leases of aircraft and slaes of repair and replacement parts exclusively for use I aircraft or in significant overhauling or rebuilding of aircraft or aircraft parts or components from 7/1/11 to 6/30/33					
	A. Past and future fiscal impact					See OPEGA report (Appendix B)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
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	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					