



MAINE TAX ALERT

A Publication of the Maine Bureau of Taxation for Tax Professionals

VOLUME 1, NO. 2

FEBRUARY - MARCH 1997

Public Communications Tel: (207) 287-6362

TRAINING SESSIONS PREPARING YOUR MAINE COMBINED FORMS

The Bureau of Taxation, in cooperation with the Maine Department of Labor, and the U. S. Small Business Administration, will offer training sessions in four locations in the State:

All sessions will be from 9 a.m. to noon. Coffee will be served.
No Registration. No Charge.

Portland	March 26	Luther Bonney Auditorium	Univ. of Southern Maine
Augusta	March 31	Jewett Hall Auditorium	Univ. Maine at Augusta
Brewer	April 1	Jeff's Catering, Banquet Center	East-West Industrial Park Coffin Avenue, Brewer
Presque Isle	April 2	Second Floor Campus Center	Univ. Maine Presque Isle

- { Which forms should I use for my business?
- { How do I fill out the new combined form?
- { What are my options - computer printed forms? or forms I use with my word processor?
- { Can I pay the taxes due by EFT?

Attend the Training Sessions for Maine Combined Forms to learn the answers to your questions. The training sessions will be directed specifically to employers and their staff. Tax professionals are also welcome.

Participants will receive handouts and class materials to assist them with the new Maine Combined Forms.

The sessions will include a short presentation by the state's Electronic Funds Transfer manager, Paula Cole. She will encourage the participants to join many other Maine businesses in using this rapid and secure form of payment.

There will be no charge for these classes. The Bureau of Taxation is eager to assist employers and tax professionals in overcoming any disruption caused by the change in filing withholding tax and unemployment insurance contributions.

Directions to the Jeff's Catering, Banquet and Convention Center in Brewer:

From North or South of Brewer:

Take I-395 to Exit 5, then Turn left onto Parkway South

Right onto Robertson Blvd. in the East-West Industrial Park

Left on Coffin Avenue and bear right into street leading to Jeff's Catering and parking.

S-CORP AND PARTNERSHIP TRANSMITTALS

We will provide up to 25 free copies of the Maine Transmittal Forms for Information Returns, 1065-ME and 1120S-ME, to tax professionals. The Bureau of Taxation does not yet automatically mail copies of these forms to taxpayers. Therefore, we make them available without charge.

ESTIMATED INDIVIDUAL TAX FORMS FOR 1997

Estimated tax forms for Maine individual income tax were mailed in February to filers who filed estimated tax last year. The mailing normally includes estimated tax worksheets. However, we have discovered that 1,500 of the 43,000 forms did not include the worksheet. We are sending worksheets to anyone who calls requesting them. There are no significant changes in the estimated tax form for 1997.

Please remember that the original Bureau printed estimated tax form must be filed. Use the copies for taxpayer and accountant files. Estimated forms that are generated by tax software are also acceptable.

MAINE COMBINED FORM EMPLOYER BOOKLETS TO BE MAILED IN MARCH

Loose withholding tax and unemployment insurance contributions forms will be mailed in late March in response to orders on hand at that time. An order form for Combined Forms was included in the January TAX ALERT. Another copy of the order form will be sent out to most employers with an invitation to the Maine Combined Form seminars, also advertised on the first page of this issue.

THE BETR PROGRAM for 1997-1998

1997-1998 BETR program booklets will be available in April for the program. The second year of the BETR program begins on April 1, 1997.

Many changes have been proposed for the BETR program for consideration by the current session of the Legislature. Both the nature of any changes which are made, and their effective dates, will determine the extent of changes, if any, that we will need to make to the 1997 program. If changes to the program are enacted by the current Legislature after the 1997 BETR booklet printing, and the new law requires that the changes take effect immediately, we will adjust the program accordingly.

Booklets will be mailed to businesses which have filed during the 1996-1997 program year. Other businesses will receive a letter inviting them to participate in the program. Most businesses which file sales tax or withholding tax in Maine will receive this reminder letter.

To date, for the 1996-1997 BETR Program, we have received over 950 applications requesting a total of \$6,165,456 in reimbursements. We would like to thank participants and their tax professionals and municipal tax assessors for their cooperation in this first year of the BETR program. We attribute the smooth operation of this new program to the cooperation we have received from all concerned.

MAINE ELECTRONIC FUNDS TRANSFERS

We are pleased that monthly electronic funds transfers of business taxes now exceed \$10 million. Of this, \$6 million are withholding tax payments and \$4 million are sales tax payments.

During the next few months, we will be publicizing state acceptance of EFT payments in connection with the combined form for withholding tax and unemployment insurance contributions. Many taxpayers will be required to pay their federal business tax obligations through EFT after July 1, 1997. We plan to offer EFT to those taxpayers as a way to increase the efficiency of their federal and state tax compliance tasks.

TELEFILE for Maine

The 1997 offer to Maine taxpayers to file their returns by telephone is accepted by an increasing number of short form filers. From January 15 through March 5, over 17,000 TeleFiled returns were filed. Of these returns, 98% resulted in refunds to the taxpayers. Most of these taxpayers will receive their refunds in ten days. Paper return filers will receive their refunds in 16 days, on average.

Last year, we received 6,000 TeleFiled returns. The increase in TeleFiling this year suggests that interactive telephone systems are becoming more accepted. Also, the cumulative effect of two years of state and IRS publicity may be influencing people to try this new method of filing their tax returns.

On February 20, Governor Angus S. King announced the current TeleFile results to the press in a meeting in the Governor's Office. The Governor also filed a sample return for the press using a speaker phone to demonstrate

how easy it is to use the system. It takes only six and a half to ten minutes to file a Maine "short form" using TeleFile.

Some taxpayers will also be able to file their federal returns through the IRS TeleFile system. The IRS mailed invitations for their telephone filing system to 126,600 taxpayers in Maine. Last year, 15,900 Maine taxpayers filed their federal returns over the telephone.

EXTENSIONS

For all income tax returns types, extensions must be filed on the due date of the return for which the extension is requested. Payment should be made with the extension where necessary.

For information returns, the Maine Transmittal Form 1065ME and 1120S-ME and federal information return may be filed with the extension when filed on or before the extended due date.

RECENT DECISION OF THE APPELLATE DIVISION

ISSUE - Individual Income Tax - Whether a nonresident limited partner of an out-of-state limited partnership doing business in Maine through a Maine general partnership is subject to Maine income tax on his share of the income derived from the partnerships' business activity in Maine.

The nonresident taxpayer received a notice and demand for filing overdue Maine income tax returns. In response to the notice, the taxpayer filed tax returns, thereby self-assessing. The tax was paid with the returns. The Bureau assessed interest and penalty for late payment of taxes against the taxpayer, based on the tax declared on the returns. The taxpayer made a formal request for reconsideration of the assessment and also filed amended 1040ME returns for years at issue, listing zero Maine source income. The Bureau rejected the amended returns on the grounds that the taxpayer improperly claimed a 100% nonresident credit and that the taxpayer had Maine source income on which Maine tax must be filed and paid.

This matter involves the taxation of partnership income earned in Maine and distributed ultimately to a nonresident individual. The taxpayer was limited partner in an out-of-state partnership which was a general partner in the Maine general partnership which did business in Maine. Income earned by the Maine partnership was distributed to the out-of-state partnership which distributed a share of the income to the taxpayer.

The assessment and the denial of the refund claim were upheld by the Bureau on administrative appeal. It is the Bureau's position that the clear language of the statute confirms that Maine can reach the limited partner in an out-of-state partnership: "A partnership as such shall not be subject to the tax imposed by [Maine Income Tax law]." Persons carrying on business as partners shall be liable for the tax...only in their separate or individual capacities." 36 M.R.S.A.e5190. Rule 806.01 and underlying statutes make clear that "nonresident partners of a partnership...earning Maine source income...may also be subject to Maine income taxation." See also Green v. State Tax Assessor, 562 A.2d 1217 (Me. 1989). (Nonresident individual partners taxable on Maine source income derived

from out-of-state partnership's ownership of shopping malls in Maine.) The Bureau also upheld the assessment as satisfying constitutional requirements. Appealed to Superior Court.

CRIMINAL PROSECUTIONS 1996-1997

From August 1996 through February 1997, the State has completed the prosecution of 18 tax cases in which the taxpayers were charged with criminal tax violations. Of these, 11 were for failure to file individual income tax returns, 3 were for sales tax violations including misapplication of funds, 1 for operating a business after the seller's certificate was revoked. Probation violations after conviction on criminal tax charges have resulted in 3 taxpayers going to jail since August 1996. Total restitution paid as a result of these successful prosecutions was over \$84,000. Fines were over \$14,000. Another 14 cases are pending charges or awaiting trial. Restitution, the payment of taxes, interest and penalty due, can occur at any time during the process. Criminal prosecution usually continues despite any interim restitution of taxes and other sums owed by the delinquent taxpayer.

The State of Maine has increased its criminal prosecutions of tax violations many fold in the last four years. Convicted taxpayers may receive a suspended sentence conditioned upon completion of scheduled payments of back taxes and consistent timely filing of future tax returns. Delinquent taxpayers convicted of probation violations can end up spending time in jail.