



# MAINE TAX ALERT

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Public Communications Tel: (207) 626-8478

## Maine Revenue Services Rulemaking Activity

**Amendments to Rule 801, "Apportionment of Income."** This rule last amended in February 2009, explains the basis for the apportionment of net income of corporations, pass-through entities, sole proprietorships and other business types as required by law. The proposed amendments to Rule 801 reflect legislative changes made in 2009 and correct other portions of the Rule. Specifically, in section .06, language has been changed to reflect the adoption of the "throw out" rule and in .06(C) and (E) to delete wording that is no longer accurate due to that adoption. The application date and the summary at the beginning of the Rule have been updated.

Proposed amended Rule 801 can be found on the MRS web site at [www.maine.gov/revenue](http://www.maine.gov/revenue) (select Laws & Rules). Comments are due by April 14, 2010, and should be directed to Edward Charbonneau, Esq., Deputy Executive Director – Legal, (207) 624-9626, [Edward.Charbonneau@maine.gov](mailto:Edward.Charbonneau@maine.gov).

## Maine Income Tax Withholding Military Spouses Residency Relief Act

Federal Public Law No. 111-97, the Military Spouses Residency Relief Act (MSRRA), was signed into law on November 8, 2009. The new law amends section 571 of the Servicemembers Civil Relief Act (SCRA) and affects the state income taxation of the spouse of a military servicemember (military spouse) who meets certain qualifications.

### **Domicile or Residence of a Military Spouse for Tax Purposes**

MSRRA provides that a military spouse cannot lose or acquire residence or domicile in a state when the military spouse is absent from, or located in, a state solely to be with the servicemember who is complying with military orders. Consequently, for Maine income tax purposes, a military spouse will not be treated as a resident of Maine if the following conditions are met:

- The military spouse is located in Maine solely to be with the servicemember;
- The servicemember is located in Maine in compliance with military orders;
- The servicemember and the spouse were resident or domiciled in a state other than Maine immediately prior to being located in Maine; and
- The servicemember and the spouse have the same state of residency or domicile.

## **Certain Income Not Sourced to Maine**

Maine law imposes income tax on the Maine-source income of a nonresident individual. Under provisions of SCRA, income of a military spouse for the performance of services in Maine will not be treated as Maine-source income subject to Maine income taxation if:

- The military spouse is not a resident or domiciliary of Maine;
- The military spouse is located in Maine solely to be with the servicemember;
- The servicemember is located in Maine in compliance with military orders; and
- The servicemember and the spouse have the same state of residency or domicile.

For purposes of the new law, income from the performance of services includes:

- Wages, salaries and other compensation for services performed by a military spouse as an employee, and
- Any other income received, to the extent it is for services performed directly by the military spouse (e.g. personal services provided by a sole proprietor).

The exclusion from state taxation applies only with respect to the military spouse. Non-military income earned in Maine by a servicemember is Maine-source income and remains subject to Maine income tax.

## **Exemption from Withholding**

For tax years beginning on or after January 1, 2010, a military spouse may claim exemption from Maine income tax withholding with respect to wages, salaries and other compensation received for services performed in Maine as an employee if such compensation is excluded from Maine-source income under MSRRA. To claim the exemption, the military spouse must complete Form W-4ME, line 6e (see revised Form W-4ME at [www.maine.gov/revenue/forms/with/Form%20W-4ME\\_Mar2010.pdf](http://www.maine.gov/revenue/forms/with/Form%20W-4ME_Mar2010.pdf)).

To qualify for the exemption, the military spouse must attach a copy of the servicemember's latest Leave and Earning Statement (LES) to Form W-4ME. From information on the LES, the employer must ensure that the assignment is at a location in Maine. The military spouse must also present a valid military ID as proof that the employee is a spouse of a servicemember. The employer may NOT accept a military ID dated more than four years before the date on which it is given to the employer.

The employer may not accept an exemption certificate if the employer has actual knowledge, or reason to know, that the military spouse does not meet the requirements to be exempt. In this case, the employer must continue to withhold.

The military spouse exemption claimed on Form W-4ME, line 6e automatically expires at the end of the calendar year in which it is submitted, at which time the military spouse must submit a new Form W-4ME or become subject to Maine withholding using a filing status of single with one exemption.

## **Income Earned in 2009**

MSRRA applies to tax years beginning on or after January 1, 2009. Therefore, military spouses whose compensation was subject to Maine income tax withholding or estimated tax payments in 2009 may claim the withholding and estimated tax payments on their 2009 income tax return and, if applicable, receive a refund of any overpayment. Military spouse compensation not subject to Maine income tax under MSRRA is claimed as an income modification deduction on 2009 Maine Form 1040ME, Schedule 1, line 2k and on related lines on Maine Schedule NR or Schedule NRH.

## **Maine Revenue Service News & Updates**

### **Property Tax Division**

- ♦ The Secretary of State certified the 2010 State Valuation on January 20. The 2010 state valuation of \$170,336,350,000 is 1.35% greater than the 2009 State Valuation.

### **Income/Estate Tax Division**

- ♦ By the end of January, MRS had processed over 50,000 individual income tax returns for tax year 2009. No major issues have been identified to hold up processing returns. Beginning February 1, MRS will issue 1040 refunds twice a week.
- ♦ 190,312 Forms 1099G were mailed to taxpayers receiving income and property tax refunds during 2009. Taxpayers who itemize deductions need this information to file their 2009 federal income tax forms.

### **Tax Processing Center**

- ♦ January payments received via the Electronic Funds Transfer (EFT) options increased compared to last year in January. MRS received 54,166 payments totaling \$216,124,490 in revenue this month. This represents an increase of 19.7% in the number of payments with an increase of 18.5% in revenue received via EFT over this same month last year. During January, the EFT unit set up 26 ACH Debit and 72 ACH Credit applications.
- ♦ **Maine EZ-Pay:** 9,601 payments totaling \$32,498,980 were received through the Maine EZ-Pay on-line payment system during January. This represents an increase of 33% in the number of payments and 53% in the total revenue collected using this payment option. Fiscal year to date there has been a 48% increase in the number of payments and a 34% increase in the amount of revenue processed using EZ-Pay.

### **Tax Policy and Legal Division**

- ♦ The Division prepared and submitted the following reports to various Joint Standing Committees of the Legislature:

- A report to the Business, Research and Economic Development Committee regarding the 2009 compliance rate of initiators of deposit to pay over abandoned deposits to the State, including any enforcement and/or auditing issues.
- The Working Waterfront Property Report to the Taxation Committee which includes relevant data on the sales of waterfront land to assist municipal assessors in calculating current use assessments of enrolled properties that support commercial fishing activities.
- A report to the Taxation Committee regarding the status of electronic filing requirements and the number of waivers requested and granted.
- MRS reviewed the recommendations of Department of Agriculture for revisions to rules and bulletins regarding sales tax exemptions for products purchased for agricultural use. MRS reported its findings and recommendations, including an improved protocol to respond to requests for interpretations, to the Joint Standing Committees of Taxation and Agriculture, Conservation and Forestry.
- A report to the Taxation Committee of the findings of the study group convened by the Department of Economic and Community Development and the State Tax Assessor regarding economic development incentives, including tax increment financing, in the Unorganized Territory.
- A report to the Joint Standing Committees of Taxation and Agriculture, Conservation and Forestry prepared by the State Tax Assessor and the Department of Agriculture regarding changes in the federal estate tax provisions as they impact the preservation of farmland in the State.

### **Sales, Fuel and Special Tax Division**

- ♦ As of January 2010, there were 63,148 active sales and use tax accounts. The number of sales tax internet filers during the month of January 2010 was 28,283. A comparison of paper filed returns to internet filed returns reflects the following:

CY	Paper	%	Internet	%	Total Returns
2005	230998	81.65%	51904	18.35%	282902
2006	212617	73.24%	77700	26.76%	290317
2007	198916	68.52%	91385	31.48%	290301
2008	178705	58.69%	125769	41.31%	304474
2009	87690	30.05%	204116	69.95%	291806
2010	20888	42.48%	28283	57.52%	49171

<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	
Central Registration	(207) 621-5129	(207) 287-3733	<a href="mailto:division.uctax@maine.gov">division.uctax@maine.gov</a>
Collections & Compliance	(207) 624-9595	(207) 287-6627	<a href="mailto:compliance.tax@maine.gov">compliance.tax@maine.gov</a>
Corporate Tax	(207) 624-9670	(207) 624-9694	<a href="mailto:corporate.tax@maine.gov">corporate.tax@maine.gov</a>
Economic Research	(207) 624-9789	(207) 287-3618	
E-file Help Desk (1040 ONLY)	(207) 624-9730	(207) 287-6628	<a href="mailto:efile.helpdesk@maine.gov">efile.helpdesk@maine.gov</a>
Electronic Funds Transfer	(207) 287-8276	(207) 287-6975	<a href="mailto:efunds.transfer@maine.gov">efunds.transfer@maine.gov</a>
Estate Tax	(207) 626-8480	(207) 624-9694	<a href="mailto:estatetax@maine.gov">estatetax@maine.gov</a>
Fuel Tax	(207) 624-9609	(207) 287-6628	<a href="mailto:fuel.tax@maine.gov">fuel.tax@maine.gov</a>
Forms Request Line	(207) 624-7894		
Income Tax Assistance	(207) 626-8475	(207) 624-9694	<a href="mailto:income.tax@maine.gov">income.tax@maine.gov</a>
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	<a href="mailto:compliance.tax@maine.gov">compliance.tax@maine.gov</a>
Payment Plan/Other	(207) 624-9595	(207) 287-6627	<a href="mailto:compliance.tax@maine.gov">compliance.tax@maine.gov</a>
Practitioners' Hotline	(207) 626-8458	(207) 624-9694	
Property Tax	(207) 287-2013	(207) 287-6396	<a href="mailto:prop.tax@maine.gov">prop.tax@maine.gov</a>
Public Communications	(207) 626-8478	(207) 624-9694	
Sales Tax	(207) 624-9693	(207) 287-6628	<a href="mailto:sales.tax@maine.gov">sales.tax@maine.gov</a>
Tax Clearance Letters	(207) 624-9628	(207) 287-6627	
Taxpayer Advocate	(207) 624-9649	(207) 287-3618	<a href="mailto:taxpayer.advocate@maine.gov">taxpayer.advocate@maine.gov</a>
Withholding Tax	(207) 626-8475	(207) 624-9694	<a href="mailto:withholding.tax@maine.gov">withholding.tax@maine.gov</a>
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?

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