



# MAINE TAX ALERT

A Publication of Maine Revenue Services for Tax Professionals

Volume 14, No. 2

February 2004

Public Communications Tel: (207) 624-9758

## New Compliance Web Page added to Maine Revenue Services Web Site

The Compliance Division has created a page on the MRS Web site to provide forms and information regarding compliance matters. The address is <http://www.maine.gov/revenue/Compliance/homepage.html>. Included on the site are links to Offer in Compromise instructions and guidelines, Power of Attorney form, Personal Financial Statement, Business Financial Statement, Residency Questionnaire, and forms to report tax violations.

## Pass-through Entity Withholding

Since enactment of the new pass-through entity withholding requirement early last year, more than 2,400 pass-through entities have registered with MRS for the program. The new law requires certain entities to withhold Maine income tax from nonresident members' distributable income. For the 2003 program, nearly 500 entities have filed returns totaling more than \$2.5 million. Booklets containing forms and instructions for the 2004 program are currently being printed and personalized with the entity's name, address and ID number. The booklets are scheduled to be mailed the middle of March, for an initial filing date of April 30. The booklets will contain all the forms necessary for an entity to file the quarterly returns for the year, to amend a quarterly return and to change the business address. The booklets will also include labels for mailing returns and payments. Quarterly filing deadlines are the last days of April, July, October and January, which coincide with the deadlines for filing employer withholding returns.

Exemptions to the withholding requirement are allowed for nonresident members who submit to the entity signed affidavits agreeing to file Maine income tax returns (941AF-ME) or agreeing to be included in a composite return (941CF-ME). (Composite returns are filed by entities on behalf of nonresident individual members. See the MRS Web site for details on composite filing requirements.) In addition, an automatic exemption applies to nonresident members who earn less than \$1,000 of distributable income in either the current or previous year. Other exemptions may be granted for special situations upon approval by MRS. Form 941E-ME is used to apply for exemptions (except automatic exemptions) from the pass-through entity withholding requirement. Forms, affidavits, instructions and further explanations on the new pass-through entity withholding program are available at [www.maine.gov/revenue](http://www.maine.gov/revenue) or by calling 207-626-8475.

## Questions and Answers Regarding Maine's Addition Modification for Bonus Depreciation and Section 179 Expense

MRS has been receiving many questions regarding the calculation of the modifications due to the state's decoupling from federal bonus depreciation and the increases in the dollar limitation amounts in section 179. For tax years 2002 through 2005, Maine requires an addition modification equal to the net increase due to bonus depreciation (30% or 50%) and the increase in the section 179 deduction. (The deduction increased from \$25,000 to \$100,000, the phase-out amount increased from \$200,000 to \$400,000, and eligible property was expanded to include certain off-the-shelf software). The addition modification is subsequently recaptured over the life of the asset through a series of subtraction modifications. Following are the most often asked questions on these issues.

Q: As a result of nonconformity with federal bonus depreciation and increases in the section 179 deduction, does Maine now have a separate depreciation schedule for affected property?

A: No, Maine continues to follow the federal depreciation schedule on all assets. There is some confusion related to the fact that Maine asks taxpayers to complete a pro forma federal Form 4562 in order to calculate the first year addition modification for the Maine return. However, the purpose of the pro forma calculation is to neutralize the effect of federal bonus depreciation and increase in the section 179 deductions. The difference between the pro forma and actual federal Form 4562 deduction amounts is the amount of the Maine add-back. The add-back will then be recaptured in future years through a series of subtraction modifications on the Maine return.

Q: Can I claim the remaining recapture amount (some of which is assigned to future years) in the year I dispose of the property?

A: No. The law requires that the recapture amounts, or subtraction modifications, be spread out over the life of the asset. There is no provision that allows full recapture in the year of disposition.

Q: Since I can claim \$100,000 as a section 179 deduction at the federal level, but Maine only allows \$25,000, can I claim Maine depreciation on the difference?

A: No. Although you must reverse the effects of the federal bonus depreciation and increases in section 179 thresholds in the year the property is placed in service, this does not create a separate basis or depreciation schedule for Maine purposes. Instead, the add-back is recaptured over the remaining life of the asset.

Q: How is my Maine add-back modification calculated if the amount of the section 179 deduction I can use for federal purposes in the first year is limited because business income is less than the otherwise available deduction amount?

A: The Maine add-back modification is based on the amount of federal depreciation and section 179 deduction actually used in the year the asset is placed in service. Therefore, any carryover to future years for federal purposes is not included in the addition modification calculation. For example:

Company A purchases a 5-year asset for \$100,000 in 2003 and decides to apply the section 179 deduction to the whole amount. However, the company has only \$70,000 of business income that year, so \$70,000 of deduction is applied to 2003 and the remaining \$30,000 is carried over to 2004.

Under prior federal law, which Maine is following, \$25,000 of the asset would be expensed under section 179, while the remaining \$75,000 would, for 2003, be subject to depreciation. The total amount of expense and depreciation for 2003 would be  $\$25,000 + (\$75,000 \times 20\% \text{ 1st year depreciation}) = 25,000 + 15,000 = \$40,000$ .

The add-back for Maine purposes is \$30,000 ( $\$70,000 - \$40,000$ ).

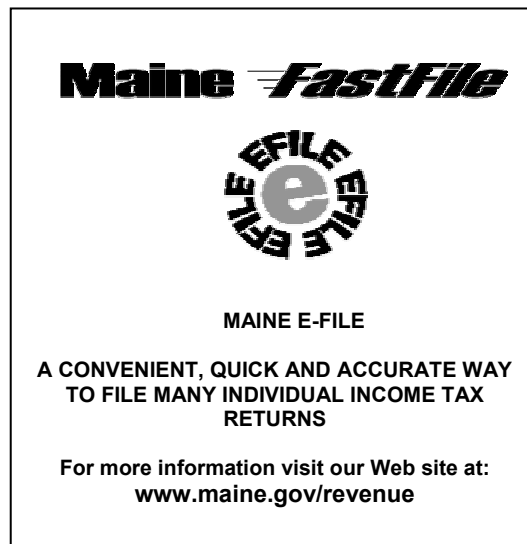
Q: What happens if I calculate a negative addition modification?

A: You will make no adjustment at all on the Maine return; the add-back modification in this case is zero. In some circumstances, the amount of depreciation/expense calculated on the pro forma Form 4562 for purposes of calculating the Maine add-back is larger than the amount actually used that year for federal income tax purposes. For example:

Company A purchases a 5-year asset for \$100,000 in 2003 and decides to apply the section 179 deduction to the whole amount. However, the company has only \$30,000 of business income that year, so \$30,000 of expense is applied to 2003 and the remaining \$70,000 is carried over to 2004.

Under prior federal law, which Maine is following, \$25,000 of the asset would be expensed under section 179, while the remaining \$75,000 would, for 2003, be subject to depreciation. The total amount of expense and depreciation for 2003 would be  $\$25,000 + (\$75,000 \times 20\% \text{ 1st year depreciation}) = 25,000 + 15,000 = \$40,000$ . Since this amount is higher than the amount actually used for federal purposes, no addition modification is necessary for Maine purposes.

In 2004, the \$70,000 carryover amount on federal Form 4562 would not require an addition modification on the Maine return, since that amount does not relate to any property placed in service during that taxable year.



<u>Department</u>	<u>Telephone Numbers</u>	<u>FAX Numbers</u>	<u>E-mail Addresses</u>
Taxpayer Service Center	(207) 287-2076	(207) 287-5855	
Appellate	(207) 287-8549	(207) 287-3294	
Central Registration	(207) 287-2338	(207) 287-3733	division.uctax@maine.gov
Collections & Compliance	(207) 624-9595	(207) 287-6627	compliance.tax@maine.gov
Corporate Tax	(207) 624-9670	(207) 624-9694	corporate.tax@maine.gov
E-file Help Desk	(207) 624-9730	(207) 624-9740	efile.helpdesk@maine.gov
Economic Research	(207) 287-6965	(207) 287-3618	
Electronic Funds Transfer	(207) 287-8276	(207) 287-6627	efunds.transfer@maine.gov
Estate Tax	(207) 626-8480	(207) 624-9694	income.tax@maine.gov
Fuel Tax	(207) 624-9745	(207) 287-6628	fuel.tax@maine.gov
Forms Request Line	(207) 624-7894	(207) 622-3517	
Income Tax Assistance	(207) 626-8475	(207) 624-9694	income.tax@maine.gov
Insurance Premium Tax	(207) 624-9582	(207) 624-9694	
Payment Plan/Income Tax	(207) 621-4300	(207) 621-4328	compliance.tax@maine.gov
Payment Plan/Other	(207) 624-9595	(207) 287-6627	compliance.tax@maine.gov
Practitioners' Hotline	(207) 626-8458	(207) 624-9694	
Property Tax	(207) 287-2011	(207) 287-6396	prop.tax@maine.gov
Public Communications	(207) 624-9684	(207) 624-9694	
Sales Tax	(207) 624-9693	(207) 287-6628	sales.tax@maine.gov
Taxpayer Advocate	(207) 624-9649	(207) 287-3618	taxpayer.advocate@maine.gov
TTY Service	(207) 287-4477	-----	
Withholding Tax	(207) 626-8475	(207) 624-9694	withholding.tax@maine.gov
Tax Violations Hot Line	(207) 624-9600		

This publication is designed to keep taxpayers, tax practitioners and the general public informed of developments, problems, questions and matters of general interest concerning Maine tax law, policy and procedure. The articles in this newsletter are not designed to address complex issues in detail, and they are not a substitute for Maine tax laws and/or regulations.

## STATE OF MAINE

John Elias Baldacci, Governor

Rebecca M. Wyke, Commissioner  
Administrative and Financial Services

Jerome D. Gerard, Acting Executive  
Director, Maine Revenue Services

Suggestions for the Tax Alert?

**Please contact: Public Communications**  
**624-9758**

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