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# Guidance Document

## INSTRUCTIONAL PAMPHLET for INDIVIDUAL INCOME TAX

### **Schedule NRH Worksheet A Worksheet B Worksheet C**

for Part-Year Residents/Nonresidents/"Safe Harbor" Residents

## SCHEDULE NRH FOR MARRIED PERSON ELECTING TO FILE SINGLE

If you filed a **married joint** federal income tax return, you may elect to file as a single individual on the Maine return if either of the following statements apply to you:

- (1) The residency status for you and that of your spouse were different for Maine during the tax year; **OR**
- (2) Both you and your spouse were nonresidents or “safe harbor” residents of Maine for the entire tax year, but only one of you had Maine-source income during the tax year.

*For more information regarding residency status, please refer to the “**Guidance to Residency Status**” brochure and the “**Guidance to Residency Safe Harbors**” brochure which can be downloaded at [www.maine.gov/revenue/incomeestate/guidance/](http://www.maine.gov/revenue/incomeestate/guidance/).*

If your filing status on your federal return was single, head-of-household, or married separate, you *cannot* file using Schedule NRH.

**Taxpayers using Schedule NRH must include a complete copy of their federal return (including all schedules and worksheets) with the Maine return when filing.**

**Please Note:** Generally, part-year residents, nonresidents and “safe harbor” residents must file a Maine return using the same filing status as properly used on the federal return and must complete **Form 1040ME and Schedule NR** (if not all income is taxable to Maine). However, if one spouse is a full-year Maine resident and the other spouse is not, and a joint federal return was filed, you have two options:

- (1) You can choose to file a joint Maine return as if both were full-year Maine residents (you may qualify for the Credit for Income Tax Paid to Other Jurisdictions. See Form 1040ME, Schedule 3); **OR**

- (2) Each can file a Maine return as a single individual using **Form 1040ME with Schedule NRH**. Each return must show the proper residency status. *If the nonresident, or “safe harbor” resident, spouse has no Maine-source income, that spouse does not have to file a Maine return. You may choose this option only if you filed a joint federal return.* **NOTE:** *If one spouse is a full-year Maine resident and the other spouse is a nonresident or “safe harbor” resident servicemember, the Maine resident spouse should file as a single individual using Schedule NRH unless filing a married joint return as full-year Maine residents results in a lower tax liability. See pages 5 and 6 for additional instructions.*

If both spouses are nonresidents or “safe harbor” residents, and a joint federal return was filed, but only one spouse has Maine-source income, you have two options:

- (1) You can choose to file a joint Maine return and determine your joint tax liability as nonresidents using **Form 1040ME with Schedule NR** (for more information, see Schedule NR); **OR**
- (2) The spouse who has Maine-source income can choose to file a return as a single individual using **Form 1040ME with Schedule NRH**.

**Maine’s taxable income is the federal adjusted gross income adjusted by Maine modifications, exemptions and deductions.** Your tax is first calculated as if you were a resident of Maine for the entire year. Part-year residents, nonresidents and “safe harbor” residents may then claim a credit (calculated on Schedule NR or NRH using Worksheets A and B, and if necessary, Worksheet C) based on the income that was earned outside Maine while a nonresident of Maine. **(NOTE: Nonresident or “safe harbor” resident servicemembers, see page 6 for special instructions.)**

- ① *Do not begin the Maine return with only the income earned in Maine.*
- ① *Do not subtract the income earned outside Maine as a negative income modification on Maine Schedule 1.*

Schedule NRH is designed to separate joint income between spouses and, if the filer is a **nonresident or part-year resident**, between Maine source income and non-Maine source income. *NOTE: A part-year resident is subject to Maine income tax on all income derived while a resident of Maine, even if the income is received from out-of-state sources, plus any income derived from Maine sources during the period of nonresidence.*

**Maine-source income includes the following:**

- 1) All income received while a resident of Maine;
- 2) Salaries and wages earned working in Maine, including any taxable benefits related to those earnings, such as annual and sick leave. **Except**, you may not be required to file if the number of days worked in Maine as an employee is 10 or less and your only Maine income is compensation for personal services;
- 3) Income derived from or connected with the carrying on of a trade or business within Maine (including distributive share of income (loss) from partnerships and S corporations operating in Maine);
- 4) Shares of trust and estate income derived from Maine sources;
- 5) Income (loss) attributed to the ownership or disposition of real or tangible personal property in Maine; and
- 6) Maine-source gain (or loss) from sale of a partnership interest. **NOTE:** To determine the gain or loss from the sale of a partnership interest attributable to Maine, divide the

original cost of all tangible property of the partnership located in Maine by tangible property everywhere. Tangible property includes real estate, inventory and equipment. If you don't know these amounts, contact the partnership. If more than 50% of the partnership's assets consist of intangibles, the gain (or loss) is allocated to Maine based on the sales factor of the partnership. Divide the sales in Maine for the last full tax year of the partnership preceding the year of sale by the total sales for that same year. Multiply the result by the gain or loss on the sale of the partnership interest reported on your federal return. "Sales" for purposes of computing the sales factor are defined in Rule No. 801.08. *Include the gain (or loss) from the sales of a partnership interest on Worksheet B, Column E, line 6; and*

- 7) Maine State Lottery or Tri-State Lottery winnings from tickets purchased within Maine on or after July 13, 1993, including payments received from third parties for the transfer of rights to future proceeds related to Maine State Lottery or Tri-state Lotto tickets purchased in Maine, plus all other income from gambling activity conducted in Maine on or after June 29, 2005.

Except for Item #6 above, income from intangible sources, such as interest, dividends, annuities, most pensions and gains or losses attributable to intangible personal property, received by a nonresident of Maine is not Maine source income unless it is attributable to a business, trade, profession or occupation carried on in Maine.

① For additional information on determining what types of income are subject to Maine tax when received by a nonresident, refer to **Rule 806** under "Laws and Rules" at [www.maine.gov/revenue](http://www.maine.gov/revenue), or call (207) 624-7894 to order a copy of the rule.

## EXAMPLES - When to File Schedule NRH

**EXAMPLE 1:** *Fred is a resident of Maine. His wife, Jane, is a resident of Massachusetts. Each maintains a separate permanent home in their respective state of residency. Jane earns no income in Maine. They file a married joint federal return.*

Fred and Jane have two options;

- (1) They could choose to file married joint with Maine as if both were full-year residents of Maine (see Form 1040ME, Schedule 3 to determine whether you may claim a credit for tax paid to another jurisdiction), **OR**
- (2) Since Jane is not a resident of Maine, Fred could file his own return with Maine using the single filing status. To do so, he would complete Schedule NRH. Jane would not file a Maine return in this situation.

*Fred and Jane may choose either filing option in this example, depending on the option that results in the lower tax liability.*

**EXAMPLE 2:** *Fred is a resident of Maine. In June, Fred marries Jane who had been a resident of Massachusetts. Jane moves to Maine after the wedding and establishes her Maine residency. Jane leaves her job in Massachusetts and gets another job in Maine. They file a married joint federal return.*

Fred and Jane have two options;

- (1) They could choose to file married joint with Maine as if both were full-year residents of Maine (see Form 1040ME, Schedule 3 to determine whether they may claim a credit for tax paid to another jurisdiction), **OR**

- (2) Since Jane is a part-year resident and Fred is a full-year resident, each could file their own return with Maine using the single filing status. Each would complete a Schedule NRH along with Form 1040ME.

*Fred and Jane may choose either filing option in this example, depending on the option that results in the lower tax liability.*

**EXAMPLE 3:** *Fred and Jane are residents of Massachusetts. Jane commutes to Kittery, Maine to work. Fred works in Boston, Massachusetts. They file a married joint federal return.*

Fred and Jane have two options;

- (1) They could choose to file married joint with Maine as nonresidents and use Schedule NR to calculate a nonresident credit, **OR**
- (2) Since both Fred and Jane are nonresidents of Maine, but only Jane has Maine source income, Jane could file her own return with Maine using the single filing status. She would file as a nonresident of Maine using Schedule NRH. Fred would not file a Maine return in this situation.

*Fred and Jane may choose either filing option in this example, depending on the option that results in the lower tax liability.*

**EXAMPLE 4:** *Fred and Jane are residents of Massachusetts. Fred and Jane both commute to Maine to work. They file a married joint federal return.*

Because both have Maine source income and both have the same residency status, Fred and Jane must file a married joint, nonresident return with Maine. They may not elect to file as single individuals using Schedule NRH. They must use Schedule NR in order to claim a nonresident credit on any non-Maine source income.

## INSTRUCTIONS FOR COMPLETING SCHEDULE NRH

NONRESIDENT/"SAFE HARBOR" RESIDENT SERVICEMEMBERS. See page 6 for special instructions.

*Schedule NRH is a complicated form. You should not try to complete the form without having read the specific line-by-line instructions. If you have difficulty completing any line on the form, refer back to the instructions for further information or call Maine Revenue Services at (207) 626-8475 for assistance.*

### **Form 1040ME LONG FORM:**

- 1) If you are electing to file a single return using Schedule NRH, enter your name, social security number and address on Form **1040ME**. Enter only your name and social security number on the Maine return. Do not include your spouse's name and social security number on the lines labeled "Your name" and "Your social security number," even if your spouse's name was first on your federal income tax return.
  - 2) Check the box for **Single** for your filing status. Do not check the married filing joint or married filing separate boxes.
  - 3) Check the box for the residency status that applies to you. For more information regarding residency status, see the "**Guidance to Residency Status**" brochure and the "**Guidance to Residency Safe Harbors**" brochure which can be downloaded at [www.maine.gov/revenue/incomeestate/guidance](http://www.maine.gov/revenue/incomeestate/guidance). Also check the box to indicate you are filing Schedule NRH with your Form 1040ME.
  - 4) Check the age and blindness boxes if they apply to you. Do not complete the boxes for your spouse.
  - 5) For personal exemptions, do not include your spouse. Enter the total number of exemptions shown on your federal return, less one.
- ❶ **COMPLETE WORKSHEETS A AND B BEFORE COMPLETING SCHEDULE NRH.**

### **SCHEDULE NRH:**

- 6) Complete Schedule NRH, column A with information from Worksheet B, column A (include all income from both spouses as reported on your joint federal return).

In Schedule NRH, column B, enter only your

portion of the income you reported in Schedule NRH, column A. If you and your spouse do not use separate accounting for earnings and deductions, then income other than wages is divided equally between you and your spouse. Additions and deductions are also divided equally between you and your spouse.

Complete Schedule NRH, Column C only if you are a part-year resident, nonresident or "safe harbor" resident of Maine. In Schedule NRH, column C, enter the non-Maine source income that is included in Schedule NRH, column B. If you are a resident of Maine, leave Schedule NRH, column C blank even if you worked outside Maine. Also, do not enter your spouse's income in Schedule NRH, column C. (**NOTE:** The sum of Schedule NRH, column B and column C will generally not equal Schedule NRH, column A.)

- 7) Complete Maine Schedule A if you have any tax additions or tax credits. If you claim any of the listed additions (Maine Schedule A, lines 1 through 3) or personal tax credits (Maine Schedule A, lines 5 and 7), multiply the joint amount of the individual credits or additions by the percentage listed on line 7, column B of Schedule NRH. (**NOTE:** The child care credit on Maine Schedule A, line 6 is prorated on the Worksheet for Child Care Credit). Enter your share on Maine Schedule A to enter the results on Form 1040ME. You may claim 100% of your ownership share of the business credits on Maine Schedule A, lines 9-14 and 16-18.

Schedule NRH also contains instructions as to the information to enter on page 1 of Form 1040ME. These instructions are located on lines 4, 5, 6, 8, 9 and 11 of Schedule NRH.



## NONRESIDENT & "SAFE HARBOR" RESIDENT SERVICEMEMBERS:

The Servicemembers Civil Relief Act (Public Law No. 108-189), which made amendments to the Soldiers' and Sailors' Civil Relief Act of 1940, contains in Section 2 a provision which alters the computation of Maine individual income tax for certain nonresidents (including "Safe Harbor" residents). These changes affect Maine returns beginning on or after January 1, 2003 for some military taxpayers (Maine returns beginning on or after January 1, 2007 for "Safe Harbor" residents).

Section 511(d) of the Act prevents states from including the military compensation of a nonresident servicemember in the total income when computing the applicable rate of tax imposed on other income earned by the nonresident servicemember, or their spouse, that is subject to tax by the state.

Since the 2008 Maine income tax return includes this income in federal adjusted gross income, a deduction must be made on the Maine return for a nonresident or "safe harbor" resident servicemember. To deduct the military income of a nonresident or "safe harbor" resident servicemember from the Maine taxable income in 2008, use the following instructions (if using Schedule NRH):

- 1) Complete Form 1040ME, Worksheet A (if applicable) and Worksheet B for part-year residents/nonresidents/"safe harbor" residents. **NOTE: When completing Worksheet B, include the military compensation received by the nonresident or "safe harbor" resident servicemember on line 1, columns A and D. This procedure will ensure the proper determination of non-Maine-source income.**
- 2) Complete Form 1040ME, Schedule NRH and Form 1040ME. Follow the step-by-step instructions for completing Schedule

**NRH. NOTE: The military income of a nonresident or "safe harbor" resident servicemember, in the case of a nonresident or "safe harbor" resident military person filing Schedule NRH, should be included on line 1 and line 5b, columns A, B and C. In the case of a spouse of a nonresident or "safe harbor" resident servicemember filing Schedule NRH, the income should be included on line 1 and line 5b, column A only. On line 5b, write "NR military compensation" in the space provided. This procedure will ensure the proper ratio for the determination of the nonresident credit.**

- ① When completing Form 1040ME, Schedule 1 for line 15 of Form 1040ME, include the amount of military compensation of the nonresident or "safe harbor" resident servicemember on Form 1040ME, **Schedule 1, line 2k, 'Other'** and enter "*NR military compensation*" in the space provided.

A "servicemember" is defined as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. It also includes a member of the National Guard who is under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency declared by the President and supported by Federal funds.

Any further questions about the computation of Maine individual income tax for certain nonresidents should be directed to the Income/Estate Tax Division of Maine Revenue Services at: [income.tax@maine.gov](mailto:income.tax@maine.gov) or call 207-626-8475.