



MAINE TAX ALERT

A Publication of Maine Revenue Services for Tax Professionals

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JUNE/JULY 1998

Public Communications Tel: (207) 626-8475

The 118th Maine Legislature adjourned on April 9th. Here is a summary of selected tax-related law changes:

1. Homestead Exemption. The annual budget bill enacted by the Legislature and signed by Governor King (Legislative Document 1950; Public Law 643) contained significant tax relief for Maine homeowners; residents of this state who have owned a primary residence in this state for the preceding 12 months are entitled to a property tax exemption of up to \$7,000 of the value of their home. The program is administered on the local level. This exemption is in addition to any other property tax exemption, such as the veteran exemption. Note: the homestead exemption does not apply to renters (some of whom are able to take advantage of the Maine Residents Property Tax Program, known as the "circuit breaker program).

2. Income tax personal exemption. P.L. 643 also increases the personal exemption amount in the individual income tax law. For income tax years beginning on or after January 1, 1998 but before January 1, 1999, a Maine resident is allowed \$2,400 for each exemption to which the individual is entitled for federal income tax purposes. For income tax years beginning on or after January 1, 1999, the exemption amount is \$2,750.

3. "Anti-browsing." The Legislature enacted a provision proposed by Executive Director Brian Mahany that makes it unlawful for any employee of Maine Revenue Services to inspect or examine a tax return, or any information obtained from a tax return, for any purpose other than the performance of official duties. This mirrors a similar law enacted at the federal level last year as part of the Taxpayer Browsing Protection Act of 1997.

4. Health benefit credit. L.D. 1931 (P.L. 775) enacts Title 36 M.R.S.A. ' 5219-O, which provides an income tax credit for certain small businesses that provide

comprehensive health benefits for employees and their dependents. The credit applies to tax years beginning on or after January 1, 1999.

5. ETIF. L.D. 1923 (P.L. 766) makes several changes to the Employment Tax Increment Financing ("ETIF") statute. Most significantly, a higher reimbursement percentage (75% of withholding taxes) is now provided to employers located in areas with extremely high unemployment rates (those with labor market unemployment rates greater than 12 times the state unemployment rate).

6. Fuel tax statutes. Several changes were made by L.D. 1748 (P.L. 738) to Maine's fuel excise tax laws. First, fuel that has been color-dyed pursuant to federal regulations will now be exempt from the fuel tax (though not from the sales and use tax). Secondly, specific allowances are provided for stock losses or "shrinkage" of both gasoline (maximum of 2 of 1%) and special fuel (maximum of 3 of 1%), provided that satisfactory documentation of the loss is provided to the state. Finally, fuel terminals will for the first time be required to submit reports to Maine Revenue Services detailing purchases and sales of fuel.

7. "High-tech credit." Several changes were made to the "high-tech" income tax credit enacted in the spring of 1997:

- Only persons engaged "primarily" in high-tech activities qualify for the credit.
- Section 5219-M, sub-' 1, &B has been amended to provide that the "investment credit base" of eligible equipment must be adjusted for depreciation as of the date the equipment was first placed in service in Maine.
- Subsections 2 and 3 of the credit have been repealed; a new sub-' 1-A enacted, which states how the credit applies to both purchasers and

lessors/leasees of eligible equipment. Basically, a person that leases and uses eligible equipment may claim a credit in the amount of lease payments made on the equipment in each tax year, except that if the equipment is depreciable for federal income tax purposes, the credit is based on the investment credit base. A lessor may claim a credit in the amount of the investment base, net of any lease payments received for the equipment in the taxable year, provided that the state is presented with satisfactory evidence that the lessee has waived its right to claim the credit.

- Finally, sub-' 6 has been amended to provide that the combined return rules outlined in that subsection apply in carryforward years.

8. Financial institution franchise tax. Maine's financial institution franchise tax (Title 36 M.R.S.A. ' 5206 et seq.) was amended to clarify that all financial institutions, including pass-through entities, must file franchise tax returns. Income derived from an ownership interest in a financial institution is not picked up by the individual or corporate income tax. These changes apply retroactively to tax years beginning on or after January 1, 1997.

9. "Hay tax." A new sales tax exemption was enacted for sales of hay and of organic bedding materials for farm animals.

10. BETR. Reimbursement under the Business Equipment Tax Reimbursement ("BETR") program is now prohibited for natural gas pipelines and for property used to produce or transmit energy primarily for sale. Reimbursement to a congeneration facility is generally limited to proportion of the energy used directly by an associated manufacturing facility. (L.D. 2297, P.L. 729).

11. Maine Seed Capital Tax Credit Program. This credit has been expanded in several ways. (L.D. 2196, P.L. 782; L.D. 2088, P.L. 774). See the legislation or contact Finance Authority of Maine (FAME).

12. Miscellaneous changes:

- TRAC leases: Title 10 M.R.S.A., section 1305 has been amended to provide that so-called "TRAC" leases may be sales for purposes of Title 36.

- EFT penalty: Title 36 M.R.S.A., section 187-B, subsection 5-A was enacted to provide that any person that is required to remit taxes by electronic funds transfer and fails to do so is liable for a penalty of the lesser of 5% of the tax due or \$5,000. Note: No EFT requirement is in place at this time. Maine Revenue Services anticipates that a rule requiring certain taxpayers to file and pay by EFT will be promulgated later this year, with an effective date of January 1, 1999.
- Watercraft sold to nonresidents: Title 36 M.R.S.A. ' 1760 sub-' 25 was amended to clarify that the sale in Maine of a watercraft to a nonresident does not incur a sales or use tax if the watercraft is merely temporarily stored in this state after its purchase, even if it is so stored for more than 30 days.
- Estimated tax payments: Title 36 M.R.S.A., ' 5228, sub-' 2 was amended to increase the threshold for payment of estimated income tax from \$500 to \$1,000 in order to match the federal threshold. Note: the federal threshold affects individuals only; this state change affects both corporate and individual taxpayers. Also, this change is not effective until tax years beginning on or after January 1, 1999.
- Limitation of sales tax exemption for federal government instrumentalities: Title 36 M.R.S.A., ' 1760, sub-' 2 has been amended to provide that certain Farm Credit corporations organized under federal law do not qualify for sales tax exemption.
- "Clean fuels" legislation: Public Law 791 was enacted to create a partial sales tax exemption for that portion of the price of a "clean fuel vehicle" that exceeds the price of an otherwise identical vehicle powered by gasoline. The bill also allows an income tax credit equal to a percentage of expenditures paid for the development of infrastructure relating to the sale of clean fuels (compressed or liquefied natural gas, hydrogen, electricity, etc.). The credit may not exceed the tax liability for income that is earned by the taxpayer from the sale of clean fuels sold for use in motor vehicles. Both the income tax credit and the sales tax exemption become effective on January 1, 1999 and expire at the end of 2005.

POLICY CHANGE FOR NONRESIDENTS

Bureau policy regarding deferred compensation received by a nonresident Maine taxpayer has changed. Deferred compensation received by a nonresident in the form of an annuity is now exempt from Maine income tax. Rule 806 will be changed to stipulate that deferred compensation received by a nonresident after termination of employment in Maine is exempt from Maine income tax. This change is being made to conform to federal law regarding state taxation of retirement income received by a nonresident. The change is effective immediately and is retroactive to tax years beginning on or after January 1, 1996.

RULE 803

Maine Revenue Services is proposing several changes to Rule 803, which governs withholding of Maine income tax from wages and other payments. The rule is being amended to make the following changes:

1. To react to a change in federal withholding allowances. The IRS changed the Federal Form W-4 effective January 1, 1998 to allow employees to claim withholding allowances for the new child credit allowed in US income tax law. Since Maine withholding is currently based on the number of allowances claimed for federal withholding and since Maine does not allow a similar credit, an employee claiming withholding allowances for the new credit could experience under withholding for Maine. This amendment requires the employer to reduce the number of allowances used to compute Maine withholding by the number the employee is claiming for the new federal child credit.
2. To require the employer to keep a copy of the Personal Allowances Worksheet for the Federal Form W-4 in the employer's payroll files as support for the number of allowances used to compute the Maine withholding.
3. To add a provision for the "Personal Withholding Exemption Variance Certificate" to be obtained from the Executive Director of Maine Revenue Services by an employee who wishes to claim a number of Maine withholding allowances that exceeds the number of federal withholding allowances the employee claims.

4. To change references to "State Tax Assessor" to "Executive Director" or "director".
5. To make various non-substantive editorial changes.

ELECTRONIC FUNDS TRANSFER

Maine Revenue Services is proposing to issue a new rule regarding electronic funds transfer (EFT). Rule 102 would cover electronic collection of taxes pursuant to authorizing legislation found at 36 M.R.S.A. ' 193.

Major components of the rule are:

- A. Definitions of specific electronic funds transfer terminology and available electronic funds transfer methods;
- B. Mandates stated in ' 193 and guidelines for voluntary EFT participation;
- C. Technical information;
- D. Procedural information;
- E. Guidelines to consider regarding abatement of penalties; and
- F. Information on problem resolution.

The rule is intended to benefit taxpayers in a number of ways, foremost by reducing tax filing requirements whenever possible. Additionally, Maine Revenue Services is able to serve taxpayers by providing efficient and convenient electronic payment mechanisms. An added benefit of electronic funds transfers is an audit trail that allows Maine Revenue Services to research electronic payments quickly and easily. The Rule defines specific guidelines to consider regarding abatement of penalties for failure to pay if the taxpayer can demonstrate a good faith effort to make an EFT payment and satisfy an underpayment in a timely manner in both the ACH Debit and Credit method programs.

Maine Revenue Services and the state benefit by increased funds going directly from taxpayer bank accounts to state depository accounts due to mandates contained in the Rule. Manual payment processing is significantly reduced due to an automated EFT processing system that directly transfer payment-related data to taxpayer accounts and provides revenue figures. Once again, because of a very good audit trail, Maine Revenue Services is able to expedite problem resolution concerning EFT payments by providing problem resolution guidelines in the Rule.

The state will examine payment histories during a "lookback period" in order to determine which taxpayers have tax liabilities substantial enough to be required to

remit funds by EFT. For answers to questions regarding the proposed rule, call Paula Cole at (207) 287-8276.

MAINE REVENUE SERVICES <http://janus.state.me.us/revenue>

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SUGGESTIONS FOR TAX ALERT?

**Please contact: Maine Revenue Services
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STATE OF MAINE

Angus S. King, Governor

**Janet E. Waldron, Commissioner
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Services**

Brian H. Mahany, Executive Director

TAX QUESTIONS? PLEASE CONTACT US:

Maine Revenue Services	(207)287-2076	FAX (207) 287-4028
Central Registration	(207)287-2338	FAX (207) 287-3733
Collections & Compliance	(207)287-3301	FAX (207) 287-6627
Corporate Tax	(207)287-3301	FAX (207) 287-6627
Electronic Funds Transfer	(207)287-8276	FAX (207) 287-6396
Estate Tax	(207)626-8480	FAX (207) 287-4028
Excise Tax	(207)287-3851	FAX (207) 287-6628
Forms Request Line	(207)624-7894	FAX (207) 622-3517
Income Tax Assistance	(207)626-8475	FAX (207) 287-4028
Paym't Plans/Income Tax	(207)621-4300	FAX (207) 621-4328
Payment Plans/ Other	(207)287-3301	FAX (207) 287-4028
Practitioners' Hotline	(207)626-8458	FAX (207) 287-4028
Property Tax	(207)287-2011	FAX (207) 287-6396
Sales Tax	(207)287-2336	FAX (207) 287-6628
Taxpayer Advocate	(207)287-4562	FAX (207) 287-6627
TTY Service	(207)287-4477	-----
Withholding Tax	(207)626-8475	FAX (207) 287-4028

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