

MAINE COMMUNITY COLLEGE SYSTEM

FINANCIAL AFFAIRS
Section 714

SUBJECT: TAXATION

PURPOSE: To recognize and preserve the tax-exempt status of the Maine Community College System

A. Introduction

This policy recognizes the tax-exempt status under Maine law of the Maine Community College System, its colleges and other components, and preserves that status by prohibiting and nullifying any act that jeopardizes that status.

B. Tax Exempt Bases

The MCCA is tax exempt under Maine law for the following reasons.

1. Status as a Governmental Entity

Property of State government is exempt from taxation under *36 M.R.S.A. §651(1)(B)*, and MCCA, its colleges and other components are entities of the State. *20-A M.R.S.A. §12702* (providing that the MCCA is a “public instrumentality of the State and the exercise of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions”).

2. Status as a Public and Non-Profit Corporation

The MCCA is also a public corporation. *20-A M.R.S.A. §12702* (providing that the MCCA is a “body corporate and politic”). Because the MCCA, its colleges and other components are governmental, they are non-profit. However, because the MCCA is a governmental corporation created by statute pursuant to *20-A M.R.S.A. §12702*, the MCCA does not file a certificate of organization under *13 M.R.S.A. §903* of Maine’s corporations law; does not file with the United States Internal Revenue Service as a *26 U.S.C. §501(C)(3)* organization; and does not file an IRS Form 990 or other like document.

3. Status as a Literary and Scientific Institution

The MCCA, its colleges and other components are also “literary and scientific institutions” under *36 M.R.S.A. §652(1)(B)*.

C. Effect of the Above Statutes

Because of all of the foregoing laws, the M CCS, its colleges and other components are exempt from payment of sales and use tax pursuant to 36 M.R.S.A. §1760(2); personal property tax pursuant to 36 M.R.S.A. §652(1)(B); corporate income tax pursuant to 36 M.R.S.A. §5102(6); business taxes under 36 M.R.S.A. §§2511-2893; special taxes under 36 M.R.S.A. §§4301-4902; and taxes upon revenue bond proceeds pursuant to 20-A M.R.S.A. §12706(20). The M CCS is also exempt from payment of real estate taxes under 36 M.R.S.A. §652(1)(B), except if the M CCS purchases a parcel mid-property tax year from an entity that is not tax exempt. There, the M CCS or college must pay the taxes owing on the remaining portion of that tax year. *See FAME v. City of Caribou*, 694 A.2d 913 (Me. 1997).

D. Policy

No employee is authorized to act in any manner that jeopardizes the tax-exempt status of the M CCS including, but not limited to, earning certain unrelated business income. Any such act shall be null and void.

REFERENCES: Contained within policy

DATE ADOPTED: June 24, 2009

DATE(S) AMENDED: May 3, 2013