

Your Rights As A Taxpayer

www.maine.gov/revenue

Most people understand they have a duty to pay all taxes imposed by the State of Maine when those taxes are due. Many people, however, do not know that the law gives them some important rights as taxpayers and places important obligations on the State in its dealings with them.

Maine Revenue Services (MRS) believes that everyone benefits when taxpayers know their rights under the tax laws. To help you understand what you may expect of MRS, this brochure has been prepared to describe your rights and MRS obligations.

The mission of Maine Revenue Services is to fairly and efficiently administer the tax laws of the State of Maine, while maintaining the highest degree of integrity and professionalism. You can help achieve that goal by understanding your rights as a taxpayer. Please read the following information carefully and feel free to call MRS if you have any questions. You'll find MRS contact information at the end of this brochure.

I've received an assessment or other determination, but I don't agree that I owe the tax. What should I do?

You have 60 days from the day you receive an assessment or certain other determination to ask MRS to reconsider its decision. See 36 M.R.S. § 151. The law provides that a request for reconsideration must be in writing; please use the Petition for Reconsideration form available at www.maine.gov/revenue/forms/general/generalforms.htm or call (207) 624-9595 to have one mailed to you. Include in your petition the amount of the refund or the amount of the tax, interest, and penalty you want MRS to reconsider along with a detailed description supporting your request. Make sure the request is postmarked or delivered to MRS before the 60-day period runs out. Mail your petition to:

**Division Reconsideration
Maine Revenue Services
PO Box 1060
Augusta, Maine 04332-1060**

I've received an assessment. I agree with the assessment, but can't pay. What should I do?

If you are unable to pay the amount due in full, you should pay as much as you can now. Penalties and interest may accrue on any unpaid balance until paid.

You may call MRS to discuss payment arrangements. Please refer to the phone numbers located at the end of this document, under the section labeled "Collections, payment arrangements and payment plan options." Contacting MRS timely and establishing an acceptable payment plan may prevent enforced collection activity against you.

Can I ask to have interest waived?

Yes. MRS may waive interest in certain unusual circumstances. However, these cases are very rare. You can ask for reconsideration of interest charges by filing a Petition for Reconsideration as explained above. See 36 M.R.S. § 186.

Can I ask to have penalties waived?

Yes. MRS must waive *certain* penalties on a showing of reasonable cause as provided by 36 M.R.S. § 187-B(7). You can ask for reconsideration of certain penalty charges by filing a Petition for Reconsideration as explained above. Reasonable cause for waiver of certain penalties includes, but is not limited to, erroneous information provided by MRS, death or serious illness of the taxpayer or member of the taxpayer's immediate family, or a natural disaster. However, negligence, fraud, and insufficient-funds penalties are *not* subject to waiver. See 36 M.R.S. § 187-B(7).

What do I do if I think I'm entitled to a refund?

If you believe that you have overpaid a tax, you must request a refund in writing or file an amended return within the period allowed by law (generally three years from the date of overpayment). If MRS denies your request, you may ask for reconsideration under the same procedure used for assessments.

After I file a Petition for Reconsideration, do I still have to pay the tax?

No. Ordinarily, you don't have to pay the tax while your case is under appeal. No attempt will be made to collect the tax while your case is under appeal.

However, if you have received a special kind of assessment called a "jeopardy" assessment, you must pay the requested amount, or file a bond or other security, to prevent immediate collection proceedings. You may still file a Petition for Reconsideration within 60 days as with any other tax assessment.

If MRS determines that you owe the tax, you will owe additional interest and may owe additional penalties if you did not pay the tax when first assessed. You can avoid interest and penalties being added to your bill by helping to get your case decided as quickly as possible. For example, if you have any documents that you want MRS to consider, you should attach copies of them to your Petition for Reconsideration request. You should also be as specific as possible in explaining why you believe the assessment is not correct.

If you paid the tax, interest, and penalties and MRS determines that you do not owe the tax, or if interest and/or penalty is waived, MRS will issue you a refund.

Can I ask to meet with MRS?

Yes, if you think meeting with MRS would be helpful. A meeting with MRS may be held in person or by telephone. You may bring an attorney, an accountant, a bookkeeper or any other representative you believe would be helpful to you during the meeting. To safeguard the confidentiality of your tax information, please provide MRS with a document, which must be signed by you, authorizing MRS to communicate with your representative regarding your tax matter. You may use the Petition for Reconsideration form, the MRS Power of Attorney form (Form 2848-ME), or the MRS Limited Power of Attorney form (Form 2848-ME-L). Note that a *limited* power of attorney form authorizes the designated person to communicate with MRS but *not* to act on your behalf. All forms are available at www.maine.gov/revenue/forms/general/generalforms.htm, or you may call (207) 624-9595 to have a Petition for Reconsideration or Power of Attorney form (Form 2848-ME or Form 2848-ME-L) mailed to you. You may stop a meeting at any time if you want to consult with an attorney, accountant, or other representative. Another date can be scheduled to finish the meeting.

Whether or not a meeting is held, MRS will attempt to resolve the tax issues with you through correspondence, informal discussion, or settlement negotiations.

May I record a meeting with MRS?

Yes. Any time you meet with an MRS representative concerning the determination or collection of tax, you may at your own expense make an audio recording of the meeting. If you want to make a recording, you must let MRS know before the meeting.

Who makes the decision on reconsideration on my case after I have explained my position to MRS?

The division that made the assessment will review your Petition for Reconsideration and any additional evidence presented and approve or deny your request. **Note: Pursuant to 36 M.R.S. § 191(2)(UU), reconsideration decisions may be produced in court or pursuant to a discovery or freedom of access request in redacted format so as not to reveal any taxpayer-identifying information.**

How will I be notified of your decision on reconsideration?

Generally, MRS will mail you or your representative a decision on reconsideration letter within 90 days of receiving your Petition for Reconsideration. However, the 90-day period can be extended by mutual consent.

What can I do if your decision on reconsideration says that I still owe the tax?

You may contact MRS to make arrangements to pay the amount due, including discussion of payment plan options. If you still don't agree that you owe the tax and your reconsideration request was timely filed with the Assessor, you have 60 days from the date you receive the MRS decision on reconsideration to appeal your case to the Maine Board of Tax Appeals (if the amount in your Petition for Reconsideration was \$1,000 or more) or the Maine Superior Court (regardless of the amount stated in your Petition for Reconsideration). You have the right to request an appeals conference with the Maine Board of Tax Appeals. Decisions by the Board may be appealed to the Maine Superior Court.

At any time, you may submit an offer-in-compromise (settlement) request to MRS. MRS may compromise a tax liability only in cases where there is doubt as to the liability or doubt as to the collectability of the tax, or both. Acceptance of a settlement request is discretionary; that is, MRS may accept or reject a settlement request, or make a counter-offer. A taxpayer may not ask for reconsideration of an MRS decision to reject a settlement request. In addition, if MRS accepts a settlement offer, the liability in question is conclusively settled; neither the taxpayer nor MRS may reopen the settlement agreement except in the case of falsification or concealment of assets by the taxpayer, fraud or mutual mistake of material fact. See 36 M.R.S. § 143 and www.maine.gov/revenue/compliance/homepage.html.

What happens if I miss the 60-day deadline to ask for reconsideration?

As discussed above, you may submit an offer-in-compromise request to MRS at any time. In addition, you have three years from the date of the assessment to request that MRS cancel or abate any tax that has been levied illegally or in certain other situations. See 36 M.R.S. §§ 142 and 143. There is no right to appeal the decision if MRS declines to cancel or abate the tax, and collection efforts may proceed.

What happens if I don't pay?

If tax is due, and you have no remaining appeal rights, you will receive a letter from MRS informing you that you have 10 days to pay the full amount to avoid enforced collection. The letter will also explain your rights during the enforced collection process. See 36 M.R.S. § 171. Payment plan arrangements may be available.

What does enforced collection mean?

Enforced collection means that if you do not pay the required amount voluntarily, MRS can collect it from you by various methods, including seizing and selling your property. MRS can also attach your wages, levy your bank account, and block the renewal of a professional Maine license(s) or revoke the license(s).

Is all of my property subject to enforced collection?

No. There are certain items that MRS cannot seize and sell, and a portion of your wages is exempt from attachment.

What if I have not filed a required return or paid the tax due?

If a return is filed after the due date, a late filing penalty is charged. The penalty is \$25 or 10% of the tax due, whichever is greater. If a return is not filed after MRS sends a formal written "demand notice" for the return, the penalty is \$25 or 25% of the tax due, whichever is greater. In addition, interest and penalties are charged for late tax payments. The penalty can be as much as 25% of the tax due. See 36 M.R.S. §§ 186 and 187-B.

I've been notified that I am scheduled for an audit. What records may the auditors examine?

Whenever necessary for the administration of Title 36, MRS auditors may examine any books and records, *including electronic records*, or other property that is relevant to determining your tax liability. The auditors will work with you to determine a convenient time for the audit and will tell you in advance which initial records you should arrange to have available. As the audit progresses, it may become necessary for the auditor to make additional requests for records needed for the completion of the audit. These requests will be made in a timely manner. See 36 M.R.S. §§ 112(3) and (4); see also MRS Rule 103.

Will the information in my records be kept confidential?

Information obtained from taxpayers by MRS is kept strictly confidential, unless release is otherwise authorized by law. See, e.g., 36 M.R.S. § 191. In fact, the law imposes criminal penalties on any MRS employee who wrongfully inspects or divulges confidential information. A person who willfully violates the confidentiality laws under 36 M.R.S. § 191 commits a Class E crime and an offender who is an officer or employee of the State must be dismissed from office. **Note: Pursuant to 36 M.R.S. § 191(2)(UU), reconsideration decisions may be produced in court or pursuant to a discovery or freedom of access request in redacted format so as not to reveal any taxpayer-identifying information.**

Who may I contact if I have been unable to resolve a problem with MRS?

You may contact the Taxpayer Advocate if you would like assistance in resolving a problem with MRS. See contact information below. The Taxpayer Advocate has the authority to investigate complaints affecting taxpayers generally or any particular taxpayer and, when appropriate, to make recommendations to MRS with respect to those complaints. MRS is required by law to respond within 3 months of receiving a formal recommendation for change from the Taxpayer Advocate. The Taxpayer Advocate may also propose law changes in an effort to reduce problems taxpayers have with MRS.

Where can I get more information?

At www.maine.gov/revenue or call:

General information	(207) 624-9620
Taxpayer Advocate	(207) 624-9649
Sales and Use tax	(207) 624-9693
Income/Estate tax	(207) 626-8475
Corporate tax	(207) 624-9670
Business, motor fuels, special and industry taxes	(207) 624-9609
Property tax and Business Equipment Tax Reimbursement	(207) 624-5600

Collections, payment arrangements, and payment plan options:

Income tax (Maine):	(207) 621-4300
(outside Maine):	(800) 987-7735
Other taxes:	(207) 624-9595

For email and mailing addresses, click on *Contact Us* at www.maine.gov/revenue.

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