



MAINE TAX ALERT

A Publication of Maine Revenue Services for Tax Professionals

Volume 7, No. 9

NOVEMBER/DECEMBER 1997

Public Communications Tel: (207) 626-8475

CHANGE IN WITHHOLDING REQUIREMENTS

Another change is being made to make it easier for the small business to do business in Maine. Effective January 1, 1998, Maine Revenue Services will eliminate the monthly payment frequency requirement for state income tax withholding. The 15,000 employers who currently mail in monthly withholding tax payments will make only four quarterly payments each year with the combined withholding and unemployment tax returns.

This means that almost 90% of all employers in this state will make one payment with one form to cover all requirements for income tax withholding and unemployment contributions for each quarter, thereby reducing by two-thirds the amount of withholding correspondence for the average employer. It also means the state will have 120,000 fewer pieces of paper and checks to process.

MAINE UNEMPLOYMENT INSURANCE TAX RATE CHANGE

The unemployment insurance contribution rates for calendar year 1998 will range from 2.8% to 7.9%. A surtax of 0.4% is included in the rates. The range for 1997 was 2.3% to 7.4%. If you have any questions concerning the rate change, contact the Department of Labor at (207)287-6456.

MAINE CORPORATE INCOME TAXATION SEMINAR TO BE HELD JANUARY 7

Portland - Pierce Atwood will present a one-day seminar, "Maine Corporate Income Taxation" on January 7, 1998 from 8:00 a.m. to 4:30. The program will provide a comprehensive review of new legislative, judicial, and audit developments, including the new high tech credit, the new "supercredit," and how to avoid exposure to taxation in other states. For

more information, or to register, please contact Leslie Cormier at 207-791-1143.

MAINE TAX INSTITUTE

Thanks to all who attended and participated in the Maine Tax Institute at Thomas College. We've had time to review the evaluations and identified room for improvement, but overall, the Institute was a success with approximately 125 persons in attendance.

MAINE REVENUE SERVICES HELPING TAXPAYERS WITH TAX INCENTIVES

Over the past few years, Maine Revenue Services has emphasized and developed its outreach efforts with practitioners and the business community. As many of you know, we have employed a full-time public advocate to help taxpayers who encounter problematic tax situations. In addition, we have designated Tom Giordano, Director of Support Services, to help companies take advantage of Maine's tax incentives. Tom has been instrumental in working with several companies to ensure they take advantage of Maine's tax credits. If you would like to talk to Tom relative to any of Maine's tax incentive programs, please call him at (207)287-2426.

POLICY CHANGE - W2 FORMS

When the survey results came back this summer, one of the most frequent complaints concerned the number of lost or missing W2 forms, now that they can no longer be stapled to the return. This issue was recently addressed when the Maine Chapter of NATP had a tour of Maine Revenue Services and saw the imaging equipment in action. As the result of the ensuing conversation, Maine Revenue Services will accept W2s and 1099s photocopied on 8 1/2 x 11 paper. Not only will this reduce the number of loose pages filed with the return, but this size paper is more compatible with the scanning equipment. The result,

less chance of lost paperwork and less paper to be handled by Maine Revenue staff.

You will be able to photocopy as many forms as will fit on one side of a sheet of paper. The only stipulation is that the photocopy must be legible; blurry or faint photocopies will be even less legible after imaging. As with original W2s, we will not accept any photocopies that have been altered in any way; for example, the numbers have been traced over in ink to darken the figures.

RAILROAD RETIREMENT BENEFITS

Often, we are questioned concerning the taxability of Railroad Retirement Benefits at the state level. While Maine does not tax Railroad Retirement Benefits issued by the U. S. Railroad Retirement Board, our instructions were ambiguous for a number of years, because the federal return line references in the instructions referred only to benefits treated as social security. Once we realized the error, the 1996 booklet was modified to eliminate the line specific instructions and now refers to Railroad Retirement Benefits included in federal adjusted gross income which may include any combination of Tier 1, Tier 2, or unemployment benefits paid by the Board.

ELECTRONIC FUNDS TRANSFER

On the topic of payments, what better way is there for businesses to make those four payments than through electronic funds transfer? The past year has seen a significant increase in the number of electronic funds transfer transactions processed by Maine Revenue Services. In October, we more than doubled the number of individual transactions processed last year during the same period. Total revenue collected via EFT was \$12,627,133 compared to \$8,246,300 last year. The result is less paperwork for all parties and a faster recognition of revenue for Maine.

NEW MAINE EXTENSION FORM 4477ME

At long last, Maine Revenue Services has developed a generic extension form to be used for all types of Maine income or franchise tax returns. Form 4477ME must be filed by the original due date of the return for an automatic four-month extension. Payment is not required with the form, but interest will be charged on any tax not paid by the original due date and a penalty for late payment will be

assessed if at least 90% of the tax liability is not paid by the original due date.

This year, you can order Form 4477ME by completing Form 2333E-ME, a copy of which is included with this issue of Tax Alert. Next year, orders for the extension form will be available through Form 2333ME.

APPELLATE DECISIONS

In a recent reconsideration decision, the inclusion of the charge for "documentation fees" in the sale price of automobiles was upheld based on 36 M.R.S.A. e1752(14) which includes "[s]ervices which are part of the "sale price" of automobiles, are subject to sales and use tax.

In the same decision, it was held that the mileage charges for short-term automobile rentals were part of the sale of the rental service that is subject to sales and use tax under 36 M.R.S.A. e1752(17-A).

In a decision regarding income tax, Anne Richmond ruled that net operating losses not carried forward on the taxpayer's federal return cannot be carried forward on the taxpayer's Maine income tax return. The taxpayer had argued he should be allowed to carry the losses forward since he was not allowed to carry them back under 36 M.R.S.A. e5122. However, the taxpayer did not cite any statutory authority for carrying them forward.

RECENT COURT CASES

State v. Gary Gray

Gary H. Gray of Pittsfield, Maine entered pleas of no contest to, and was found guilty of, two counts of "Failure to Truthfully Account for and Pay Over Collected Sales Tax" before Justice Andrew Mead in the Penobscot Superior Court on November 3, 1997.

The first count arose out of Gray's business "Taylor's Sporting Goods of Bangor, Inc.," a company that Gray owned and operated during 1992, which sold boats and boating equipment. During the time in which Gray was the responsible party, sales tax was collected by Taylor's Sporting Goods, but never turned over to the State. Gray was indicted for a Class B theft by misapplication, and nine counts of

Class D Failure to Truthfully Account for and Pay Over Collected Sales Tax in April, 1997, based upon the sales tax liability.

After the indictment, the Attorney General's Office learned that Gary Gray was operating a new business called N.B.A. Builders, selling and installing modular homes. His company was the subject of many consumer fraud complaints to the Consumer Protection Division. Assistant Attorney General Bill Baghdoyan initiated an investigation of Gray and N.B.A. Builders for new tax violations and found that Gray had collected sales tax improperly on at least two, and possibly three, manufactured home sales, but had reported no sales tax collected and paid none of it over to Maine Revenue Services. It was also discovered that Gray had failed to pay the applicable use tax on six modular home sales, although this failure did not constitute a criminal offense.

Pursuant to a plea agreement negotiated by Baghdoyan, Gray was sentenced to six months' jail time, with all but 14 days suspended, one year probation, and a restitution requirement of \$53,815 to be paid within 11 months; \$20,000 of the restitution must be paid by December 15, 1997, the day Gray begins the execution of the jail sentence.

State v. Parker Poole

Parker Poole, III, entered no contest pleas and was found guilty of one Class C count of "Theft by Misapplication" and three counts of "Failure to File Maine Income Tax Returns" on June 27, 1997.

Poole was the President, Treasurer and a major stockholder of a Portland business called Cornerstone-Wright, Inc. This company was engaged in producing specialty types of computer software from 1989 through December, 1995. It employed 20-25 people, with an annual payroll in excess of \$500,000. During 1993, the company fell seriously behind in the payment of State Income Tax Withholding funds that had been withheld from its employees' wages. For all of 1994 and 1995, no current withholding tax payments were made, although \$25,000 of delinquent taxes from 1993 were paid. Cornerstone-Wright, Inc. went out of business in December, 1995 and all of its assets were acquired by Parker Poole, III. He reorganized into a new

company called C.N.T., Inc. , which carried on in the same line of work with the same employees at the same physical location. At the time of the demise of Cornerstone-Wright, Inc., approximately \$67,000 of unpaid withholding tax was owed the State. C.N.T., Inc. almost immediately fell behind in withholding tax payments to the State and, within ten months, was approximately \$18,000 in arrears.

During the period from 1993-1996, Maine Revenue Services made repeated demands to both corporations and to Parker Poole, III for payment of these taxes. An audit was performed in mid-1996 and the case was turned over for criminal investigation. The investigation confirmed the total amount of tax due from both companies and the fact that Poole was the person responsible for the decision not to pay the tax. An investigation into Poole's personal tax situation showed that he had not filed tax returns nor paid taxes on income earned for tax years 1993, 1994 and 1995.

Poole was sentenced November 6, 1997 in Cumberland County Superior Court by Justice Stephen Perkins pursuant to a plea agreement reached between the defendant and the State. That sentence was as follows:

1. **Count 1, Theft by Misapplication:** 18 months imprisonment with all but 15 days suspended, followed by two years' probation, restitution in the total amount of \$122,000. As a special condition of probation, Poole must pay the first \$20,000 by December 15, 1997 and he must pay the remaining restitution within six months of the sentence date. A further condition of probation is that Poole must file all personal and corporate returns and make all future tax payments in a timely fashion.
2. **Counts II, III and IV, Failure to File Income Tax Returns:** A \$500 fine on each count.

In addition, prior to his conviction, Poole made a \$5,500 payment toward his corporate tax liability and another \$8,000 for his personal income tax liability. Thus, the total restitution that will be recovered from this case will be \$135,500.

PLEASE NOTE OUR NEW INTERNET ADDRESS ON THE LAST PAGE.

MAINE REVENUE SERVICES <http://janus.state.me.us/revenue>

...Order tax forms through the WebPage?...YES!

SUGGESTIONS FOR TAX ALERT?

Please contact: Maine Revenue Services
Public Communications Director
24 State House Station
Augusta, ME 04333-0024

STATE OF MAINE

Angus S. King, Governor

**Janet E. Waldron, Commissioner
Administrative and Financial Services**

Brian H. Mahany, Executive Director

TAX QUESTIONS? PLEASE CONTACT US:

Maine Revenue Services	(207)287-2076	FAX (207) 287-4028
Central Registration	(207)287-2338	FAX (207) 287-3733
Collections & Compliance	(207)287-3301	FAX (207) 287-6627
Corporate Tax	(207)624-7876	FAX (207) 287-4028
Electronic Funds Transfer	(207)287-8276	FAX (207) 287-6396
Estate Tax	(207)626-8480	FAX (207) 287-4028
Excise Tax	(207)287-3851	FAX (207) 287-6628
Forms Request Line	(207)624-7894	FAX (207) 626-3517
Income Tax Assistance	(207)626-8475	FAX (207) 287-4028
Paym't Plans/Income Tax	(207)621-4300	FAX (207) 621-4328
Payment Plans/ Other	(207)287-3301	FAX (207) 287-4028
Practitioners' Hotline	(207)626-8458	FAX (207) 287-4028
Property Tax	(207)287-2011	FAX (207) 287-6396
Sales Tax	(207)287-2336	FAX (207) 287-6628
Taxpayer Advocate	(207)287-4562	FAX (207) 287-6627
TTY Service	(207)287-4477	-----
Withholding Tax	(207)626-8475	FAX (207) 287-4028

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