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An Act To Create and Sustain Jobs through Development of Cooperatives and Employee-owned Businesses

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

Sec. 1. 36 MRSA §5122, sub-§2, ¶¶PP and QQ are enacted to read:

PP. For taxable years beginning on or after January 1, 2017, to the extent included in federal adjusted gross income and to the extent otherwise subject to Maine income tax, an amount equal to any gain recognized on the sale by the taxpayer of an ownership interest in a qualified business if the business was transferred to:

- (1) An employee stock ownership plan as defined in the Code, Section 4975(e)(7);
- (2) An S corporation of the State owned by an employee stock ownership plan;
- (3) An eligible worker-owned cooperative as defined in the Code, Section 1042(c)(2);
- (4) A consumer cooperative organized under Title 13, chapter 85, subchapter 1; or
- (5) If the business provides housing, a consumer cooperative or a cooperative affordable housing corporation organized under Title 13, chapter 85, subchapter 1-A.

For purposes of this paragraph, "qualified business" means a business whose securities are not publicly traded on any stock exchange and that is organized in the State or whose principal place of business is within the State including a corporation, an S corporation, a limited liability company, a limited liability partnership, a sole proprietorship and all private entities related by common ownership or control.

QQ. For taxable years beginning on or after January 1, 2017, to the extent included in federal adjusted gross income and to the extent otherwise subject to Maine income tax, an amount equal to the interest received during the taxable year by the taxpayer with respect to a qualified business acquisition loan. For purposes of this paragraph:

(1) "Qualified business" means a business whose securities are not publicly traded on any stock exchange and that is organized in the State or whose principal place of business is within the State including a corporation, an S corporation, a limited liability company, a limited liability partnership, a sole proprietorship and all private entities related by common ownership or control; and

(2) "Qualified business acquisition loan," including a loan or part of a series of loans, means:

(a) A loan of which at least 90% of the proceeds are applied to the acquisition of majority ownership of a qualified business not owned by an entity under subdivisions (i) to (v) and that is given to:

(i) An employee stock ownership plan as defined in the Code, Section 4975(e)(7);

(ii) An S corporation of the State owned by an employee stock ownership plan;

(iii) An eligible worker-owned cooperative as defined in the Code, Section 1042(c)(2);

(iv) A consumer cooperative organized under Title 13, chapter 85, subchapter 1; or

(v) If the business provides housing, a consumer cooperative or a cooperative affordable housing corporation organized under Title 13, chapter 85, subchapter 1-A;

(b) A loan to a corporation that sponsors an employee stock ownership plan if all proceeds of the loan are loaned to the employee stock ownership plan to acquire for the plan all outstanding employer securities in a qualified business and the plan's repayment terms are substantially similar to the corporation's repayment terms; or

(c) A loan used to refinance a qualified business acquisition loan.

Sec. 2. 36 MRSA §5200-A, sub-§2, ¶¶BB and CC are enacted to read:

BB. For taxable years beginning on or after January 1, 2017, to the extent included in federal adjusted gross income and to the extent otherwise subject to Maine income tax, an amount equal to any gain recognized on the sale by the taxpayer of an ownership interest in a qualified business if the business was transferred to:

(1) An employee stock ownership plan as defined in the Code, Section 4975(e)(7);

(2) An S corporation of the State owned by an employee stock ownership plan;

(3) An eligible worker-owned cooperative as defined in the Code, Section 1042(c)(2);

(4) A consumer cooperative organized under Title 13, chapter 85, subchapter 1; or

(5) If the business provides housing, a consumer cooperative or a cooperative affordable housing corporation organized under Title 13, chapter 85, subchapter 1-A.

For purposes of this paragraph, "qualified business" means a business whose securities are not publicly traded on any stock exchange and that is organized in the State or whose principal place of business is within the State including a corporation, an S corporation, a limited liability company, a limited liability partnership, a sole proprietorship and all private entities related by common ownership or control.

CC. For taxable years beginning on or after January 1, 2017, to the extent included in federal adjusted gross income and to the extent otherwise subject to Maine income tax, an amount equal to the interest received during the taxable year by the taxpayer with respect to a qualified business acquisition loan. For purposes of this paragraph:

(1) "Qualified business" means a business whose securities are not publicly traded on any stock exchange and that is organized in the State or whose principal place of business is within the State including a corporation, an S corporation, a limited liability company, a limited liability partnership, a sole proprietorship and all private entities related by common ownership or control; and

(2) "Qualified business acquisition loan," including a loan or part of a series of loans, means:

(a) A loan of which at least 90% of the proceeds are applied to the acquisition of majority ownership of a qualified business not owned by an entity under subdivisions (i) to (v) and that is given to:

(i) An employee stock ownership plan as defined in the Code, Section 4975(e)(7);

(ii) An S corporation of the State owned by an employee stock ownership plan;

(iii) An eligible worker-owned cooperative as defined in the Code, Section 1042(c) (2);

(iv) A consumer cooperative organized under Title 13, chapter 85, subchapter 1; or

(v) If the business provides housing, a consumer cooperative or a cooperative affordable housing corporation organized under Title 13, chapter 85, subchapter 1-A;

(b) A loan to a corporation that sponsors an employee stock ownership plan if all proceeds of the loan are loaned to the employee stock ownership plan to acquire for the plan all outstanding employer securities in a qualified business and the plan's repayment terms are substantially similar to the corporation's repayment terms; or

(c) A loan used to refinance a qualified business acquisition loan.

Sec. 3. 36 MRS §5206-D, sub-§13, as amended by PL 1999, c. 414, §43 and affected by §57, is further amended to read:

13. Maine net income. "Maine net income" means, for any taxable year, a financial institution's net income or loss per books required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, 1120S, 1065 or any other Internal Revenue Service form used to report net income or loss per books or, in the case of an entity with a single owner that may be disregarded as an entity separate from its owner pursuant to Internal Revenue Service regulations, the financial institution's net income or loss per books determined as if the entity were required to file Internal Revenue Service Form 1065, adjusted in accordance with section 5200-A, subsection 2, paragraph CC, and apportioned to this State under section 5206-E. In the case of a financial institution that is a qualified subchapter S subsidiary as defined by the Code, Section 1361, the financial institution's "Maine net income" means a financial institution's net income or loss per books determined as if the entity were required to file Internal Revenue Service Form 1120S and apportioned to this State under section 5206-E.

To the extent that a financial institution derives income from a unitary business carried on by 2 or more members of an affiliated group, "Maine net income" is determined by apportioning, in accordance with section 5206-E, that part of the net income of the entire group that derives from the unitary business.

Sec. 4. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 36, section 5206-D, subsection 13 applies retroactively to January 1, 2017.

SUMMARY

This bill supports employee-owned businesses and cooperatives in the following ways.

1. It excludes from Maine income tax the amount of gain recognized by a business owner in transferring the business to an employee stock ownership plan, eligible worker-owned cooperative, consumer cooperative or affordable housing cooperative.

2. It excludes from Maine income tax interest from loans that finance transfers of ownership from a business to an employee stock ownership plan, eligible worker-owned cooperative, consumer cooperative or affordable housing cooperative.