

INSTRUCTIONS FOR MAINE ESTATE TAX RETURN (36 M.R.S. §§ 4101 - 4118)

For FAQs and other estate tax information, see www.maine.gov/revenue/taxes/income-estate-tax/estate-tax-706me.

Note: References to federal form line numbers are subject to change.

GENERAL INFORMATION

The Maine estate tax applies to the estate of every decedent who, at the time of death, was a resident of Maine, as well as to the estate of every nonresident decedent whose adjusted federal gross estate* consists of real and/or tangible personal property located in Maine on the date of death or, in the case of a gift made within one year of death, at the time of the gift. A Maine estate tax return must be filed if:

- a federal estate tax return is required to be filed;
- the Maine QTIP election (Form 706ME, line 2) is greater than zero; or
- the adjusted federal gross estate* exceeds \$5.87 million.

The Maine estate tax return is due nine months after the date of death.

***Adjusted federal gross estate** means the sum of federal Form 706, line 1, the value of Maine elective property (see instructions for line 3) and the value of adjusted taxable gifts made within one year of death.

For more information see 36 M.R.S., chapter 577, the guidance document "Maine Estate Tax for Deaths Occurring after 2012", and MRS Rule 603, available at www.maine.gov/revenue/taxes/income-estate-tax/estate-tax-706me.

Certificates of Discharge of Estate Tax Lien for real property and for tangible personal property may be submitted by mail or email to Maine Revenue Services ("MRS"). If emailed, send to estatetax@maine.gov. Emailed certificates may be formatted as either Portable Document Format (PDF) or a Microsoft Word document. An emailed certificate is acceptable only if sent from one of the email addresses included on page one of the return (personal representative or estate representative). An emailed certificate must also contain all of the information included on the official form. While a certificate may be submitted by mail or email, Form 706ME must be sent by mail.

SPECIFIC FORM INSTRUCTIONS

Step 1 Decedent and Personal Representative Information:

The personal representative, or executor, is the individual legally responsible for administration of the estate. If a personal representative has not been appointed, every person in possession of property of the decedent is considered a personal representative and must file a return or be listed on the single return that is filed for the estate. If the estate has more than one personal representative and a single return is filed, fill in the information for one personal representative and attach a schedule listing all other personal representatives. A personal representative, including a nonresident, may have to file a Maine income tax return for any income earned in Maine. For more information, see Maine Rule 806 (Nonresident Individual Income Tax) and the instructions for Form 1040ME, Schedule NR at www.maine.gov/revenue.

Step 2 Authorized Representative Information: Complete this step if you choose to have copies of confidential tax information sent to anyone other than the personal representative, such as the preparer of Form 706ME. If a paid preparer completed the return, that preparer must also sign the return on page 3. The person in this

section is referred to as the estate representative. If this section is completed, information will continue to be sent to the personal representative in addition to the estate representative.

Step 3 Decedent's Maine Residency Status: Check the appropriate box for the decedent's residency status. For additional information concerning residency status, see www.maine.gov/revenue/taxes/income-estate-tax/guidance-documents and select "Guidance to Residency Status."

Step 4 Tax Computation: Complete this section based on the 2021 actual or pro forma federal Form 706. If Form 706ME is not required to be filed (see General Information above), a Statement of Value (700-SOV) may be used to request a discharge of the automatic property lien provided under 36 M.R.S. § 4112.

Line 2. Maine qualified terminable interest property ("QTIP"). Maine allows a deduction for assets that are eligible for the QTIP election under IRC section 2056(b)(7), when a QTIP election is not made on that property for federal estate tax purposes. Entering an amount on this line constitutes a Maine QTIP election for eligible property. The maximum allowable Maine QTIP election is the difference between the decedent's federal exclusion amount, net of any deceased spousal unused exclusion from a predeceased spouse, and the Maine exclusion amount. For 2021 decedents, this maximum election is \$5,830,000 (\$11,700,000 - \$5,870,000). If the Maine QTIP is a portion of a trust or other property included in the federal taxable estate, the personal representative is considered to have made an election equal to a fraction of that trust or property. The numerator of the fraction is the amount of the Maine QTIP entered on this line and the denominator is the total value of the trust or other property. Attach a description of the assets in the Maine QTIP. A Maine QTIP cannot contain items that are includible as taxable gifts on the federal return. The Maine QTIP election defers taxation of the transfer of that property to the death of the decedent's spouse (subsequent decedent spouse). The Maine estate tax return for the subsequent decedent spouse must include the remaining value of the Maine QTIP, which is referred to as Maine elective property. See MRS Rule 603.

Line 3. Maine elective property. If the decedent had a predeceased spouse who made a Maine QTIP election, this line must include the current value of the Maine QTIP, regardless of the location or type of property (tangible or intangible). This amount is called Maine elective property. All holdings that constitute Maine elective property, including cash, securities, real estate and tangible personal property, must be included on this line. The property must be valued on the date of death of the decedent, unless the alternate valuation date under the Internal Revenue Code ("IRC") § 2032 is used for all assets.

Line 4. Value of gifts included in federal Form 706, Part 2, line 4, made within one year of date of death. Enter the value of taxable gifts completed within the one year period ending on the decedent's date of death, regardless of the location or type of property (tangible or intangible).

Line 6a. Real and tangible personal property located in Maine.

This line must be completed for both the estate of a Maine resident decedent and the estate of a nonresident decedent. Enter the amount of real and tangible personal property included in line 6 less the value of real and tangible personal property located outside of Maine on the date of death of the decedent or, in the case of a gift, on the date of the gift.

On this line, the estate of a nonresident decedent must include real and tangible personal property located in Maine held in a trust, LLC or other pass-through entity, unless that property is acquired through a bona fide sale for full and adequate consideration, the ownership of the property in the entity is for a valid business purpose and the entity actively carries on a business for the purpose of profit and gain. See 36 M.R.S. § 4104 and MRS Rule 603.

Line 6b. Intangible personal property. This line must be completed for the estate of a Maine resident decedent. The estate of a nonresident decedent should leave this line blank. For the estate of a Maine resident decedent, enter the value of all intangible personal property included in line 6. Examples of intangible personal property include, but are not limited to, cash, brokerage account balances, interest and dividends, life insurance proceeds, and annuities.

Line 10. Net Maine estate tax. Residents: multiply line 9 by line 7. Nonresidents: multiply line 9 by line 8. If the estate of a resident decedent pays estate tax to another jurisdiction on real or tangible personal property included in a trust, LLC or other pass-through entity, Maine will allow a credit for that tax paid. The other jurisdiction must look through the entity to the underlying assets and tax any real or tangible personal property located in that state as if directly owned by the decedent. See Worksheet D -- Credit for Estate Tax paid to Other Jurisdictions By Resident Estates, available online at www.maine.gov/revenue/tax-return-forms, or by calling the estate tax hotline at (207) 626-8480.

Line 11. Estimated payments, extension payments, amount paid with original return. Enter the total amount of Maine estimated and extension payments made for this estate. If this is an amended return, include on this line the amount of Maine estate tax paid with the original return.

Line 12. Interest and penalty amounts. Interest and penalties may apply if the return is filed, or the tax is paid, after the due date. The annual interest rate for 2021 is 5%, compounded monthly. For 2022, the annual interest rate is 5%, compounded monthly.

Late filing and late payment penalties. If a past due return is filed before the receipt, or within 60 days after the receipt, of a demand notice, the penalty for failure to file is the greater of \$25 or 10% of the amount of tax due. If the return is filed more than 60 days after the receipt of a demand notice, the failure-to-file penalty is the greater of \$25 or 25% of the amount of tax due. For failure to pay a tax liability, the penalty is 1% of the tax liability for each month the payment is delinquent, up to a maximum of 25%.

Other penalties. The law also provides penalties for substantial understatement of tax, negligence, fraud, willful understatement of liability by a preparer and for payment of tax by check that is returned for insufficient funds.

Line 13. Amount due. Enter the total amount due with this return. Make check payable to Treasurer, State of Maine, and send to Maine Revenue Services, P.O. Box 1065, Augusta, Maine 04332-1065. Please write the decedent's name, and "Form 706ME" on the check to ensure proper credit.

Line 14. Refund due. Enter the refund due. Allow 4-6 weeks to process the refund. Mail return to:

Maine Revenue Services
P.O. Box 1064
Augusta, Maine 04332-1064

Step 5 Filing Order: File the Maine estate tax return with supporting documentation in the order listed on the last page of the return. Other supporting documents include, but are not limited to, trust documents and appraisals to support the claims on the return. Proper documentation will allow Maine Revenue Services to process the return without having to contact the preparer for additional information.

Extension. Maine allows an automatic extension to file equal to any federal extension or six months, whichever is longer. An extension to file is not an extension to pay the tax. **An extension to pay the tax must be requested in writing.**

Amended returns. If an original return has already been filed, an amended Maine estate tax return must be filed within 180 days of receipt of property or entitlement to property, or within 180 days of a change by the Internal Revenue Service that increases the Maine estate tax liability.

Final federal determination. If a final federal determination has been made, the assessor may make a separate determination regarding an estate tax issue within one year from the filing date of the return.

Audit adjustments. MRS is required to notify the IRS of any audit adjustments that affect the federal liability of the estate.

| Table A | |
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| If Form 706ME, line 5 is: | The tax for line 9 is: |
| \$5,870,000 or less | \$0 |
| more than \$5,870,000 but not more than \$8,870,000 | 8% of the excess over \$5,870,000 |
| more than \$8,870,000 but not more than \$11,870,000 | \$240,000 plus 10% of the excess over \$8,870,000 |
| more than \$11,870,000 | \$540,000 plus 12% of the excess over \$11,870,000 |