



DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF REVENUE SERVICES, INCOME/ESTATE TAX DIVISION

Rule No. 805 (18-125 CMR 805)

COMPOSITE FILING

SUMMARY: This rule establishes procedures for filing of composite returns of income by partnerships, estates, trusts, and S corporations on behalf of partners, beneficiaries, or shareholders.

Outline of Contents:

1. Definitions
2. Filing of Returns
3. Election to Participate in Composite Filing
4. Computation of Tax
5. Business Credits
6. Payment of Tax
7. Amended Returns
8. Taxable Years
9. Due Date

SECTION 1. DEFINITIONS

1. Composite Return. "Composite return" means the Maine composite return filed by an entity in accordance with this rule on behalf of some or all of its partners, beneficiaries, or shareholders who are "eligible persons," as defined in Section 1(3) below.

2. Electing Small Business Trust. "Electing Small Business Trust" ("ESBT") has the same meaning as given to that term by Internal Revenue Code Section 1361(e).

3. Eligible Person. "Eligible person" means:

A. an individual who is a nonresident individual for the entire taxable year, and whose entire Maine adjusted gross income, including spouse's income in the case of married individuals filing a joint return, is from one or more entities, or

B. that portion of a federally recognized ESBT or QSST that consists of holdings of stock in an S corporation.

To be an eligible person, an ESBT must be a nonresident trust for Maine income tax purposes, in accordance with 36 MRSA, Chapter 813. A beneficiary of a QSST must be a nonresident for Maine income tax purposes for the QSST to qualify as an eligible person. If an ESBT holds stock in more than one S corporation, each stock holding must be considered separately for determining eligibility under this paragraph and must be treated as a separate eligible person for the purposes of this rule.

4. Entity. "Entity" means a partnership, limited partnership, limited liability partnership, estate, trust, or S corporation. "Entity" also includes a limited liability company classified as a partnership or S corporation for federal income tax purposes.

5. Entity Income. "Entity income" means an eligible person's distributive share of the net income of an entity, apportioned to Maine in accordance with 36 MRSA, Chapter 821.

"Entity income" for an ESBT means the ESBT's distributive share of net income of an S corporation taxable pursuant to Internal Revenue Code, Section 641(c), and apportioned to Maine in accordance with 36 MRSA, Chapter 821. If an ESBT holds stock in more than one S corporation, the entity income of each holding must be determined separately for purposes of this rule.

6. Qualified Subchapter S Trust. "Qualified Subchapter S Trust" ("QSST") has the same meaning as given to that term by Internal Revenue Code Section 1361(d)(3).

7. Tiered Partnership. "Tiered partnership" means an arrangement in which some or all of the interests in one partnership or pass-through entity ("lower tier partnership") are held by another partnership or pass-through entity ("upper tier partnership"). A tiered partnership arrangement may have two or more tiers.

SECTION 2. FILING OF RETURNS

1. Generally. An entity may file a composite return on behalf of its partners, beneficiaries, or shareholders who are eligible persons and who elect to participate in the composite filing. Eligible persons who are included in the composite filing will be deemed to have filed a Maine income tax return for the period covered by the composite return. Eligible persons who participate in the composite filing are personally liable for the tax amount reported on their behalf in the composite return and any tax, interest or penalty which may be assessed for that period in the same way as if a composite return had not been filed. The State Tax Assessor reserves the right to require the filing of a Maine nonresident individual income tax return by any of the eligible persons included in the composite return. Eligible persons are not jointly and severally liable for the tax, interest or penalty imposed on any other unrelated eligible person or the entity solely because of that eligible person's membership interest in the entity. *See* 36 MRSA § 5190.

2. Information required. The composite return must include, at a minimum, the name and taxpayer identification number of each eligible person included in the return, the amount of each eligible person's distributive share of taxable entity income and the tax thereon, the amount of each eligible person's share of any business tax credit claimed under 36 MRSA §5219-G, the amount of any payments previously made and applied to each eligible person's tax liability, and the amount of payment included with the return and applied to each eligible person's tax liability. The form must be complete and include all information and schedules required by law including, without limitation, Form 1040ME, Schedule 1040C-ME, and Schedule NRC.

3. Composite Returns for Tiered Partnerships: A tiered partnership may file a single composite return on behalf of the non-resident partners of a tiered partnership group if each

partnership and nonresident partner or shareholder is otherwise eligible to participate in the filing of a composite return. Unless a nonresident partner's only Maine source income is derived from one or more entities filing composite returns, the partner may not participate in the filing of the composite return. In addition to satisfying the general requirements of this Rule, the following additional requirements must also be met:

A. Each of the lower-tier partnerships (including any related flow-through entity with individual partners or shareholders) must join in the filing of a single composite return on behalf of its electing partners.

B. A schedule must be attached to the composite return indicating each partner's distributive share of Maine source income from each partnership, and the total amount of Maine source income received by each partner from all partnerships in the group.

C. A statement must be attached to the composite return, including an organizational chart, disclosing the structure and identity, including the names, addresses and federal identification numbers, of all the related entities from which participating nonresident partners directly or indirectly derive Maine source income.

SECTION 3. ELECTION TO PARTICIPATE IN COMPOSITE FILING

An entity filing a composite return must obtain written authorization in a form prescribed by the State Tax Assessor from those eligible persons included in the composite return to file a Maine individual income tax return on their behalf. The filed composite return constitutes a statement that authorization has been obtained from each included eligible person. By granting such authorization an eligible person waives any right to claim income modifications, deductions, exemptions, and credits allowable as a nonresident individual under the Maine Income Tax Law, other than business credits specified in 36 MRSA § 5219-G. An eligible person also waives any right to file an amended return to amend the reporting of any item reported by the entity, except through an amended composite return filed by the entity, for any taxable year for which a composite filing has been made on the eligible person's behalf. By granting the authorization, an eligible person agrees to be subject to the personal jurisdiction of the State of Maine and its agencies and courts for the purposes of determining and collecting Maine income tax, interest, and penalties.

SECTION 4. COMPUTATION OF TAX

The Maine income tax liability of each eligible person who elects to be included in a composite return is equal to the person's entity income multiplied by the highest marginal rate provided in 36 MRSA § 5111(1-A).

SECTION 5. BUSINESS CREDITS

Each participating eligible person may claim the person's share of the business credits to which the eligible entity is entitled. (*See* 36 MRSA § 5219-G.)

SECTION 6. PAYMENT OF TAX

An entity may make estimated or actual payments of Maine income tax on behalf of participating eligible persons. The payment must be accompanied by a schedule that includes, at a minimum, the name and taxpayer identification number of each person on whose behalf a payment is being made, the amount of the payment allocable to each person, and an indication that each person either has or has not elected to file on a composite return for that taxable year. The eligible person must ensure payments of estimated tax are made as required by 36 MRSA § 5228.

SECTION 7. AMENDED RETURNS

A composite return may not be changed or corrected except by an amended composite return filed by the entity.

SECTION 8. TAXABLE YEARS

Notwithstanding the provisions of 36 MRSA §§ 5102(1-C) and (11), the taxable year of an eligible person included in a composite return is the taxable year of the entity, and the Maine adjusted gross income of an eligible person included in a composite return is that person's entity income for that taxable year.

SECTION 9. DUE DATE

The due date of the composite return is the fifteenth day of the fourth month following the close of the taxable year of the entity.

AUTHORITY: 36 MRSA §§ 112, 5192(5)

EFFECTIVE DATE: September 21, 1987

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