

Maine Revised Statutes
Title 36: TAXATION
Chapter 822: TAX CREDITS

§5217-D. CREDIT FOR EDUCATIONAL OPPORTUNITY

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

A. "Benchmark loan payment" means the monthly loan payment for the amount of the principal cap paid over 10 years at the interest rate for federally subsidized Stafford loans under 20 United States Code, Section 1077a applicable during the individual's last year of enrollment at an accredited Maine community college, college or university or an accredited non-Maine community college, college or university under paragraph G, subparagraph (1), division (b). [2015, c. 267, Pt. QQQ, §1 (AMD); 2015, c. 267, Pt. QQQ, §6 (AFF).]

A-1. "Accredited non-Maine community college, college or university" means an institution located outside the State that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education. [2011, c. 665, §7 (NEW); 2011, c. 665, §13 (AFF).]

A-2. "Accredited Maine community college, college or university" has the same meaning as in Title 20-A, section 12541, subsection 1. [2013, c. 525, §15 (NEW).]

B. "Employer" has the same meaning as the term "employing unit," as defined in Title 26, section 1043, subsection 10. [2007, c. 469, Pt. B, §1 (NEW).]

B-1. (CONFLICT: Text as repealed and replaced by PL 2015, c. 482, §1) "Financial aid package" means financial aid obtained by a student for attendance at an accredited Maine community college, college or university. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2013 but before January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (a), "financial aid package" may include financial aid obtained for up to 30 credit hours of course work at an accredited non-Maine community college, college or university earned prior to transfer to an accredited Maine community college, college or university, if the 30 credit hours were earned after December 31, 2007 and the transfer occurred after December 31, 2012. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (a-1), "financial aid package" may include financial aid obtained by a student for attendance at an accredited non-Maine community college, college or university after December 31, 2007. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (b), "financial aid package" may include financial aid obtained by a student for attendance at an accredited non-Maine community college, college or university after December 31, 2007. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (c), "financial aid package" may include financial aid obtained by a student for attendance at an accredited Maine college or university after December 31, 2007. For purposes of an employer claiming a credit under this section for tax years beginning on or after January 1, 2013, "financial aid package" may include financial aid obtained by a qualified employee for attendance at an accredited non-Maine community college, college or university. "Financial aid package" may include private loans or less than the full amount of loans under federal programs, depending on the practices of the accredited Maine or non-Maine community college, college or university. Loans are includable in the financial aid package only if entered into prior to July 1, 2023. [2015, c. 482, §1 (RPR).]

B-1. (CONFLICT: Text as repealed and replaced by PL 2015, c. 494, Pt. A, §48) "Financial aid package" means financial aid obtained by a student for attendance at an accredited Maine community college, college or university. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2013, the financial aid package may include financial aid obtained for up to 30 credit hours of course work at an accredited non-Maine community college, college or university earned prior to transfer to an accredited Maine community college, college or university, if the 30 credit hours were earned after December 31, 2007 and the transfer occurred after December 31, 2012. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (b), the financial aid package may include financial aid obtained by a student for attendance at an accredited non-Maine community college, college or university after December 31, 2007. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (c), the financial aid package may include financial aid obtained by a student for attendance at an accredited Maine college or university after December 31, 2007. For purposes of an employer claiming a credit under this section for tax years beginning on or after January 1, 2013, the financial aid package may include financial aid obtained by a qualified employee for attendance at an accredited non-Maine community college, college or university. The financial aid package may include private loans or less than the full amount of loans under federal programs, depending on the practices of the accredited Maine or non-Maine community college, college or university. Loans are includable in the financial aid package only if entered into prior to July 1, 2023. [2015, c. 494, Pt. A, §48 (RPR).]

C. "Full time" employment means employment with a normal workweek of 32 hours or more. [2007, c. 469, Pt. B, §1 (NEW).]

D. "Part time" employment means employment with a normal workweek of between 16 and 32 hours. [2007, c. 469, Pt. B, §1 (NEW).]

D-1. "Principal cap" means:

(1) For an individual graduating from an accredited Maine community college, college or university before January 1, 2015, the amount calculated by the State Tax Assessor under Title 20-A, section 12542, former subsection 2-A;

(2) For an individual obtaining a bachelor's degree and graduating on or after January 1, 2015, the average in-state tuition and mandatory fees for attendance at the University of Maine System for the academic year ending during the calendar year prior to the year of graduation multiplied by 4;

(3) For an individual obtaining an associate degree and graduating on or after January 1, 2015, the average in-state tuition and mandatory fees for attendance at the Maine Community College System for the academic year ending during the calendar year prior to the year of graduation multiplied by 2; and

(4) For an individual obtaining a graduate degree and graduating from an accredited Maine college or university, the average in-state tuition and mandatory fees for attendance at the University of Maine System for the academic year ending during the calendar year prior to the year of graduation multiplied by 4. [2015, c. 267, Pt. QQQ, §2 (AMD); 2015, c. 267, Pt. QQQ, §6 (AFF).]

E. "Qualified employee" means an employee who is employed at least part time and who is a qualified individual or who would be a qualified individual except that the employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university.

For tax years beginning on or after January 1, 2016, "qualified employee" means an employee who is employed at least part time and who is a qualified individual or who would be a qualified individual except that the employee's associate, bachelor's or graduate degree was awarded by an accredited non-Maine community college, college or university. [2015, c. 482, §2 (AMD).]

F. [2009, c. 553, Pt. B, §5 (AFF); 2009, c. 553, Pt. B, §2 (RP).]

G. "Qualified individual" means an individual, including the spouse filing a joint return with the individual under section 5221, who is eligible for the credit provided in this section. An individual is eligible for the credit if the individual:

(1) Attended and obtained:

(a) An associate or bachelor's degree from an accredited Maine community college, college or university after December 31, 2007 but before January 1, 2016. The individual need not obtain the degree from the institution in which that individual originally enrolled as long as all course work toward the degree is performed at an accredited Maine community college, college or university, except that an individual who transfers to an accredited Maine community college, college or university after December 31, 2012 but before January 1, 2016 from outside the State and earned no more than 30 credit hours of course work toward the degree at an accredited non-Maine community college, college or university after December 31, 2007 and prior to the transfer is eligible for the credit if all other eligibility criteria are met. Program eligibility for such an individual must be determined as if the commencement of course work at the relevant accredited Maine community college, college or university was the commencement of course work for the degree program as a whole. This division does not apply to tax years beginning after December 31, 2015;

(a-1) For tax years beginning on or after January 1, 2016, an associate or bachelor's degree from an accredited Maine community college, college or university after December 31, 2007 but before January 1, 2016, regardless of whether the individual earned credit hours of course work toward the degree outside the State;

(b) An associate or bachelor's degree from an accredited Maine or non-Maine community college, college or university after December 31, 2015; or

(c) A graduate degree from an accredited Maine college or university after December 31, 2015;

(4) During the taxable year, was a resident individual; and

(5) Worked during the taxable year:

(a) For tax years beginning prior to January 1, 2015, at least part time for an employer located in this State or, for tax years beginning on or after January 1, 2013, was, during the taxable year, deployed for military service in the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces;

(b) For tax years beginning on or after January 1, 2015, at least part time in this State for an employer or as a self-employed individual or was, during the taxable year, deployed for military service in the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces; or

(c) For tax years beginning on or after January 1, 2016, at least part time in a position on a vessel at sea.

As used in this subparagraph, "deployed for military service" has the same meaning as in Title 26, section 814, subsection 1, paragraph A. [2015, c. 482, §3 (AMD).]

H. "Resident individual" means someone:

(1) Who is domiciled in this State; or

(2) Who is not domiciled in this State, but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State, unless the individual is a member of the Armed Forces of the United States. [2011, c. 665, §13 (AFF); 2011, c. 665, §9 (RPR).]

I. "Seasonal employment" has the same meaning as in Title 26, section 1251 and in regulations promulgated thereunder. [2007, c. 469, Pt. B, §1 (NEW).]

J. "Term of employment" includes all months when the individual is actually employed. It includes time periods when an individual is on leave or vacation. It extends to the full year for individuals working for employers who customarily operate only during a regularly recurring period of 9 months or more in a calendar year. For individuals working for employers who customarily operate only during regularly recurring periods of less than 9 months in a calendar year, including seasonal employment, the term of employment extends only to months during which the individual is actually working. [2013, c. 525, §15 (AMD).]

[2015, c. 482, §§1-3 (AMD); 2015, c. 494, Pt. A, §48 (AMD) .]

2. Credit allowed. A qualified individual or an employer of a qualified employee is allowed a credit against the tax imposed by this Part in accordance with the provisions of this section. The credit is created to implement the Job Creation Through Educational Opportunity Program established under Title 20-A, chapter 428-C.

A. A taxpayer entitled to the credit for any taxable year may carry over and apply to the tax liability for any one or more of the next succeeding 10 years the portion, as reduced from year to year, of any unused credits. [2011, c. 665, §10 (NEW); 2011, c. 665, §13 (AFF).]

B. A taxpayer may claim a credit based on loan payments actually made to a relevant lender or lenders under this section only with respect to loans that are part of the qualified individual's financial aid package and, for tax years beginning on or after January 1, 2015, only with respect to loan payment amounts paid by the taxpayer during that part of the taxable year that the qualified individual worked in this State. Payment of loan amounts in excess of the amounts due during the taxable year does not qualify for the credit. For tax years beginning before January 1, 2015, refinanced loans that are part of the qualified individual's financial aid package are eligible for the credit under this section if the refinanced loans remain separate from other debt, including debt incurred in an educational program other than the degree program for which a credit is claimed under this section. For tax years beginning on or after January 1, 2015, refinanced loans or consolidated loans that are part of the qualified individual's financial aid package are eligible for the credit under this section if the refinanced loans or consolidated loans remain separate from other debt, except for debt incurred in an educational program, but only in proportion to the portion of the loan payments that are otherwise eligible under this section. Forbearance or deferment of loan payments does not affect eligibility for the credit under this section. For tax years beginning on or after January 1, 2015, an individual who worked in this State for any part of a month during the Maine residency period of the taxable year is considered to have worked in this State for the entire month. For tax years beginning on or after January 1, 2015, an individual who worked outside this State for an entire month during the Maine residency period is considered to have worked in this State during that month, except that in no case may this exception exceed 3 months during the Maine residency period of the taxable year. [2015, c. 482, §4 (AMD).]

C. Except as provided in subsection 3, the credit under this section may not reduce the tax otherwise due under this Part to less than zero. [2013, c. 525, §15 (AMD).]

D. [2013, c. 525, §15 (RP).]

[2015, c. 482, §4 (AMD) .]

2-A. Limitation. A credit claimed by a qualified individual based on eligibility under subsection 1, paragraph G, subparagraph (1), division (b) or (c) may be claimed only on returns filed for tax years beginning on or after January 1, 2016. A credit based on loan payments made prior to January 1, 2016 is not available to any individual based on eligibility under subsection 1, paragraph G, subparagraph (1), division (b) or (c).

[2015, c. 267, Pt. QQQ, §5 (NEW); 2015, c. 267, Pt. QQQ, §6 (AFF) .]

3. Calculation of the credit; qualified individuals. Subject to subsection 2 and except as provided in this subsection, the credit with respect to a qualified individual is equal to the amount determined under paragraph A or paragraph B, whichever is less, multiplied by the proration factor:

- A. The benchmark loan payment multiplied by the number of months during the taxable year in which the taxpayer made loan payments; or [2013, c. 525, §15 (AMD).]
- B. The monthly loan payment amount multiplied by the number of months during the taxable year in which the taxpayer made loan payments. [2013, c. 525, §15 (AMD).]
- C. [2009, c. 553, Pt. B, §5 (AFF); 2009, c. 553, Pt. B, §4 (RP).]

The credit under this subsection for a qualified individual under subsection 1, paragraph G, subparagraph (1), division (a) who transferred to an accredited Maine community college, college or university from an accredited non-Maine community college, college or university after December 31, 2012 but before January 1, 2016 and who earned no more than 30 credit hours of course work toward the degree at an accredited non-Maine community college, college or university is equal to 50% of the amount otherwise determined under this section in the case of an associate degree and equal to 75% of the amount otherwise determined under this section in the case of a bachelor's degree.

Notwithstanding subsection 2, paragraph C, the credit under this subsection is refundable to the extent the credit is based on loans included in the financial aid package acquired to obtain a bachelor's degree or associate degree in science, technology, engineering or mathematics. For tax years beginning on or after January 1, 2016, the credit under this subsection is refundable to the extent the credit is based on loans included in the financial aid package acquired to obtain an associate degree.

For purposes of this subsection, the proration factor is the amount derived by dividing the total number of academic credit hours earned for a bachelor's or associate degree after December 31, 2007 by the total number of academic credit hours earned for the bachelor's or associate degree.

[2015, c. 328, §7 (AMD) .]

4. Conditions for an opportunity program participant claiming the credit.

[2013, c. 525, §15 (RP) .]

5. Calculation of the credit; employers. Subject to subsection 2, a taxpayer constituting an employer making loan payments directly to a lender during the taxable year on loans included in a qualified employee's financial aid package may claim a credit equal to the benchmark loan payment or the actual monthly loan payment made by the employer on the loans, whichever is less, multiplied by the number of months during the taxable year the employer made loan payments on behalf of the qualified employee during the term of employment. For tax years beginning on or after January 1, 2016, subject to subsection 2, a taxpayer constituting an employer making loan payments directly to a lender during the taxable year on loans included in a qualified employee's financial aid package may claim a credit equal to the actual monthly loan payment made by the employer on the loans multiplied by the number of months during the taxable year the employer made loan payments on behalf of the qualified employee during the term of employment. The credit under this subsection may not be claimed with respect to months of the taxable year during which the employee was not a qualified employee.

If the qualified employee is employed on a part-time basis during the taxable year, the credit with respect to that employee is limited to 50% of the credit otherwise determined under this subsection.

[2015, c. 482, §5 (AMD) .]

SECTION HISTORY

2007, c. 469, Pt. B, §1 (NEW). 2009, c. 434, §78 (AMD). 2009, c. 553, Pt. B, §§2-4 (AMD). 2009, c. 553, Pt. B, §5 (AFF). 2011, c. 665, §§7-12 (AMD). 2011, c. 665, §13 (AFF). 2013, c. 525, §15 (AMD). 2015, c. 267,

Pt. QQQ, §§1-5 (AMD). 2015, c. 267, Pt. QQQ, §6 (AFF). 2015, c. 300, Pt. A, §42 (AMD). 2015, c. 328, §§5-7 (AMD). 2015, c. 482, §§1-5 (AMD). 2015, c. 494, Pt. A, §48 (AMD).

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