MAINE TAX ALERT

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Deferral of the Federal 30% Bonus Depreciation

The federal Jobs Creation and Worker Assistance Act of 2002 provided taxpayers with the benefit of an additional 30% first-year depreciation on business property for federal income tax purposes. This bonus depreciation is applicable to most property purchased between September 11, 2001 and September 11, 2004, and placed in service before January 1, 2005. Maine enacted legislation to defer the bonus depreciation on property placed in service in 2002, 2003 and 2004. Maine is in full conformity with bonus depreciation applicable to property placed in service in 2001.

For Maine income tax purposes, for tax years 2002, 2003 and 2004, the effect of any bonus depreciation claimed on federal Form 4562 is reversed in the year it is claimed. The reversal is calculated by completing a "pro forma" Form 4562, ignoring the bonus depreciation allowance. In other words, depreciation is calculated as if the bonus depreciation law had not passed. The difference between this ordinary depreciation and the actual depreciation claimed is then included on the Maine income tax return as an addition modification.

The addition modification included in the first year of the property is subsequently recaptured through three equal installments in tax years 3, 4 and 5. No separate depreciation schedule is required for Maine purposes and no other depreciation adjustments are necessary.

For example, if property worth $9,000 is purchased and placed in service in 2002, $3,960 of depreciation (including bonus) is claimed for federal purposes. Excluding the bonus, ordinary depreciation is calculated to be $1,800. An addition modification would be included on the 2002 Maine return for $2,160 ($3,960 – $1,800). In each of years 2004, 2005 and 2006, a subtraction modification of $720 ($2,160 divided by 3) is included on the Maine return. No other adjustment will be needed for this property, and the recapture modifications in years 3, 4 and 5 are not affected by early disposition of the property. That is, if the property in this example were sold in 2005, no depreciation recalculation is performed in that year and the $720 subtraction modification scheduled for 2006 is still claimed in 2006, not in 2005.

Maine's bonus depreciation law was designed so that the taxpayer would not be required to maintain two separate depreciation schedules for the same property. At the same time, the full amount of allowable depreciation is eventually recognized for Maine income tax purposes. Individual taxpayers claiming depreciation on business use of a car through itemized deductions are not subject to the Maine modification. For passthrough entities, these modifications are not claimed at the entity level, but are apportioned to and claimed by the individual partners and shareholders on their Maine individual income tax forms.

Any further questions about calculation of the bonus depreciation deferral should be directed to the Income/Estate Tax Division of Maine Revenue Services at income.tax@maine.gov or call 207-626-8475 for individual income tax returns or 207-624-9670 for corporate tax returns.

$9,000 MACRS 5-year Property - Half-year Convention

Year	Federal No Bonus	**Federal 30% Bonus	Maine Modification	Effective Depr. for Maine
2002 Bonus Depr		2,700		
2002 Regular Depr		1,260		
2002	1,800	3,960	+2,160	1,800
2003	2,880	2,016		2,016
2004	1,728	1,210	-720	1,930
2005	1,037	726	-720	1,446
2006	1,037	726	-720	1,446
2007	518	362		362
Total	9,000	9,000	0	9,000

**You must reduce the amount on which you figure your regular depreciation or amortization deduction by the amount of bonus depreciation

Maine's Treatment of Net Operating Losses

The federal Job Creation and Worker Assistance Act of 2002 enacted a five-year carryback provision of net operating losses ("NOLs") for tax years beginning or ending in 2001. The Maine Legislature decided not to conform to this federal change for 2001, and further decided not to allow any carryback of net operating losses for state tax purposes beginning January 1, 2002.

For tax year 2001, the five-year carryback period is not recognized for Maine state income tax purposes, but a two-year caryback period is allowed. If you are amending your federal return for a carryback in the 3rd, 4th or 5th carryback years and that is the only adjustment being made, there is no need to file an amended Maine income tax return. If, however, any other adjustments are necessary, including the effect of the carryback on other areas of the return, you must amend your Maine return.

The Maine NOL adjustments are as follows:

1) The amount of the carryback to the year being adjusted (for prior years 3, 4 and 5) must be added to federal taxable income by way of an addition modification.

2) The total carryback amount applied to prior years 3, 4 and 5 is included as an addition modification in the year of the loss.

3) The total amount of addition modifications related to the federal carryback applied to prior years 3, 4 and 5 can be used as a negative modification 2 years prior to the year of the loss and in years subsequent to the loss year, provided that portions used as a subtraction modification in previous years are excluded and that the applicable federal NOL carryforward period is not exceeded.

In a case where a federal loss is only carried forward, only one modification will be necessary. If, in the year of the loss, an NOL absorbs any addition modification at the state level, that amount must be included as an addition modification in the last year(s) of the federal carryforward.

For tax years beginning on or after January 1, 2002, the procedures are the same, but the modifications are applied to *any* federal carryback, even those going back one or two years. The above modifications may also affect the alternative minimum tax calculation in each of these years.

If you are unsure how to apply any of the procedures explained in this article, contact Maine Revenue Services, Income/Estate Tax Division at income.tax@maine.gov or call 207-626-8475 for individual income tax returns or 207-624-9670 for corporate tax returns.

Refundable Child Care Credit on Form 1099-G

The state of Maine is required by federal law to annually notify recipients of state income tax refunds paid and credits or offsets allowed during the previous calendar year. If the taxpayer claimed the state income tax as an itemized deduction on the federal return, the refunds may be taxable on the federal return for the year in which the refund is issued. These refunds are reported by the Maine Revenue Services using substitute Form 1099-G.

Refundable child care credit amounts are not included in the "Total Overpayment" column on substitute Form 1099-G issued by Maine Revenue Services. The state refundable credit is not an overpayment of tax (the child care payments may not be used to reduce income on the federal return). Therefore, the refundable child care credit is not required to be reported on Form 1099-G.

However, the entire refund check amount (or credit/offsets amount) including the refundable child care credit ***is*** included in the "Refund" or "Credits/Offsets" column, but the refundable portion of the credit has been subtracted from the "Total Overpayment." (For example: a taxpayer who received a 2001 income tax refund of $400 of which $100 was refundable child care credit would receive a substitute Form 1099-G that shows $400 in the "Refund" column and $300 in the "Total Overpayment" column.

Long-term Care Deduction Worksheet

Premiums paid during the tax year for long-term care insurance may be deducted on the Maine income tax return. To qualify, the insurance policy on which the premiums are paid must either: **1)** meet the federal definition for a long-term care insurance contract (IRC § 7702B(b)) *(these are long-term care premiums that generally qualify for federal itemized deductions)*, or **2)** be certified by the Maine Bureau of Insurance.

Premiums claimed on Maine Schedule 1, line 2f must be reduced by any premiums also claimed as Maine itemized deductions. The amount of the deduction for long-term care premiums paid that may be included on federal Schedule A, line 1, is capped at certain maximum amounts based on the age of the taxpayer; therefore, the worksheet shown below and also found in the individual income tax long form booklets should be used to calculate the amount of the premiums that are included in federal itemized deductions. This amount, at line 5, is subtracted from the total long-term care premiums paid (line 1). **This worksheet should be used only by taxpayers whose itemized deductions on their Maine return include long-term care insurance premiums.**

WORKSHEET for individuals claiming a deduction for long-term care insurance premiums. (Do not complete if you are not claiming Maine itemized deductions).

1. **Enter total amount of long-term care insurance premiums paid during 2002: .... $**
2. Enter amount from federal Schedule A, line 1 .... $ ________
3. Enter amount of long-term care premiums included in line 2 above .... $ ________
4. Divide line 3 by line 2 .... __ . __ __ __ __
5. Enter amount from federal Schedule A, line 4 $ ____________ and multiply by percentage on line 4 above .... $ ________
6. Subtract line 5 from line 1. Enter result here and on Schedule 1, line 2f .... $ ________

ICESA (Interstate Conference of Employment Security Agencies) Magnetic Media Specifications

In the continuing effort to improve the collection of employee-level withholding tax and unemployment insurance contributions, Maine Revenue Services and the Maine Department of Labor are pleased to announce the revision of the ICESA magnetic media filing standards. These standards are available online at: www.maine.gov/revenue, under the "Electronic Services" heading.

Maine Revenue Services' planned adoption of the Simplified Tax and Wage Reporting System (STAWRS) using XML (extensible markup language) is currently being delayed pending the successful completion of the IRS pilot project for XML. Once the IRS project attains a suitable level of market penetration as well as a XML filing standard, the State of Maine will follow suit.

The revised specifications will allow for the inclusion of employee-specific Maine Income Tax withheld during the quarter. Maine employers currently using the ICESA specifications to file their wage detail for Unemployment Insurance Contributions will now be able to do the same for Maine income tax withholding.

The ICESA magnetic media specification revision is the next step in Maine Revenue Services' transition to the new reporting standard of collecting quarterly employee withholding amounts. We started the switchover with paper records in January of 2002. No electronic record changes were implemented or were required at that time. The revised specifications will contain information on the media and formats that are acceptable by Maine Revenue Services and the Maine Department of Labor. MRS and the Maine DOL realize that technical transitions of this type can be a long and costly process and we are prepared to work with the filing community as you begin to utilize the revised ICESA specifications. Any requests for exemption to the revised specifications will be handled on a case-by-case basis.

MRS welcomes inquiries on the revisions to the ICESA magnetic media filing standards. Please send them to Mark E. Landry at State House Station # 24, Augusta, ME 04333 or send an e-mail to him at mark.e.landry@maine.gov.

Suggestion for the Tax Alert?

Please contact: Public Communications

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

Rebecca M. Wyke, Commissioner
Administrative and Financial Services

Jerome D. Gerard, Acting Executive Director, Maine Revenue Services

Department	Telephone Numbers	FAX Numbers	E-mail Addresses
Taxpayer Service Center	(207) 287-2076	(207) 287-5855	
Central Registration	(207) 287-2338	(207) 287-3733	
Collections & Compliance	(207) 624-9595	(207) 287-6627	compliance.tax@maine.gov
Corporate Tax	(207) 624-9670	(207) 624-9694	corporate.tax@maine.gov
E-file Help Desk	(207) 624-9730	(207) 624-9740	efile.helpdesk@maine.gov
Economic Research	(207) 287-6965	(207) 287-3618	
Electronic Funds Transfer	(207) 287-8276	(207) 287-6975	efunds.transfer@maine.gov
Estate Tax	(207) 626-8480	(207) 624-9694	income.tax@maine.gov
Fuel Tax	(207) 624-9745	(207) 287-6628	fuel.tax@maine.gov
Forms Request Line	(207) 624-7894	(207) 622-3517	
Income Tax Assistance	(207) 626-8475	(207) 624-9694	income.tax@maine.gov
Insurance Premium Tax	(207) 624-9582	(207) 624-9694	
Payment Plan/Income Tax	(207) 621-4300	(207) 621-4328	
Payment Plan/Other	(207) 624-9595	(207) 287-6627	
Practitioners' Hotline	(207) 626-8458	(207) 624-9694	
Property Tax	(207) 287-2011	(207) 287-6396	prop.tax@maine.gov
Public Communications	(207) 626-8465	(207) 287-3618	
Sales Tax	(207) 624-9693	(207) 287-6628	sales.tax@maine.gov
Taxpayer Advocate	(207) 624-9649	(207) 287-3618	taxpayer.advocate@maine.gov
TTY Service	(207) 287-4477	-------	
Withholding Tax	(207) 626-8475	(207) 624-9694	withholding.tax@maine.gov

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