

**TESTIMONY OF  
MICHAEL J. ALLEN, ASSOCIATE COMMISSIONER FOR TAX POLICY  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation  
Hearing Date: *March 13, 2025*

LD 48 – “*An Act to Update References to the United States Internal Revenue Code of 1986 Contained in the Maine Revised Statutes*”

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Senator Grohoski, Representative Cloutier, and members of the Taxation Committee – good afternoon, my name is Daniel D’Alessandro, Deputy Tax Policy Counsel in the Department of Administrative and Financial Services. I am testifying at the request of the Administration in Support of LD 48, “*An Act to Update References to the United States Internal Revenue Code of 1986 Contained in the Maine Revised Statutes.*”

LD 48, commonly known as the conformity bill, is submitted annually by the Department of Administrative and Financial Services to update the reference to the United States Internal Revenue Code in Title 36 of the Maine Revised Statutes. Maine’s conformity to the Internal Revenue Code primarily affects the State’s income tax laws, which are substantially based on the Code.

The Maine Legislature must annually review amendments to the Code made by Congress and enacted into law since the last conformity date to determine whether Maine will conform to some or all the federal changes that impact Maine’s tax laws. Maine’s conformity to the Code allows Maine income taxpayers to use their federal income tax return as a starting point for their Maine income tax return.

In addition to those amendments that must be reviewed annually, and where conformity requires an affirmative act of the Legislature, the Legislature has also enacted a limited number of provisions where the State automatically conforms to amendments without the need for additional legislation. This so called “rolling conformity” is the exception and limited by the Maine Constitution’s prohibition that the Legislature not “surrender the power of taxation.”

The current conformity date of December 31, 2023 was adopted by PL 2023, c. 619, An Act Updating References to the United States Internal Revenue Code of 1986 Contained in the Maine Revised Statutes.”

Based on a review of federal tax legislation enacted since December 31, 2023 through March 6, 2025, there is only one federal tax law enacted that we estimate will have a meaningful impact on Maine income tax receipts if we choose to conform.

On Dec. 12, 2024, President Biden signed the Federal Disaster Tax Relief Act of 2023 (H.R. 5863) into law. The legislation allows for special provisions for qualified disaster-related personal casualty losses, including the elimination of the requirement that casualty losses must exceed 10% of an individual’s adjusted gross income (“AGI”) before becoming deductible. Normally, only the portion of casualty losses exceeding 10% of AGI can qualify for deduction. With the new legislation, the AGI threshold is eliminated, and each separate casualty is deductible once it exceeds a more modest \$500 floor. Individual taxpayers will be allowed to claim this type of casualty loss even if they don’t itemize their deductions; instead, they can take the casualty loss as an addition to the standard deduction. Under the new federal law, a qualified disaster area is a location where a major disaster has been declared by the President during the period beginning January 1, 2020, and ending 60 days after the date of the law’s enactment. The

federal legislation allows taxpayers to file amended returns or seek refunds for losses that were previously non-deductible.

You should have in your materials a proposed amendment that would clarify the retroactive application of this conformity legislation, making it clear that it applies to past periods.

The estimated fiscal impact is under review.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions.

**Replace Section 2 with the following:**

**Sec. 2. Application.** This Act applies to tax years beginning on or after January 1, 2024 and to any prior tax year as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2024. This Part applies to tax years beginning on or after January 1, 2020 as it relates to the application of the Federal Disaster Tax Relief Act of 2023, Public Law No. 118-148.