



# MAINE TAX ALERT

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## Maine Residents Property Tax and Rent Refund "Circuit Breaker" Program

The Maine Residents Property Tax and Rent Refund "Circuit Breaker" Program began on August 1, 2006. Applications for refunds of property tax assessed or rent paid during 2005 will be accepted through May 31, 2007. The **General** portion of the program provides refunds of up to **\$2,000** to persons of any age whose household income for 2005 was not more than \$77,000 for single-member households and not more than \$102,000 for those who lived with a spouse or dependent(s). To qualify for a refund, the 2005 property tax must be more than 4 percent of household income or the rent paid must be more than 20 percent of household income.

**Senior program** refunds are available to applicants who were at least 62 in 2005 (55 or over if disabled). In addition, for persons living alone, the household income for 2005 cannot be more than \$12,700; for a single person living with a dependent, or a married person who lived with a spouse, the 2005 household income cannot be more than \$15,700.

Applicants who qualify for both the Senior and General refunds will receive the larger of the two.

Applications may be filed by computer using I-file at [www.maine.gov/revenue](http://www.maine.gov/revenue) (see page 10 of the booklet). Applications may also be filed by mail. I-file requires access to a computer with an internet connection. Free internet access is available at most local libraries in Maine.

Application booklets have been mailed to individuals who submitted applications for last year's program, and have been sent to Municipal Offices, Area Agencies on Aging, Community Action Agencies, Pine Tree Legal offices, Bureau of Elder and Adult Services, DHHS District Offices, Health Clinics, Career Centers, Public Libraries and Adult Education locations. Booklets can be ordered by calling the Maine Revenue Services forms line at (207) 624-7894 and may also be downloaded at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms).

## Maine Residents Property Tax and Rent Refund "Circuit Breaker" Program – Refund Calculation

Refunds from the Circuit Breaker Program are calculated for all applicants by MRS. An explanation of how the benefit is calculated is included on pages 4 and 5 of the application booklet (see [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms)). The refund is equal to 50% of the benefit base that

is more than 4% of household income, but not more than 8% of household income, plus 100% of the benefit base that is more than 8% of household income. (NOTE: The benefit base up to 4% of household income is not included in the refund calculation.) The maximum refund is \$2,000.

Total “household income” is the income received by all members of the household during 2005. For more information on household income, see pages 7 through 9 of the application booklet.

The “benefit base” is the amount of property tax based on the April 1, 2005 assessment on the house and house lot (up to 10 acres) and/or 20% of the total rent paid in 2005 for the right of occupancy. NOTE: If the rent paid included heat, the total rent must be reduced by 15%. Additionally, the benefit base must be reduced if any part of the home was rented out to others or used for business purposes. For more information, see instructions for lines 4 and 5 of the application on pages 6 and 7 of the booklet.

Once the benefit base and the total household income have been determined for 2005, the refund is calculated. See the General Program example benefit calculation below.

*2005 total household income: \$45,000*

*2005 total benefit base: \$4,100 (property tax)*

The refund equals: **\$1,400**

$\$45,000 \times .04 = \$1,800$  (the first \$1,800 of the benefit base is not included in the refund calculation – this is the amount that is less than 4% of household income).

$\$45,000 \times .08 = \$3,600$

**\$900** ( $\$3,600 - \$1,800 = \$1,800 \times .50$ )      50% of the benefit base that is greater than 4% of household income but not more than 8% of household income

+ **\$500** ( $\$4,100 - \$3,600$ )                                      100% of the benefit base that is greater than 8% of household income

## Business Equipment Tax Reimbursement Program

The application period for the Business Equipment Tax Reimbursement program (BETR) began August 1, 2006. The purpose of the BETR program is to encourage new capital investment in Maine. The program reimburses local property taxes paid on most qualified business property for up to 12 years. Qualified business property must have been first placed in service in Maine after April 1, 1995. An annual application must be filed between August 1, 2006 and January 2, 2007 for eligible property taxes paid during calendar year 2005.

BETR application booklets are now available and have been mailed to businesses that have previously applied for reimbursement. Booklets are also available at most municipal offices. Downloadable versions of the forms and instructions have been posted to the MRS web site at

[www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms). Other businesses wanting to take advantage of the program can order the application by calling the forms line at (207) 624-7894.

## 2006 Tax Law Changes

A list of 2006 Maine tax law changes is now available on Maine Revenue Services' web site at [www.maine.gov/revenue](http://www.maine.gov/revenue). View this link to see the latest changes, including Sales Tax, Property Tax and Income/Estate Tax legislation.

## 2006 Maine Tax Forum

Maine Revenue Services is pleased to announce that the 10th Annual Maine Tax Forum is scheduled for November 1 and 2, 2006 at the Augusta Civic Center. The Tax Forum is hosted by Maine Revenue Services, the Internal Revenue Service and Thomas College.

Alan LeBovidge, the Commissioner of the Massachusetts Department of Revenue will be the Keynote Speaker on November 1. Rob Wilkerson, the Director of the Stakeholder Liaison Field Operations Unit of the Internal Revenue Service is the Featured Speaker on November 2.

The Tax Forum provides 12.3 hours (including 2 hours of ethics) of CLE credits. A total of 17.25 hours (including 2.25 hours of ethics) of CPE credits is also available to CPAs, EAs and accountants.

Seating for the Maine Tax Forum is limited, so register now with downloadable registration forms available on Maine Revenue Services' web site at [www.maine.gov/revenue](http://www.maine.gov/revenue).

## 2006 Employment Tax Seminar

The 3rd Annual Employment Tax Seminar, hosted by Maine Revenue Services is scheduled for November 30, 2006 at the Augusta Civic Center. This one day seminar is designed for payroll professionals, human resource personnel, CPA's, accountants, controllers, business and office managers, CFO's, finance directors and bookkeepers. The Seminar provides 8.25 hours of CPE credits.

Seating for the Employment Tax Seminar is limited, so register now with downloadable registration forms available on Maine Revenue Services' web site at [www.maine.gov/revenue](http://www.maine.gov/revenue).

## New Frequently Asked Estate Tax Questions

MRS has posted six new estate tax questions and answers to the FAQ section of the MRS web site at [www.maine.gov/revenue/faqs/homepage.shtml](http://www.maine.gov/revenue/faqs/homepage.shtml). Question #18 covers the relationship

between federal qualified domestic trust (“QDOT”) requirements and how they relate to Maine qualified terminable interest property (“QTIP”). The answer explains why the federal requirements do not apply. Question #19 relates to the alternate valuation date and states that the allowance of an alternate valuation date also applies to those estates that are taxable to Maine, but do not have a federal liability. Question #20 also deals with qualified domestic trusts and the relationship between the requirement to file a federal Form 706-QDT and the Maine estate tax. The answer outlines that if a federal Form 706-QDT is required for a Maine decedent, then an amended Maine Form 706ME must be filed. Question #21 outlines the proper procedures for claiming administrative expenses for an estate that is taxable to Maine, but not taxable at the federal level. The handling of administrative expenses is also explained in this issue of Maine Tax Alert, under the heading “ADMINISTRATIVE EXPENSES FOR MAINE ESTATES AND THE FILING OF MAINE ESTATE TAX AND FIDUCIARY INCOME TAX RETURNS.” Questions #22 and #23 explain the bureau’s policy regarding the taxable estates of decedent members of pass-through entities with Maine property. See 36 M.R.S.A. § 4064. Questions and other comments about these FAQs may be directed to the MRS estate tax e-mail address ([estatetax@maine.gov](mailto:estatetax@maine.gov)).

## Administrative Expenses for Maine Estates and the Filing of Maine Estate Tax and Fiduciary Income Tax Returns

### ***Introduction***

Recently, Maine Revenue Services became aware of an issue where Maine estate tax law may be subject to misinterpretation. The issue involves the claiming of administrative expenses by Maine “gap” estates (those estates valued between the Maine and federal exclusion amounts) that file federal and state fiduciary income tax returns. Gap estates for 2006 are those estates valued between \$1 million and \$2 million.

The issue arises when a preparer of a Maine gap estate return constructs a federal pro forma Form 706 and deducts from the gross estate the applicable administrative expenses to determine the taxable estate. Then, at the end of the fiscal or calendar year, the preparer completes and files fiduciary income tax returns for both the IRS and MRS. Because the preparer was not required to file a federal estate tax return, the administrative expenses are claimed in calculating the federal fiduciary income tax liability.

### ***Prohibition of Double Deduction***

Under Maine law, the administrative expenses claimed on federal Form 1041 pass through to the Maine fiduciary income tax return (Form 1041ME); there is no “add back” requirement for these expenses. Because these expenses have already been used to calculate the Maine taxable estate, a double benefit occurs for Maine tax purposes in that the expenses are deducted twice.

In the situation described above, however, Maine law prohibits the double deduction of the expenses and requires the preparer to file an amended Maine estate tax return showing the elimination of the administrative expense claimed against the gross estate. This results because

federal law requires that an estate subject to the federal estate tax which claims administrative expenses on a Form 706 and then subsequently claims administrative expenses on its fiduciary income tax return file an amended estate tax return to remove the expense claim. A gap estate preparing a federal pro forma Form 706 is subject to the same requirement, since 36 M.R.S.A. § 4062 (1-A) reads, in part:

The federal taxable estate is to be determined using the applicable Code as of the date of the decedent's death . . . .

This statute applies to all estates with a Maine estate tax liability, including gap estates which have no federal liability. Therefore, if an estate claims administrative expenses for calculating the fiduciary income tax liability, those expenses, according to the IRC, cannot also be used to calculate the taxable estate. In fact, in order to claim the administrative expenses on the fiduciary income tax return, an irrevocable waiver must be filed, claiming that the administrative expenses on Form 1041 will not be taken on Form 706.

### ***Conclusion***

The State Tax Assessor does not have statutory authority to require that an estate add back to the fiduciary income tax return the administrative expenses previously claimed on the Maine estate tax return. The Assessor can, however, require the Maine gap estate to choose between claiming the expenses either on the state fiduciary income tax return or on the state Form 706ME.

Because many estates may wish to claim the administrative expenses on the Maine estate tax return, Form 706ME and also on federal Form 1041 (since no federal Form 706 is required), MRS is willing to waive the requirement to amend Form 706ME, provided that the estate agrees to add back the expense claim on Form 1041ME.

To enter into such an agreement, Form 1041ME must include an addition modification equal to the expense claimed on Form 706ME. The addition modification will be claimed on Form 1041ME, Schedule 1, line 1f (other additions), which will also be included as a fiduciary adjustment on Form 1041ME, line 2. The processing of a completed Form 1041ME with the correct amount of expenses added back to income will constitute acceptance of the agreement by MRS.

To correct previously filed returns where administrative expenses were erroneously claimed on both Form 706ME and Form 1041ME, an amended Form 1041ME (or Form 706ME, if desired) must be filed. Amended returns are required for all open periods.

<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) 287-3294	
Central Registration	(207) 287-2338	(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) 624-9740	<a href="mailto:efile.helpdesk@maine.gov">efile.helpdesk@maine.gov</a>
Electronic Funds Transfer	(207) 287-8276	(207) 287-6627	<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) 624-9745	(207) 287-6628	<a href="mailto:fuel.tax@maine.gov">fuel.tax@maine.gov</a>
Forms Request Line	(207) 624-7894	(207) 622-3517	
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

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Administrative and Financial Services

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Suggestions for the Tax Alert?

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