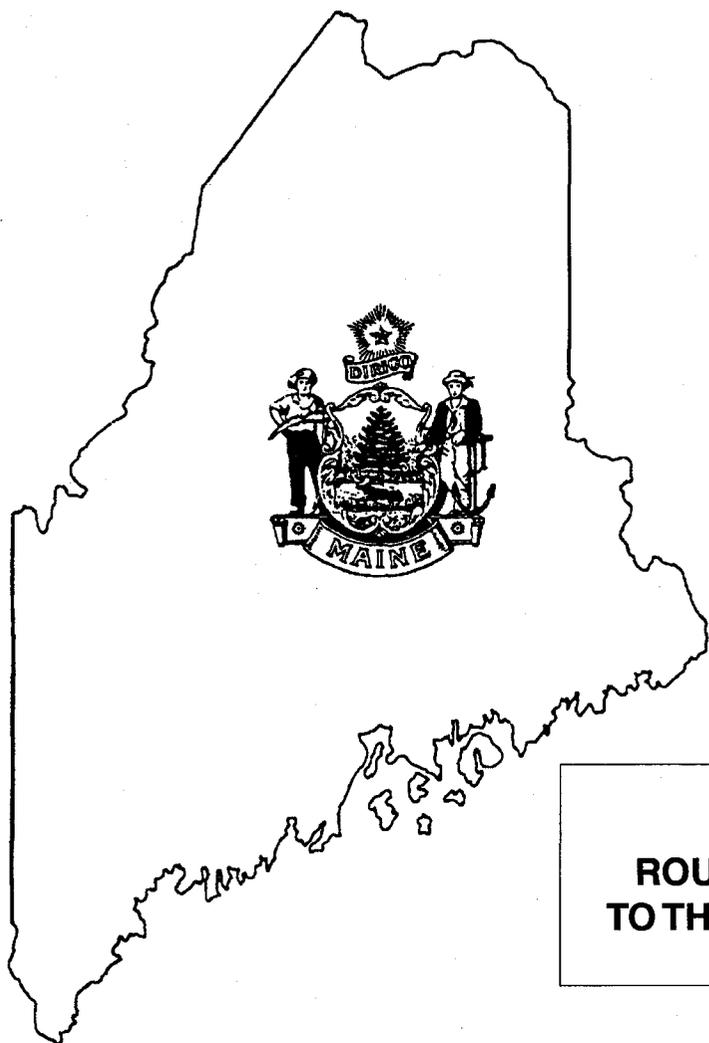


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# MAINE

## 1998

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# IMPORTANT CHANGES

**SUPER CREDIT FOR SUBSTANTIALLY INCREASED RESEARCH AND DEVELOPMENT.** Beginning January 1, 1998, businesses incurring Maine research expenses greater than 50% above the average research expense over the three years immediately preceding its effective date are entitled to the new "Super Credit." The credit is equal to the excess expenditures over 150% of the 3-year average. The credit may not exceed 50% of the income tax otherwise due net of other credits. Furthermore, the credit may not reduce the taxpayer's liability below the previous year's liability after other credits. Carryover provisions apply. (36 MRSA, §5219-L).

**HIGH TECHNOLOGY CREDIT.** Businesses primarily engaged in high-tech activities and that lease, purchase and use or purchase and lease computer equipment, electronic components and accessories, communications equipment or computer software placed in service in Maine and used in "high-technology activities" qualify for this credit. The credit is equal to the adjusted basis of the eligible equipment for federal income tax purposes less any lease payments received for the eligible equipment during the tax year. In the case of lessors, the credit is equal to the amount of lease payments made during the tax year less any lease payments received for the eligible equipment during the tax year. Lessors may claim the credit only if the lessee waives its entitlement to the credit. The credit may not reduce the taxpayer's liability below the previous year's net liability. Carryover provisions apply. The reimbursement period for the Business Equipment Tax Reimbursement program must be reduced one year for each tax year the eligible equipment is included in the basis for the High-Technology Credit. Also, Maine taxable income must be increased by the amount of the investment credit base also claimed as a business expense for federal income tax purposes. The credit applies to tax years beginning on or after January 1, 1998. (36 MRSA, §5219-M).

**CREDIT FOR DEPENDENT HEALTH BENEFITS PAID.** Employers that offer a qualified health benefit plan and that employ fewer than 5 low-income employees may qualify for this credit. The credit is equal to the lesser of 20% of the dependent health benefits paid by the employer or \$125 per employee. A taxpayer that employs 5 or more low-income employees after qualifying for the credit may continue to qualify for the credit for another 2 years. Otherwise, a taxpayer may claim a credit only for those periods during which the employer: 1) offers a qualified health benefit plan that is made available to all of its low-income employees; 2) pays at least 80% of the health insurance costs for each low-income employee under the plan; and 3) pays at least 60% of the cost of dependent health insurance benefits for children under 19 who are dependents of a low-income employee under the plan. The credit is limited to 50% of the income tax due. Any unused credit may be carried forward for 2 years. **The credit applies to tax years beginning on or after January 1, 1999.** (36 MRSA, §5219-O).

**CLEAN FUEL CREDIT.** The credit is based on the expenditures paid or incurred for construction, installation of or improvements to any filling station or charging station for the purpose of providing clean fuels to the general public for use in motor vehicles. Clean fuel is defined as any product or energy source other than conventional gasoline, diesel or reformulated gasoline, that lower emissions of certain pollutants. Clean fuel includes, but is not limited to, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, hythane, dynamic flywheels, solar energy, alcohol fuels and electricity. **The credit applies to expenditures incurred on or after January 1, 1999 and automatically expires January 1, 2006.** (36 MRSA, §5219-O).

**JOBS AND INVESTMENT TAX CREDIT.** The credit is amended to further require that qualifying jobs under the program are covered by a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 U.S. Code, Sections 101 to 1461, as amended; that group health insurance is provided for those employees; and that the wages for those employees are greater than the average annual per capita income in the labor market area in which the employee is employed. **These new requirements are in force after August 1, 1998 and before October 1, 2001.** (36 MRSA, §5215(3)(C)).

**MAINE SEED CAPITAL TAX CREDIT PROGRAM.** The program is expanded by increasing the investments eligible for the credit and to allow individuals a tax credit up to 30% of their cash investment in private venture capital funds. The credit was expanded to encompass businesses engaged in the development or application of advanced technologies. For details, contact the Finance Authority of Maine (FAME). **Effective July 9, 1998.** (10 MRSA, §§1100-T(2)(4) & 1100-T(2-A)).

**EMPLOYMENT TAX INCREMENT FINANCING (ETIF).** The time for measuring the labor market unemployment rate and the state unemployment rate will now be made at the time of application for reimbursement instead of the calendar year for which reimbursement is requested. The measurement will again be made at the beginning of the sixth year of the reimbursement period. These rates are used to determine the rate of reimbursement under the program. A new reimbursement rate of 75% applies when individuals are employed in labor market areas with an unemployment rate greater than 150% of the state unemployment rate at the time of application. **Effective July 9, 1998.** (36 MRSA, §§6753 & 6754).

**ESTIMATED INCOME TAX.** For tax years beginning on or after January 1, 1999, the requirement to make estimated income tax payments is waived if the amount of the estimated income tax liability minus allowable credits is less than \$1,000. (36 MRSA, §5228(2)).

**FINANCIAL INSTITUTIONS.** Financial institutions with Maine net income or Maine assets are subject to Maine's franchise tax, even if the institution is established as a flow-through entity such as a partnership, S corporation, or entity disregarded as separate from its owner. Owners of financial institutions subject to franchise tax requirements will not also be taxed on that income for individual or corporate purposes. **The changes apply retroactively to tax years beginning on or after January 1, 1997.** (36 MRSA, Chapter 819 and other Sections in Part 8).

**PAYROLL PROCESSING.** The definition of "payroll processing services" was clarified to mean "preparing and issuing payroll checks; preparing and filing state income withholding tax reports or unemployment insurance contribution reports; or collecting, holding and turning over to the State Tax Assessor income withholding taxes...or unemployment contributions..." (10 MRSA, §1495(2)). **Effective April 2, 1998.**

**INTERLOCAL AGREEMENTS.** Interest derived from lease-purchase agreements related to interlocal arrangements for customer premise telecommunications and related technology equipment is exempt from Maine income taxes. **Effective July 9, 1998.** (20-A MRSA, §15915-A).

**STATE RETURN ON INVESTMENT.** New legislation seeks to quantify the return on public investment from economic development incentives. To accomplish this, it imposes disclosure and reporting requirements on certain businesses applying for or receiving economic development incentives. The required information submitted to the Department of Economic and Community Development (DECD) is subject to public review. The newly created Economic Development Incentive Commission will review and advise DECD and the legislature on public benefits derived from economic development incentives provided to employers. **The new law is effective July 9, 1998 and automatically repealed October 1, 2001.**

**CONFORMITY.** Confirms the Maine income, estate and mining excise tax laws with the federal tax laws as of December 31, 1997. **The change applies to tax years beginning on or after January 1, 1997.** (36 MRSA, §111 (1-A)).

**PENALTY FOR INSUFFICIENT FUNDS.** The penalty for insufficient funds now applies to electronic funds transfers. The penalty is \$10 or 1% of the payment amount, whichever is greater. (36 MRSA, §187-B(5)). **Effective April 2, 1998.**

**PENALTY FOR FAILURE TO PAY BY ELECTRONIC FUNDS TRANSFER.** Any person required to pay by electronic funds transfer who fails to do so is liable for a penalty equal to the lesser of 5% of the tax due or \$5,000. (36 MRSA, §187-B(5-A)). **Effective April 2, 1998.**

# GENERAL INSTRUCTIONS

**1. CORPORATIONS SUBJECT TO INCOME TAX:** Every entity (including exempt organizations) must file Form 1120ME and pay the applicable Maine corporate income tax if it meets the following criteria:

1. The entity is subject to federal income tax as a corporation and;
2. The entity realizes Maine net income.

**Maine Net Income.** Maine net income is the taxpayer's federal taxable income modified by Maine law and apportionable to Maine. Income is apportionable to Maine if the taxpayer conducts business in Maine or owns or uses property in Maine in a corporate capacity.

**Conducting business in Maine** – without limitation, a corporation conducts business in Maine if it engages in any of the following activities in this state:

1. Maintains an office or other place of business;
2. Executes a contract;
3. Exercises or enforces contract rights;
4. Buys, sells or procures services or property; or
5. Employs labor.

**Owning or using property** – without limitation, a corporation owns or uses property in Maine if it:

1. Owns property that is held by another person in this state under a lease, consignment or other arrangement;
2. Uses in this state property that it holds under a lease, license or other arrangement; or
3. Maintains a stock of goods in this state.

**Exception for Certain Activities under Public Law 86-272.**

A foreign corporation that does business in Maine or owns or uses property in Maine is not subject to Maine income tax if its activities in the State are all activities that are set forth in Public Law 86-272.

**a. Solicitation Activities.** P. L. 86-272 precludes Maine from imposing a tax on the income of a foreign corporation if the sole activity of the corporation in this State is the solicitation by the corporation's representatives (in the name of the corporation or in the name of a prospective customer) of orders for the sale of tangible personal property, provided that the orders are sent outside of the State of Maine for approval or rejection, and provided that the orders are filled by shipment or delivery outside of Maine.

**Limitations.** P.L. 86-272 restricts a state's tax jurisdiction with respect to sales solicitation activities only if the taxpayer's activity is limited to solicitation of orders for the sale of **tangible personal property**. P.L. 86-272 does not afford protection in the following circumstances:

1. A **combination** of solicitation activities and non-solicitation activities in Maine;

2. The solicitation of orders for the sale or provision of **services**, either standing alone or in combination with the solicitation of orders for tangible property. Some examples of the combined sale of services and tangible personal property are photographic development and the provision of architectural or engineering services; and

3. The solicitation of orders for the sale, lease, rental, license, or other disposition of **real property or intangibles**.

**b. De minimis activities.** Non-solicitation business activities conducted by a corporation in Maine will not subject the corporation to taxation if the activities, taken together, are *de minimis*. For additional information, request a copy of Rule 808.

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**2. CORPORATIONS NOT SUBJECT TO THE MAINE CORPORATE INCOME TAX:** Corporations that elect to file under Subchapter "S" of the Internal Revenue Code (except those with federal taxable income at the corporate level), insurance companies subject to tax under 36 MRSA, Chapter 357 (Insurance Premiums Tax and Fire Investigation and Prevention Tax) and financial institutions (see **b.** below) are not subject to Maine corporate income tax. Corporate small business investment companies, licensed under the United States Small Business Investment Act of 1958 that are commercially domiciled in Maine and do business primarily in Maine are also not subject to this tax.

**a. LIMITED LIABILITY COMPANIES:** Maine law allows for the formation of limited liability companies. It provides that a domestic limited liability company or foreign limited liability company doing business in Maine is classified as a partnership for Maine income tax purposes, unless classified otherwise for federal income tax purposes, in which case the limited liability company is classified in the same manner for Maine income tax as for federal income tax purposes.

**b. BANKING INSTITUTIONS SUBJECT TO FRANCHISE TAX:** Every corporation that is a financial institution, except a credit union, any service corporation or subsidiary as defined in 9B MRSA, §131 and any financial institution holding company that is doing business in this state must file Form 1120B-ME and pay Maine franchise tax. This requirement also applies to any financial institution organized as an S corporation, partnership or entity disregarded as separate from its owner. **Do not use Form 1120ME.**

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**3. DATE FOR FILING RETURN:** Corporations reporting for the calendar year 1998 should file, with payment, on or before March 15, 1999. Fiscal year taxpayers should file, with payment, on or before the 15th day of the third month following the close of the taxable year.

# GENERAL INSTRUCTIONS CONTINUED

**4. EXTENSIONS FOR FILING:** The Executive Director may grant a reasonable extension of time for filing a return. The request for extension must be filed by the 15th day of the third month following the close of the taxable year - even if no additional tax is due. The Maine extension period is the same as the federal extension plus 30 days. Use extension Form 4477ME provided in this booklet to request an extension. If you owe money, you must pay at least 90% of that amount by the original due date for filing your return in order to avoid the penalty for late payment of tax.

**5. PAYMENT OF CORPORATE INCOME TAX:** All corporations subject to income taxes shall make payments of estimated tax unless the liability for the current taxable year or for the prior tax year reduced by any allowable credits is less than \$1,000 (for tax years beginning on or after January 1, 1999). See instructions for Form 1120ES-ME for details.

**6. INTEREST:** Interest at 10% per annum, compounded monthly, will be added to the balance of any tax due from the original due date to the date of payment and should be included with any payment.

## 7. PENALTIES:

**a. Underpayment of estimated tax penalty.** For calendar year 1998, the penalty is 10% per annum compounded monthly. For 1999, the penalty is 9% per annum compounded monthly. The penalty will be assessed if the sum of quarterly estimated tax payments is not at least equal to the lesser of the previous year's Maine income tax liability or ninety percent (90%) of the tax liability for the current year. Exception: certain large corporations cannot use the previous year's liability in determining the required amount of estimated tax payments.

**b. Late filing and late payment penalties.** If a past due return is filed before the receipt or within 30 days of 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 30 days after the receipt of a demand notice, the failure to file penalty increases to 100% of the tax otherwise 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%.

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

**8. ACCOUNTING PERIOD COVERED BY RETURN:** Your Maine return covers the same accounting period as your federal corporate return.

**9. ACCOUNTING METHODS:** A taxpayer's accounting method for Maine income tax purposes must be the same as that used for federal income tax purposes.

## 10. ADDITIONAL FORMS TO ACCOMPANY STATE RETURN:

**a.** The Maine corporate return, Form 1120ME, must be accompanied by a legible copy of the corporation's federal return, Form 1120, pages 1 through 4, for the same taxable period (if a member of a **Federal Consolidation**, the federal return, Consolidated Form 1120, pages 1 through 4 must be provided).

**b.** Any corporation subject to Maine corporate income tax that is a member of an affiliated group, whether or not unitary as defined by Maine law, **must complete Schedule CB.** Exempt organizations filing the Maine corporate return, Form 1120ME, must attach a legible copy of the corporation's federal return, Form 990T.

## 11. FILING REQUIREMENTS FOR S CORPORATIONS AND PARTNERSHIPS:

S corporations and partnerships, except financial institutions, that have Maine source income or that have resident shareholders or partners are required to file an information return consisting of Form 1065ME/1120S-ME, a copy of the federal return and Schedules K-1. If you are filing an information return for an S corporation that is not subject to tax at the corporate level, do not file Form 1120ME.

Shareholders and partners are subject to Maine income tax. Those who are nonresident individuals and who have no other Maine source income may satisfy the filing requirement with a composite return. In that event, the entity would file a return on behalf of its shareholders or partners using Form 1040ME labeled "composite return." For additional information, see Rule 805.

S corporations that incur federal taxable income (e.g. certain capital gains and certain built-in gains) at the corporate level are required to file Form 1120ME and report only the income on Form 1120ME that is taxed at the corporate level for federal purposes.

## 12. FEDERAL AUDIT CHANGES AND AMENDED RETURNS:

All taxpayers must file a Maine amended return for any change or correction by the Internal Revenue Service in federal taxable income within 90 days after final determination of such change or correction. Attach a copy of the Internal Revenue Agent's report with all supporting schedules to your Maine amended return, Form 1120X-ME.

Any taxpayer filing an amended federal income tax return must, within 90 days, file an amended Maine income tax return and attach a copy of federal Form 1120X. When filing returns that reflect federal net operating losses, a copy of federal Form 1139 must be attached.

In addition, an amended Maine income tax return is required to correct errors on a previously filed return. The amended return must be filed within 90 days of the discovery.

**13. MAINE SALES AND USE TAX INFORMATION:** Taxable items bought from out-of-state sellers that do not collect

Maine sales tax are subject to a "use" tax. The use tax equals 6% (5.5% beginning October 1, 1998) of the purchase price where no sales tax has been paid. Use tax is also due on mail orders where there is no sales tax. There is no use tax liability on purchases where sales tax has been paid to states with a sales tax rate equal to or greater than the Maine sales tax rate. If you are registered for sales/use tax purposes and are receiving returns, report purchases on the applicable "Taxable Purchases" line of that return. Call 207-287-2336 if you have questions about Maine Use Tax Law.

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**14. ELECTRONIC FUNDS TRANSFER:** Corporate taxpayers may make payments electronically using the ACH Credit Method. Credit method means that you can electronically transfer funds from your bank account to the State of Maine in the appropriate format. Taxpayers with an annual corporate liability of \$400,000 are mandated by Rule 102 to pay

electronically. You will be separately notified if mandated.

To obtain an application, a copy of the rule or to get more information, call 207-287-8276 or write: EFT Unit, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024.

The ACH Credit Method application and Rule 102 can also be downloaded from Maine Revenue Services' web page: <http://janus.state.me.us/revenue>.

**Penalty for failure to pay by electronic funds transfer.** This new penalty provides that any person required to pay by electronic funds transfer who fails to do so, is liable for a penalty equal to the lesser of 5% of the tax due or \$5,000. **Effective April 2, 1998.**

**Penalty for insufficient funds.** The penalty for insufficient funds now applies to electronic funds transfers. The penalty is \$10 or 1% of the payment amount, whichever is greater. **Effective April 2, 1998.**

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## **AFFILIATED/UNITARY BUSINESS Combined Reporting**

A taxable corporation that is a member of an affiliated group and is engaged in a multi-corporate unitary business must file a combined report based on the federal taxable income of the unitary group. Corporations that are part of an affiliated unitary group but are not required to file a federal income tax return are to be excluded from the combined filing.

Maine defines "**affiliated group**" to mean a group of two or more corporations in which more than 50% of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, or by one or more of the member corporations. A "**unitary business**" is one that is characterized by unity of ownership, functional integration, centralization of management and economies of scale. The cumulative effect of these characteristics is analyzed to determine if the affiliated businesses are unitary.

**Unity of ownership** is generally demonstrated when 50% or more of the voting stock is owned directly or indirectly by a common owner or owners, either corporate or non-corporate, or by one or more of the member entities.

**Centralized Management** is indicated when directors, officers, and/or other management personnel jointly participate in management decisions which effect the respective companies. Centralized management still exists when day-to-day management responsibilities are decentralized, as long as the overall strategy of the whole group is effected centrally. Other indicators of centralized management include management actions to ensure that the business segments are operated for the benefit of the entire group and not just for their own individual interest, transferring knowledge and expertise among the segments, common standards of professionalism, profitability and/or ethical practices, transferring or rotating of officers or other management employees among the business segments.

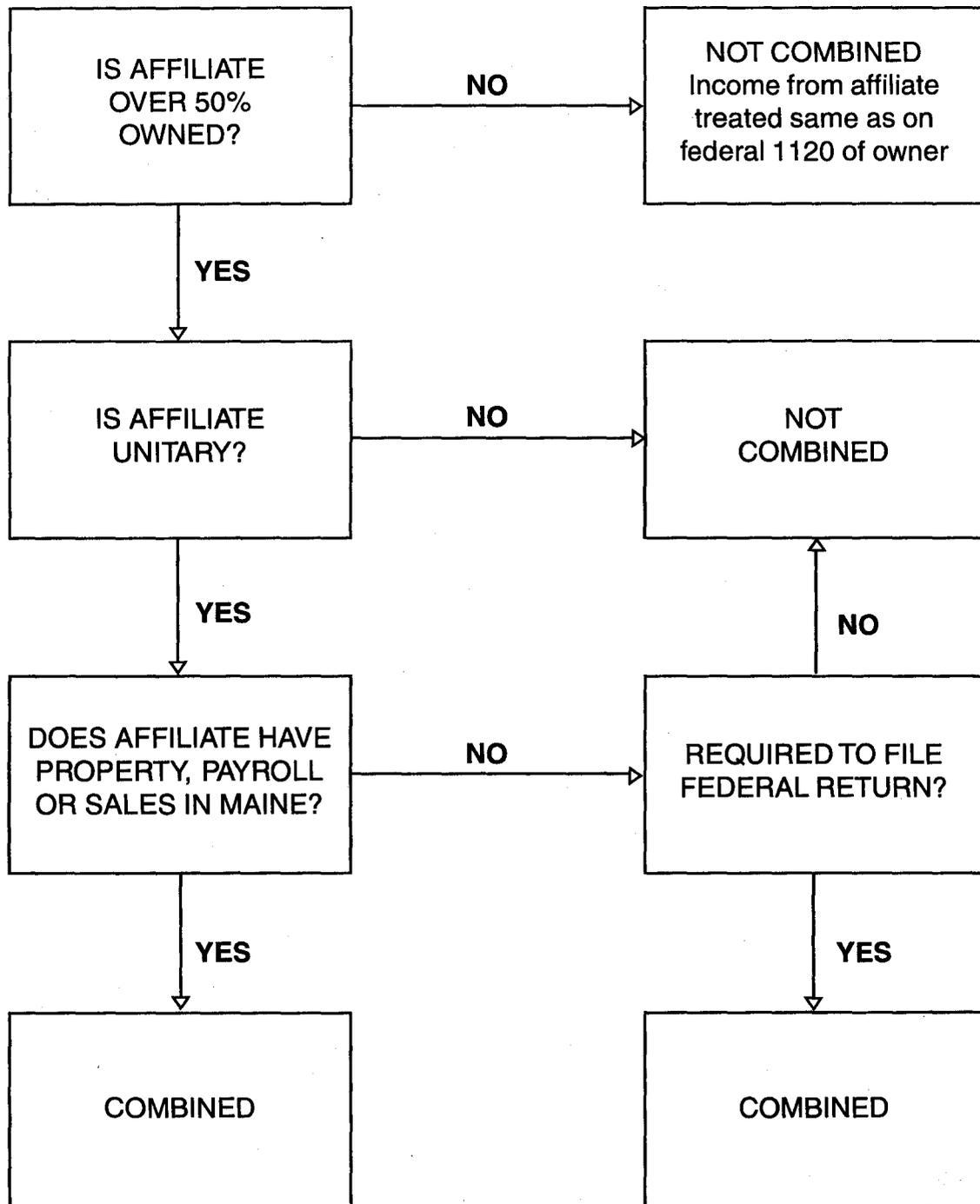
**Functional integration** refers to transfers between or pooling among business segments that significantly affect the business operations of the segments. There is no specific type of functional integration that must be present. Facts suggesting the presence of functional integration should be analyzed for their cumulative effect and not in isolation. Functional integration can be illustrated by: common marketing, intercompany sales, exchanges or transfers of products, services or intangibles, common distribution systems, common purchasing, etc.

**Economies of Scale** exist when companies interact to achieve, or have the potential to achieve, a decrease in the cost of production or in the cost of administrative functions due to the increase in size of the combination. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management.

A unitary determination is made by reviewing all business activities. When all activities are sufficiently related to another entity, a unitary business is present. An exchange or sharing of value through the above characteristics creates a unitary relationship. A unitary questionnaire is available on Maine Revenue Services web site (<http://janus.state.me.us/revenue>) to help determine whether businesses operate in a unitary manner.

**See Schedule CB and instructions on pages 17-20 for additional information on combined reporting.**

# MAINE COMBINED REPORTING DECISION TREE



**Note: For tax years beginning on or after January 1, 1997, 80/20 corporations must be included in the base for Maine net income and combined reporting.**

# NET OPERATING LOSS CARRYBACK/CARRYOVER

Maine income tax law does not provide for carryover or carryback of a Maine Net Operating Loss. Accordingly, such a loss may be carried over or back only to the extent that it results in a federal NOL deduction in another year.

**EXAMPLE 1:** Corporation X acquires corporation Y at the start of year 1. X and Y are not engaged together in a unitary business. X has nexus with Maine; Y does not. In all years, X files a separate return on Maine Form 1120ME.

Year 1: X Federal Taxable Income (FTI) is (\$80); Y FTI is \$100. The corporations elect to file a federal consolidated Form 1120; the loss and gain are combined. The result is a \$20 FTI; there is no operating loss for the federal consolidated group. X FTI for Maine purposes is (\$80).

Year 2: X and Y each have FTI of \$100. Because the federal consolidated group had no NOL carryover deduction for federal income tax purposes, there is no NOL carryover for Maine income tax purposes.

**EXAMPLE 2:** Corporation A acquires corporation B at the start of Year 1. These entities are unitary. A has nexus with Maine, B does not. At the start of Year 1, B has accrued federal NOLs prior to its acquisition by A. B uses NOL carryovers to determine Year 1 FTI on federal consolidated Form 1120.

Corporation A and corporation B file a Maine combined report for Year 1. For purposes of this combined report (and computation of A's Maine net income), the FTI of the unitary business is the total of A's FTI and B's FTI, which includes a line 29 deduction of B's pre-acquisition NOLs.

**Net Operating Loss Recovery Adjustment (Form 1120ME, line 4d).** This includes:

- (1) The amount of any net operating loss for this taxable year which has or will be carried back to previous taxable years pursuant to IRC, §172 and;
- (2) The amount of any net operating loss carryover deduction claimed in this taxable year under IRC, §172 which has been previously used to offset Maine modifications to federal taxable income (FTI).

The following example illustrates the NOL Recovery Adjustment:

	<u>NOL Year</u>	<u>Carryback Years</u>	
	<u>1998</u>	<u>1996</u>	<u>1997</u>
FTI .....	- 60,000	30,000	25,000
NOL Carryback from 1996		- 60,000	- 30,000
Amended FTI .....		- 30,000	- 5,000
<b><u>Maine Modifications</u></b>			
Income taxes imposed by Maine and other states...	12,000	10,000	8,000
NOL adjustment .....	60,000		
Addback of previously offset Maine modifications .....			10,000
Maine Taxable Income .....	12,000	- 20,000	13,000

For additional information concerning the NOL recovery adjustment, request a copy of Rule 807.

# SPECIFIC INSTRUCTIONS

**Line 1. FEDERAL TAXABLE INCOME:** Enter federal taxable income from line 30 of federal Form 1120 or line 26 of federal Form 1120A, unless the corporation is an S corporation. For S corporations, the corporate level federal taxable income would be entered on line 1 of the Maine corporate return. Corporations that are members of an affiliated unitary group should refer to the "Combined Reporting Instructions" on pages 5 and 6 and on Schedule CB.

**Line 2a. NONTAXABLE INTEREST:** Enter interest on U.S. Bonds, U.S. Treasury Notes or other obligations of the U.S. government which, by law, are exempt from state taxes, but taxable by the federal government.

Interest from bonds issued by Maine municipalities is exempt from Maine income tax even if taxed on the federal return. Taxpayers may subtract from federal taxable income interest income and capital gains from the sale of bonds issued by the Waste Management Agency to the extent included in federal taxable income.

**Line 2b. FOREIGN DIVIDEND GROSS-UP:** Enter the amount from federal Form 1120, Schedule C, line 15.

**Line 2c. WORK OPPORTUNITY CREDIT:** Enter on this line an amount equal to your federal Work Opportunity Credit from federal Form 5884, line 14.

**Line 2d. INCOME NOT TAXABLE UNDER THE CONSTITUTION OF MAINE OR THE U.S.:** Enter non-unitary income this state is prohibited from taxing under the constitutions of the United States or the State of Maine. The amount must be decreased by any expenses incurred in the production of that income to the extent that these expenses are deductible in determining federal taxable income.

**Line 2e. DIVIDENDS FROM AFFILIATED CORPORATIONS:** Enter 50% of all apportionable dividends from affiliated corporations that are not included by the taxpayer in a Maine combined report. Dividends must be included in federal taxable income, line 1.

**Line 2f. NET OPERATING LOSS DEDUCTION CARRYOVER:** If you have a net operating loss for tax years beginning in 1989, 1990, 1991 or 1992 that was carried back for federal purposes but not allowed for Maine, you are allowed a deduction on this line as a net operating loss carryover. However, the net operating loss carryover cannot reduce Maine net income to less than zero.

**Line 2g. INCOME FROM OWNERSHIP INTEREST IN FLOW-THROUGH ENTITY FINANCIAL INSTITUTIONS SUBJECT TO MAINE FRANCHISE TAX:** All financial institutions are subject to Maine's franchise tax, regardless of the entity's organizational structure. If federal taxable income includes income from ownership of a financial institution that is a flow-through entity (partnership, S corporation, entity disregarded as separate from its owner), enter the amount on this line. Attach Schedule K-1 to verify this amount.

**Line 4a. INCOMETAXES IMPOSED BY MAINE OR ANY OTHER STATE:** Maine does not permit a deduction for income taxes imposed by Maine or any other state. Add back income taxes taken as a deduction on federal Form 1120.

**Line 4b. UNRELATED EXPENSES:** If the corporation(s) listed on this return is (are) part of a group, but filing separately for Maine, any expenses incurred by the corporation(s) on behalf of subsidiaries or other members of a group that are not included on this return must be added back. Attach supporting schedules.

**Line 4c. INTEREST ON STATE AND MUNICIPAL BONDS OTHER THAN MAINE:** Corporations must add interest on state and municipal bonds that originate outside Maine to federal taxable income for Maine income tax purposes.

**Line 4d. NET OPERATING LOSS RECOVERY ADJUSTMENT:** Enter on this line:

(1) The amount of any net operating loss for this taxable year which has or will be carried back to previous taxable years pursuant to Internal Revenue Code, §172, and;

(2) The amount of any net operating loss carryover deduction claimed in this taxable year under Internal Revenue Code, §172, which has previously been used to offset Maine modifications to federal taxable income. (36 MRSA, §5200A, sub-§1). See example on page 7.

**Line 4e. LOSS, EXPENSES OR DEDUCTIONS FROM OWNERSHIP INTEREST IN FINANCIAL INSTITUTIONS SUBJECT TO MAINE FRANCHISE TAX:** All financial institutions are subject to Maine's franchise tax, regardless of the entity's organizational structure. If federal taxable income includes a loss, expense or deduction from ownership of a financial institution that is a flow-through entity (partnership, S corporation, entity disregarded as separate from its owner), enter the amount on this line. Attach Schedule K-1 to verify this amount.

**Line 4f. HIGH-TECHNOLOGY CREDIT ADD-BACK:** Maine taxable income must be increased by the amount of investment credit base used for the high-tech credit also claimed as a business expense for federal income tax purposes.

**Line 6. MAINETAXABLE INCOME:** Corporations that are not part of an affiliated-unitary group and have income solely from business activity within Maine enter on line 6 the same amount as on line 5. Corporations having income from within and outside the state apportion income on Schedule A and enter on this line the amount shown on line 17 of Schedule A. All corporations that are members of an affiliated-unitary group must complete Schedule A. See Combined Reporting Instructions on pages 5 and 6 of this booklet and the instructions on Schedule CB.

**Line 7a. MAINE CORPORATE INCOME TAX:** For tax years beginning in 1998, the Maine corporate tax rates are as follows:

If the Maine taxable income (MTI) is:

Greater Than	But not over	The tax is:
\$ 0	\$ 25,000	3.5% of Maine Taxable Income
25,000	75,000	\$ 875 plus 7.93% of the excess over \$ 25,000
75,000	250,000	4,840 plus 8.33% of the excess over \$ 75,000
250,000	or more	19,417 plus 8.93% of the excess over \$250,000

In the case of an affiliated group of corporations subject to Maine tax and engaged in a unitary business, the respective preferential rates are applied only to the first \$250,000 of Maine net income of the entire group and are divided equally among the taxable corporations unless those taxable corporations jointly elect a different assignment. The balance of Maine net income of the entire group is taxed at 8.93%. Attach a schedule to show income assignment to each corporation.

**Line 7b. MINIMUM TAX:** Minimum tax is imposed, for each taxable year, upon every corporate taxpayer required to file a Maine corporate income tax return. Complete Schedule B to compute the amount to be entered on this line.

**Lines 8a and b. CREDITS:** These lines are for taxpayers that have made estimated tax payments and deposits when requesting an extension of time for filing.

**Line 8c. OTHER CREDITS:** The amount on this line cannot exceed the tax liability on line 7c of Form 1120ME.

**Line 9b. PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX:** If the corporation underpaid estimated tax, complete and attach Form 2220ME to the corporate return.

**Line 11a. AMOUNT OF LINE 10 YOU WISH CREDITED:** Use this block only if you want to have all or part of the overpayment on line 10 applied as a payment to your next year's estimated Maine corporate income tax.

**Line 11b. AMOUNT TO BE REFUNDED:** Enter here the difference between lines 10 and 11a. Refunds of \$1.00 or more will be mailed to you.

# SCHEDULE A INSTRUCTIONS

**GENERAL INSTRUCTIONS:** Schedule A is for corporations engaged in interstate business. Maine employs a three-factor formula to determine the percentage of corporate income that is apportioned to Maine. This percentage is derived from a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is 4. If the apportionment provisions do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the Executive Director may require, in respect to all or any part of the taxpayer's business activity:

- (a) Separate accounting;
- (b) The exclusion of any one or more of the factors;
- (c) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state, or;
- (d) The employment of any other method to effectuate an equitable apportionment of the taxpayer's income.

"Tax period," referred to in instructions for lines 12, 13 and 14, means the period represented by adjusted federal taxable income on line 5 of Form 1120ME.

"Sales" means all gross receipts including trade sales, dividends, interest, rents and royalties.

Those corporations that are members of an affiliated-unitary group should see further instructions on pages 5 and 6, and on Schedule CB.

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## SPECIFIC INSTRUCTIONS

**Line 12. SALES FACTOR:** The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

**Sales of tangible personal property** are attributed to Maine if (1) the property is delivered or shipped to a purchaser, other than the United States Government, in Maine, regardless of the F.O.B. point or other conditions of the sale, or (2) the property is shipped from an office, store, warehouse, factory or other place of storage in Maine and the purchaser is the United States Government or the taxpayer is not taxed in the state of the purchaser.

**Sales, other than sales of tangible personal property,** are attributed to Maine if (1) the income-producing activity is performed in this state, or (2) the income-producing activity is performed both in and outside Maine, and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

**Line 13. PAYROLL FACTOR:** The payroll factor is a fraction, the numerator of which is total compensation paid in Maine during the tax period by the taxpayer, and the denominator of which is total compensation paid everywhere during the tax period. "Compensation" means wages, salaries, commissions and any other form of remuneration to employees for personal services, including deferred compensation. Compensation is paid in Maine if (1) the individual's service is performed entirely within this state, (2) the individual's service is performed both within and outside Maine, but the service performed outside the state is incidental to the individual's service within Maine, or (3) some of the service is performed in this state and the base of operations (or, if there is no base of operations, the place from where the service is directed or controlled) is not in any state in which some part of the service is performed, but the individual's residence is in Maine.

**Line 14. PROPERTY FACTOR:** The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property (including inventory) owned or rented and used in Maine during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property (including inventory) owned or rented and used during the tax period. Property owned by the taxpayer is valued at original cost.

Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rate received by the taxpayer from subrentals. The average value of the property shall be determined by averaging the values at the beginning and ending of the tax period, but the Executive Director may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

**Line 16.** Enter adjusted federal taxable income from page 2, line 5 of Form 1120ME.

# SCHEDULE C INSTRUCTIONS

**29a. Maine Seed Capital Tax Credit:** Enter on this line the tax credit as authorized by the Finance Authority of Maine. A copy of the tax credit certificate must be attached to the return. The amount of credit is subject to limitations as outlined in 36 MRSA, §5216-B.

**29b. Jobs and Investment Tax Credit:** A tax credit for qualifying jobs and investment is entered on this line. Eligibility for the credit requires the addition of \$5 million of IRC, §38 property based on the Internal Revenue Code of 1954, as of December 31, 1985, §38(b)(1), and 100 new jobs in the 24-month period following the date the property was placed in service. For further details see 36 MRSA, §5215. **Jobs created between August 1, 1998 and October 1, 2001 must be covered by qualified retirement and health insurance plans and wages must be greater than the average per capita income in the labor market area in which the employee is employed.**

**29c. Employer-Assisted Child Care Tax Credit:** A taxpayer constituting an employing unit is allowed a credit for providing or paying day care expenses of employees subject to the limitations of 36 MRSA, §5217. The tax credit is limited to the lowest of \$5,000, 20% of the cost incurred or \$100 for each child of an employee of the taxpayer enrolled on a full-time basis. Carryover provisions apply.

**29d. Employer-Provided Long-Term Care Benefits Credit:** A taxpayer constituting an employing unit is allowed a credit against tax for providing employees with long-term care insurance coverage subject to the limitations of 36 MRSA, §5217-B. The tax credit is limited to the lowest of \$5,000, 20% of the costs incurred or \$100 for each employee provided with a long-term care policy. Carryover provisions apply.

**29e. Machinery and Equipment Investment Tax Credit:** Machinery and equipment placed into service prior to January 1, 1989 and after April 1, 1996 does not qualify for the Machinery and Equipment Investment Tax Credit. The credit is equal to 1% of the investment credit base of the taxpayer. Machinery and equipment on which property taxes are reimbursed pursuant to 36 MRSA, Chapter 915 are also not eligible for the investment tax credit for that taxable year (applicable to tax years ending on or after July 1, 1997). The credit is limited to 100% of the first \$25,000 of tax liability plus 75% of any liability that exceeds \$25,000. The credit may not exceed the actual tax liability. Carryover provisions apply. New legislation also requires that the 12 year reimbursement period under the Business Equipment Tax Reimbursement Program be reduced one year for every year the qualified equipment was included in the Investment Tax Credit base. (36 MRSA, §5219-E).

**29f. Solid Waste Reduction Investment Tax Credit:** Taxpayers can claim a credit on solid waste reduction, reuse or recycling machinery and equipment certified as eligible for the credit by the State Planning Office. The credit is the amount certified by the State Planning Office and applies to machinery and equipment placed into service from January 1, 1990 to June 30, 1991 or January 1, 1993 to June 30, 1995. Carryover of any unused credit must be used by December 31, 2004. The taxpayer must attach a copy of the eligibility certificate in order to claim the credit. Recapture provisions apply on the early disposal of machinery and equipment for which a credit has been claimed (36 MRSA, §5219-D).

**29g. Research Expense Tax Credit:** The credit is 5% of qualified research expenses incurred during the taxable year that exceed the average qualified research expense for the previous 3 tax years, plus 7.5% of the basic research payments determined pursuant to IRC, §41(e)(1)(A). Only expenditures for research conducted in Maine qualify for the credit. The term "qualified research" is defined in IRC, §41(d). The credit is limited to the first \$25,000 of tax liability before credits plus 75% of the tax liability that exceeds \$25,000. Carryover provisions apply. (36 MRSA, §5219-K).

**29h. Super Research & Development Credit:** Businesses whose Maine research expenses increase by more than 50% over the average research expenses incurred in the 3 years immediately preceding the effective date of the credit qualify for the credit. The credit is equal to the excess over 150% of the 3-year average. The credit is limited to 50% of the net income tax due after other credits and may not reduce the tax liability below the liability of the previous year. Maine taxable income must be increased by the amount of the investment credit base also claimed as a business expense for federal income tax purposes. Carryover provisions apply. **The credit applies to tax years beginning on or after January 1, 1998.** (36 MRSA, §5219-L).

**29i. High-Technology Credit:** Entities engaged primarily in high-tech activities are eligible for this credit. The credit is equal to the adjusted basis of eligible equipment on the date that equipment is placed in service in Maine, net of any lease payments received during the year. Lessors may claim the credit only if the lessee waives its entitlement to the credit. The credit may not reduce current year's tax liability below the liability of the previous year after the allowance of all other credits. The credit may not reduce tax liability below zero. Carryover provisions apply. **The credit applies to tax years beginning on or after January 1, 1998.** (36 MRSA, §5219-M).

**29j. Maine Minimum Tax Credit:** A minimum tax credit is available for tax years beginning on or after January 1, 1992. This credit is modeled after the federal alternative minimum tax credit. Complete Schedule D on page 4 of Form 1120ME to calculate your credit.

**(NOTE: The total of Schedule C cannot exceed the tax liability on line 7c of Form 1120ME.)**

**IMPORTANT: IF ALL REQUIRED LINES AND SCHEDULES (INCLUDING SCHEDULE CB) ARE NOT COMPLETED, THE RETURN IS INCOMPLETE AND NOT CONSIDERED A FILED RETURN. ALSO, PAGES 1-4 OF THE FEDERAL RETURN MUST BE ATTACHED TO YOUR MAINE CORPORATE RETURN.**