



MAINE TAX ALERT

A Publication of Maine Revenue Services for Tax Professionals

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Public Communications Tel: (207) 626-8478

Form 2333ME (Order Form) has been Revised

Maine Revenue Services is in the process of changing to a new vendor to process orders for Maine income tax forms. The new vendor is J S McCarthy Printers located in Augusta. Therefore, effective immediately, please direct all orders for Maine income tax forms to J S McCarthy Printers, 15 Darin Drive, Augusta, Maine, 04330. Also, when ordering forms, please make your check payable to J S McCarthy Printers. A revised Form 2333ME for ordering 2008 tax forms is now available on the Maine Revenue Services web site at www.maine.gov/revenue/forms/general/Form2333_Jan09.pdf. A printed version of Form 2333ME is also available by calling (207) 624-7894 to leave your name and address.

Reminder of Maine's Tax Treatment of Net Operating Losses (as published in the March 2003 Tax Alert)

The federal Job Creation and Worker Assistance Act of 2002 enacted a five-year carryback provision of net operating losses ("NOLs") for tax years beginning or ending in 2001. The Maine Legislature decided not to conform to this federal change for 2001, and further decided not to allow any carryback of net operating losses for state tax purposes beginning January 1, 2002.

For tax year 2001, the five-year carryback period is not recognized for Maine state income tax purposes, but a two-year carryback period is allowed. If you are amending your federal return for a carryback in the 3rd, 4th, or 5th carryback years and that is the only adjustment being made, there is no need to file an amended Maine income tax return. If, however, any other adjustments are necessary, including the effect of the carryback on other areas of the return, you must amend your Maine return.

The Maine NOL adjustments are as follows:

- 1) The amount of the carryback to the year being adjusted (for prior years 3, 4 and 5) must be added to federal taxable income by way of an addition modification.
- 2) The total carryback amount applied to prior years 3, 4 and 5 is included as an addition modification in the year of the loss.

3) The total amount of addition modifications related to the federal carryback applied to prior years 3, 4 and 5 can be used as a negative modification up to 2 years prior to the year of the loss and in years subsequent to the loss year, provided that portions used as a subtraction modification in previous years are excluded and that the applicable federal NOL carryforward period is not exceeded.

In a case where a federal loss is only carried forward, only one modification will be necessary. If, in the year of the loss, an NOL absorbs any addition modification at the state level, that amount must be included as an addition modification in the last year(s) of the federal carryforward.

For tax years beginning on or after January 1, 2002, the procedures are the same, but the modifications are applied to any federal carryback, even those going back one or two years. The above modifications may also affect the alternative minimum tax calculation in each of these years.

If you are unsure how to apply any of the procedures explained in this article, contact Maine Revenue Services, Income/Estate Tax Division at income.tax@maine.gov or call 207-626-8475 for individual income tax returns or 207-624-9670 for corporate tax returns. In a case where a federal loss is only carried forward, only one modification will be necessary. If, in the year of the loss, an NOL absorbs any addition modification at the state level, that amount must be included as an addition modification in the last year(s) of the federal carryforward.

Maine Revenue Services Criminal Tax Cases

The following tax cases were recently prosecuted by the Attorney General's Office with assistance by Maine Revenue Services Criminal Investigations Unit:

September-December 2008 Criminal Tax Convictions:

On September 8, 2008, Richard Sorensen III of South Portland, Maine pled guilty in Portland District Court to six counts of Failure to Make and File Maine Income Tax Returns, in regards to the tax years 2002-2007. The Court sentenced him to six months in jail, with all but ten days suspended and two years of probation, during which time he must pay restitution of \$22,600. He was also ordered to pay a \$250 fine on each of the remaining five counts.

On September 9, 2008, Darren Carlton of China, Maine and Portland, Maine pled guilty in Augusta District Court to six counts of Failure to Make and File Maine Income Tax Returns, in regards to the tax years 2001 through 2006. Mr. Carlton was sentenced to six months in jail, with all but 10 days suspended and two years of probation, during which time he must pay restitution of \$13,811 with minimum monthly payments of \$600. Mr. Carlton was also sentenced to pay \$4,000 in fines.

On October 16, 2008, Adam Butman of Spruce Head, Maine pled guilty in Rockland District Court to six counts of Failure to Make and File Maine Income Tax Returns, in regards to the tax years 2001 through 2006. Mr. Butman was sentenced to 90 Days in jail, with all but five days

suspended and two years of probation, during which time he must pay restitution of \$26,328. Mr. Butman must make minimum monthly payments of \$250 beginning in November.

On November 3, 2008, Joseph Davis of Camden, Maine pled guilty in Rockland Superior Court to one count of Failure to Pay Maine Income Tax and two counts of Failure to Make and File Maine Income Tax Returns, in regards to the tax years 2004-2006. Mr. Davis was sentenced to 9 months in jail with all but 14 days suspended and two years of probation, during which time he must pay restitution in the amount of \$21,400. Mr. Davis was previously convicted of similar Maine tax violations on October 13, 2004 in Rockland District Court, where he pled guilty to six counts of Failure to Make and File Maine Income Tax Returns, which encompassed the tax years 1998 through 2003.

On November 6, 2008, Harrison Morse of Westbrook, Maine pled guilty in Portland Superior Court to four counts of Failure to Make and File Maine Income Tax Returns, in regards to the tax years 2003-2006. Mr. Morse was sentenced to 60 days in jail, with all but five days suspended and one year or probation, during which time he must pay restitution in the amount of \$11,869. Mr. Morse must make minimum monthly payments in the amount of \$400 per month and \$2,500 must be paid to his probation officer by November 16th.

On November 7, 2008 Scott Manuel of Alfred, Maine pled guilty in Alfred Superior Court to six counts of Failure to Make and File Maine Income Tax Returns, in regards to the tax years 2001 through 2006. Mr. Manuel was sentenced to six months in jail with all but 10 days suspended and two years of probation, during which time he must pay restitution of \$14,868. Mr. Manuel must make minimum monthly payments of \$200 per month.

On December 3, 2008 Joann Cwikla of Anson, Maine pled guilty in Skowhegan Superior Court to 12 counts of Class B Aggravated Forgery for fraudulently filing multiple Tax and Rent "Circuit-Breaker" applications over the course of several years. Ms. Cwikla was sentenced to two years in jail, with all but four months suspended and two years of probation, during which time she must pay \$3,453 in restitution to the State of Maine at a minimum rate of \$150 per month.

On December 17, 2008, John Emerton of Falmouth, Maine pled guilty in Portland Superior Court to five counts of Failure to Pay Maine Income Tax, in regards to the tax years 2003 through 2007. Mr. Emerton was ordered to serve a six-month jail sentence and pay restitution of \$10,448. Also, it was ordered that \$2,000 must be paid by October of each year beginning in 2009 until the balance is paid in full. Mr. Emerton was previously convicted on February 24, 2004, for Failure to Make and File Maine Income Tax Returns for the years 1997-2002.

On December 27, 2008, Phillip Sinclair of Waterville, Maine pled guilty in Augusta District Court to five counts of Failure to Make and File Maine Income Tax Returns and one count of Failure to Pay Maine Income Tax, in regards to the tax years 2002 through 2007. Mr. Sinclair was sentenced to 90 days in jail, with all but five days suspended and two years of probation, during which time he must pay restitution up to \$7,400. It was ordered that Mr. Sinclair will make minimum payments at a rate of \$45 per week.

<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) 624-9854	(207) 287-3294	
Central Registration	(207) 621-5129	(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
Economic Research	(207) 624-9789	(207) 287-3618	
E-file Help Desk (1040 ONLY)	(207) 624-9730	(207) 624-9740	efile.helpdesk@maine.gov
Electronic Funds Transfer	(207) 287-8276	(207) 287-6975	efunds.transfer@maine.gov
Estate Tax	(207) 626-8480	(207) 624-9694	estatetax@maine.gov
Fuel Tax	(207) 624-9609	(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) 624-9753	(207) 624-7729	
NexTalk (TTY Service)	(888) 577-6690		
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) 287-2013	(207) 287-6396	prop.tax@maine.gov
Public Communications	(207) 626-8478	(207) 624-9694	
Sales Tax	(207) 624-9693	(207) 287-6628	sales.tax@maine.gov
Tax Clearance Letters	(207) 624-9628	(207) 287-6627	
Taxpayer Advocate	(207) 624-9649	(207) 287-3618	taxpayer.advocate@maine.gov
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

Ryan Low, Commissioner
Administrative and Financial Services

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

Suggestions for the Tax Alert?

Please contact: Public Communications (207) 626-8478

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