



MAINE TAX ALERT

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Maine Revenue Services Rulemaking Activity

Repeal and Replace Rule 202, “Tree Growth Tax Law Valuations.” Maine Revenue Services has repealed and replaced Rule 202. This is routine annual rulemaking. Title 36 §576 requires the State Tax Assessor to annually determine 100% valuations per acre for each forest type by economic region for parcels under the Tree Growth Tax Law. The new rule is applicable to the 2012 tax year and is available on the MRS website at www.maine.gov/revenue (select Laws & Rules).

The following Rule changes were previously announced in a February 15, 2012 tax alert email.

Adopted Rule 601, “Estate Tax.” This rule, which was last amended in 2010, provides comprehensive definitions and explanations of statutory terms and procedures for Maine estate tax returns. The adopted rule was revised to reflect legislative changes related to the Maine QTIP calculation, the increased exclusion and new chapter related to estates for decedent’s dying after December 31, 2012 and the prohibition of considering the use of financial institutions as part of a domicile determination. Additionally, wording throughout the rule was revised to be more precise. The deadline for filing an amended return in .03(D) was extended to reflect the passage of a recent law that changed that date from 90 to 180 days. The domicile discussion in section .07(B) was edited to more closely follow the language in Rule 807 – Residency. Section .07(D)(1) was amended to remove the inclusion of proceeds from the sale of Maine property in response to a law change. Section .07(D)(2) was changed to more closely follow the language of the statute that was recently amended. Various other editorial changes were made.

Rule 601 can be found on the MRS website at www.maine.gov/revenue (select Laws & Rules).

Adopted Rule 806, “Nonresident Individual Income Tax.” This rule, which was last amended in 2006, provides comprehensive definitions and explanations of statutory terms and procedures for nonresident individual income tax filers. The adopted rule was revised to reflect legislative changes related to minimum taxability thresholds and to update the Rule’s format. New definitions of “permanent business presence,” “research and development,” and “temporary business presence” were added in section .01 to clarify the use of these terms elsewhere in the rule. In section .02(E), the meaning of “original cost” as used in that subsection was clarified by reference to Rule 801. In section .02(G) and (H), discussion of the minimum taxability thresholds was revised to reflect legislative changes to the thresholds and further clarified in response to comments received. Section .03 was revised to reflect changes to federal and state law impacting, respectively, military spouses and nonresident employees subject to interlocal agreements. Section .04 was updated to include discussion of the existing law applicable to net operating losses that began in 2009. An application date was added at the end of the rule. Various other editorial changes were made, including revisions throughout to make the rule more precise.

Rule 806 can be found on the MRS website at www.maine.gov/revenue (select Laws & Rules).

Adopted Rule 807, “Residency.” This rule, first adopted by MRS in 2010, explains the topic of residency. The adopted rule was revised to reflect legislative changes excluding the consideration of financial institutions from a domicile determination. A reference to the Internal Revenue Code was added to the factor related to the individual’s principal residence. In section .06(B)(3), how a portion of a day is counted was clarified. An application date was added in section .10. Various other editorial changes were made, particularly related to format.

Rule 807 can be found on the MRS website at www.maine.gov/revenue (select Laws & Rules).

Overview of the 2012 Filing Season

As of April 27th, the Revenue Processing Center had completed processing all 2011 Forms 1040 received before April 19th. This is ten days earlier than last year, even though over 38,000 more returns were received and processed. This was accomplished while bringing online a new imaging and data capture system, which provides enhanced imaging and automated data recognition technologies which allow same day deposits of funds.

Again this year, MRS has seen a general improvement in processing, which is directly related to the implementation of a new imaging system and most importantly to the increased use of electronically filed individual income tax returns by taxpayers and tax practitioners.

In addition, the following reflects the increased activity in electronic filing and payments.

- 75% of returns filed to date have been electronically filed. Each return filed electronically vs. paper saves taxpayers about \$1.45.
- 69% of taxpayer refunds have been requested to be electronically deposited directly to their account. Each electronic refund saves taxpayers about \$.45.
- Refunds are paid within an average of 5 days.
- 78% (increased from 75% last year) of tax payments MRS processes is received electronically.

All of these accomplishments have helped MRS to gain outstanding efficiencies and provide enhanced taxpayer services.

2012 Sales Tax Seminars

MRS is pleased to announce that a variety of tax seminars covering sales, use and service provider taxes have been planned for 2012. The schedule can be found on our website at www.maine.gov/revenue/salesuse/salessymposiumfuturedates2012.html. These industry-focused seminars will be held across the state at various times during the year and are free of charge (with the exception of the sales tax symposium to be held in September).

Please take the time to review our schedule and join us for a complete overview of the sales, use and service provider tax law as it applies to your business.

Sales Tax Bulletin News

Instructional Bulletin 27 “Sales of Prepared Food” has recently been amended. All bulletins can be seen at www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm.

Filing Procedures Changing for Form 1065ME/1120S-ME (Information Return for Partnerships/S Corporations)

For tax years beginning in 2011. As noted most recently in the February, 2012 version of the Maine Tax Alert, Maine Form 1065ME/1120S-ME for 2011 is not required to be filed if *all* partners, shareholders or members of the entity are Maine resident individuals, estates, or trusts, determined on the last day of the tax year (December 31 for calendar year filers). Thus, this form and related Schedule PSI is required to be filed only if the entity had Maine business activity during the year; the entity files a federal Form 1065 or Form 1120S; and the entity had one or more owners that were not individuals, estates, or trusts, or one or more owners that were nonresident individuals, estates or trusts.

For tax years beginning on or after January 1, 2012. The requirement to file Form 1065ME/1120S-ME has been repealed for tax years beginning *on or after* January 1, 2012. Thus, Form 1065ME/1120S-ME will no longer be required for tax years beginning after 2011. See LD 1903, PL 2011, Chapter 655, Part QQ.

If you have any questions regarding these changes, please call 207-624-9670 or email partner-scorp.tax@maine.gov.

Reminder: Changes in Procedures for Filing Certain Pass-through Entity Withholding Forms for Nonresident Owners (Form 941P-ME, Form 941E-ME & Form 941LM-ME)

As noted most recently in the February, 2012 issue of the Maine Tax Alert, MRS is changing the filing requirements for certain pass-through entity withholding forms to further reduce the administrative burden on businesses.

For calendar years 2012 and after, the quarterly **Form 941P-ME** (Pass-through Entity Withholding Return) will be replaced with an *annual* Form 941P-ME and quarterly *estimated* pass-through entity withholding payments for nonresident partners, shareholders or members. The new form will be available to software developers later this summer and posted to the MRS website in November or December for use by affected entities beginning January 1, 2013.

In addition, **Form 941E-ME** (Pass-through Entity Withholding Exemption Form) and **Form 941LM-ME** (List of Participating Members in the Compliant Taxpayer Exemption Request) are discontinued. The new annual Form 941P-ME will include a schedule to list members exempt from the pass-through entity withholding requirement, including members participating in the compliant taxpayer exemption and members participating in the composite filing exemption. See discussion on exemptions below.

The following automatic exemptions from the pass-through entity withholding requirement will

continue to apply:

- the nonresident member will have less than \$1,000 in Maine-source income from the entity during the year;
- the nonresident member is a tax-exempt entity; and
- the nonresident member is a pass-through entity that realizes income from another pass-through entity upon which an amount has already been withheld.

Pass-through entities must keep on file for at least 3 years Form 941AF-ME (Nonresident Member Affidavit and Agreement for Compliance with Maine Income Tax) and Form 941CF-ME (Composite Filing Participation Statement) for each nonresident member for which it is claiming the exemption.

An entity may request other exemptions in writing for unusual circumstances. Such exemptions are valid only for the calendar year for which they are granted. In addition, all exemptions become invalid if the annual Form 941P-ME is not filed timely.

If you have any questions regarding the new procedures, please call 207-626-8475 (press 1, then option 4) or email withholding.tax@maine.gov.

Maine Revenue Services Criminal Tax Cases

Gray Man Sentenced for Stealing from AMVETS

Attorney General William J. Schneider announced that Peter R. Bragdon, 33, of Gray, was sentenced for stealing \$8,902 from the Maine Chapter of AMVETS (American Veterans). Androscoggin County Superior Court Justice MaryGay Kennedy sentenced Bragdon to three years of incarceration with all but 18 months suspended, and two years of probation.

Bragdon, a former dispatcher for the Androscoggin County Sheriff's Office, was the Commander of the Maine AMVETS chapter. Bragdon maintained access to the AMVETS bank account after he was forced to resign in 2009 due to alleged poor management and misconduct. He stole money from the account for nearly two years after his resignation.

AMVETS, a national veterans and community service organization, provides outreach and support to veterans, their families, and through a range of initiatives, aims to contribute to the quality of life in local communities.

Bragdon will be immediately paying back a portion of the money he stole. Bragdon is also awaiting sentencing in the Kennebec County Superior Court after pleading guilty to unrelated income tax charges of forgery, intentional tax evasion, and attempted theft by deception of an income tax refund. Bragdon previously pled guilty in the Lewiston District Court to the charge of negotiating a worthless instrument and is awaiting sentencing on that charge, as well.

"AMVETS has a proud tradition of helping veterans and sponsoring programs that serve our citizens and our country," said Attorney General Schneider. "Stealing from a volunteer-led charitable organization that contributes so much to the local community is intolerable and we are pleased that justice was served in this case."

These cases were investigated and prosecuted by the Cumberland County Sheriff's Office, the Mechanic Fall's Police Department, the Androscoggin County District Attorney's Office, and

Maine Revenue Services. Assistant Attorney General Gregg D. Bernstein handled this matter for Attorney General Schneider's Criminal Division.

<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) 287-3618	
Audit	(207) 822-0450	(207) 822-0453	
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) 287-6628	efile.helpdesk@maine.gov
Electronic Funds Transfer	(207) 287-8276	(207) 287-6975	efunds.transfer@maine.gov
Estate & Fiduciary 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		
Individual Income Tax Assistance	(207) 626-8475	(207) 624-9694	income.tax@maine.gov
Insurance Premium Tax	(207) 624-9753	(207) 624-9694	
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.

Suggestions for the Tax Alert?

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