

Final Federal Adjustments: Partnership-Level Audit and Administrative Adjustment Report Schedules 1040PA-ME & 1040PA-2 Centralized Partnership Adjustments Reporting Requirements

Background. The Bipartisan Budget Act of 2015 enacted a new centralized partnership audit regime (CPAR) effective for tax years beginning on or after January 1, 2018. The new federal rules require IRS audit adjustments to partnership items to be determined and assessed at the partnership level. Amendments to federal partnership returns must also be made at the partnership level via an administrative adjustment request (AAR) filed with the IRS. A partnership subject to an IRS audit or filing an AAR is by default subject to tax on the final federal adjustments, except that certain adjustments may pass through, or the partnership may elect to push out, to partners of the partnership. Qualifying partnerships may elect out of the centralized audit process.

Under Maine law, most final federal adjustments resulting from a partnership-level audit or an AAR must be reported at the partnership level. A partnership is subject to Maine income tax to the extent of positive adjustments and may be allowed a refund of an overpayment imputed as a result of negative adjustments. A tiered partner of an audited partnership is subject to tax on positive adjustments and may be allowed a refund of an overpayment imputed as a result of negative adjustments included in a modification amended return or alternative procedure report filed during the federal modification period with respect to the audit. A partnership subject to a partnership-level audit must also report information affecting the Maine tax liability of certain partners to the assessor.

General Instructions

Definitions. As used in these instructions, the following terms have the following meanings:

Administrative adjustment request (AAR) means an administrative adjustment request filed by a partnership pursuant to the Internal Revenue Code (IRC) Section 6227.

Alternative procedure report means a report or information filed in lieu of a modification amended return pursuant to IRC Section 6225(c)(2)(B).

Audited partnership means a partnership subject to a partnership-level audit resulting in a federal adjustment.

Direct partner means a partner that holds an interest directly in a partnership or pass-through entity. (Note: A partnership does not include a partnership subject to the Maine financial institutions franchise tax under 36 M.R.S. chapter 819.)

Federal adjustment means an adjustment to an item or amount determined under the IRC that affects the computation of a taxpayer's Maine tax liability resulting from a partnership-level audit or other action by the Internal Revenue Service (IRS) or an amended federal return, refund claim or administrative adjustment request filed by a taxpayer. Federal adjustment does not include an IRS adjustment to a partnership-related item classified as a partnership-level federal tax credit or creditable expense. A federal adjustment is positive to the extent that it increases Maine taxable income and is negative to the extent that it decreases Maine taxable income. Maine taxable income is the amount determined under Title 36, Part 8.

Federal modification period means the federal period provided by Treasury Regulation 301.6225-2(c) for requesting a modification to an imputed underpayment.

Federal modification request means a modification request made pursuant to IRC Section 6225(c).

Final determination date means the earliest date on which any event described in 36 M.R.S. § 5227-A(2) has occurred.

Final federal adjustment (FFA) means a federal adjustment for which the final determination date has passed. A final federal adjustment includes a federal adjustment in the notice of final partnership adjustment or in the administrative adjustment report, without regard to the push-out election under IRC Section 6226(a), for which the final determination date has passed. For a tiered partner, a final federal adjustment includes an adjustment reported on a modification amended return or alternative procedure report filed during a partnership-level audit of an audited partnership. Consistent with the federal adjustments, a final federal adjustment is positive to the extent that it increases Maine taxable income and is negative to the extent that it decreases Maine taxable income. Maine taxable income is the amount determined under Title 36, Part 8.

Indirect partner means a partner in a partnership or pass-through entity that itself holds an interest directly, or through another indirect partner, in a partnership or pass-through entity. (Note: A partnership does not include a partnership subject to the Maine financial institutions franchise tax under 36 M.R.S. chapter 819.)

Modification amended return means an amended return filed pursuant to the IRC Section 6225(c)(2)(A).

Nonresident partner means an individual, estate or trust that is not a resident partner.

Notice of final partnership adjustment (FPA) means a notice provided by the IRS to a partnership or partnership representative pursuant to IRC Section 6231(a)(3).

Resident partner means a partner that is a resident individual or a resident estate or trust under Title 36, Part 8.

Reviewed year means the taxable year of a partnership that is subject to a partnership-level audit from which federal adjustments arise.

Tiered partner means a partner that is a partnership or other entity, other than entities subject to Maine corporate income tax and the Maine financial institutions franchise tax.

See 36 M.R.S. § 5195 for additional definitions.

Schedules 1040PA-ME & 1040PA-2 General Instructions, continued

Partner filing responsibilities. Generally, direct partners, other than tiered partners, and indirect partners of an audited partnership who file federal modification amended returns or utilize the alternative reporting procedure during the modification period of a partnership-level audit must file an amended Maine income tax return to reflect the adjustments for each year amended federally. However, a partner who elected to participate in a Maine composite return filed by the partnership to report and pay Maine income tax on behalf of participating partners for the tax year being amended federally should not file an amended Maine income tax return for that year. Instead, the partnership must file an amended Maine composite return for that year on behalf of the participating partners. A tiered partner that filed a modification amended return or alternative procedure report during the modification period of a partnership-level audit must complete Maine Schedule 1040PA-ME and calculate the tax due based on the adjustments included on the amended federal return, consistent with the instructions below. For individual and corporate partners, see the instructions to Forms 1040ME and 1120ME for information about Maine amended return filing requirements.

Adjustments to Maine Tax Credits. A partnership-level audit adjustment may affect the computation of Maine tax credits. Changes to any Maine tax credits that are either determined at the partnership level or based on partnership-level activity, and claimed by the partners pursuant to 36 M.R.S. § 5219-G, must be reported by those partners that originally claimed the credit. For example, if the partners of a partnership claim the Maine Research Expense credit based on the qualifying research expenses of the partnership, and the IRS subsequently audits the partnership and makes adjustments to the research expenses, the partners must file amended Maine returns to recompute the Maine research credit based on the adjusted expenses.

Tiered Partners. Under the federal CPAR regulations, a pass-through partner (PTP) may elect to file a modification amended return or alternative procedure report during the modification period of an IRS partnership audit. The PTP must determine and indicate on federal Form 8982 whether it is a taxable entity subject to tax on the audit adjustments under Chapter 1 of the IRC or, if it is not subject to the Chapter 1 tax, it is electing to pay the tax on the adjustments in accordance with the applicable CPAR regulations.

For Maine reporting purposes, a PTP that is a taxable entity is subject to Maine income tax on adjustments included in a modification amended return or alternative procedure report in the same manner as other tax-paying partners and must file a Maine amended return for each year amended federally as described under partner filing responsibilities above. A PTP that is not a taxable entity under Chapter 1 of the IRC that elects to file a modification amended return or alternative procedure report is subject to Maine income tax on the adjustments as a tiered partner and must complete Maine Schedule 1040PA-ME for each year amended federally, consistent with the instructions related to such partners.

Reporting Requirements for Audited and AAR Partnerships. Partnerships subject to a partnership-level audit or filing an AAR, and tiered partners of an audited partnership who filed a modification amended return or alternative procedure report during the modification period, must complete Schedule 1040PA-ME to calculate the Maine tax liability or overpayment on final federal

adjustments sourced to Maine for each year included in the audit or AAR, or for each year amended. Certain partnerships with nonresident individual partners may also be required to file an amended Maine composite return or withhold Maine income tax from those partners, as further described in these instructions. A tiered partner that files a modification amended return or alternative procedure report during the modification period of a partnership-level audit must complete Schedule 1040PA-ME (but not Schedule 1040PA-2) to report the adjustments included in the amended return and compute any Maine tax due in the same manner as an audited partnership.

State Partnership Representative. Partnerships and tiered partners required to file Schedule 1040PA-ME must be represented by a state partnership representative, who has sole authority to act on behalf of the partnership for the reviewed year with respect to all Maine filing and reporting requirements resulting from the federal audit or AAR. The state partnership representative is the partnership's federal partnership representative for the reviewed year unless the partnership designates in writing another person as its state partnership representative. The partnership's direct partners, including tiered partners, and indirect partners are bound by the actions of the state partnership representative. For additional information, see 36 M.R.S. § 5196(2).

Composite return filing requirement. If an audited or AAR partnership filed a composite return for any year for which a nonresident partner filed a modification amended return or utilized the alternative reporting procedure during the modification period of an IRS audit, the partnership may be required to amend Maine Schedule 1040C-ME to reflect the federal adjustments attributable to those partners. See Maine Revenue Services (MRS) Rule 805 and the instructions to Schedule 1040C-ME for more information.

Pass-through entity withholding requirement. An audited partnership may be required to withhold Maine income tax on adjustments attributable to nonresident partners who filed a modification amended return or utilized the alternative reporting procedure during the modification period of an IRS audit, consistent with the requirements described in MRS Rule 803 and the instructions to Form 941P-ME.

How to File. File Schedule 1040PA-ME and Schedule 1040PA-2 with Form 1040ME in accordance with these instructions. Any tax reported by the partnership on an amended composite return pursuant to MRS Rule 805 and the instructions to Schedule 1040C-ME for the reviewed year must be reported separately from the tax calculated on Schedule 1040PA-ME.

Amended Composite Return Filed. If the partnership files an amended composite return for the reviewed year, the final federal adjustments used to calculate the tax on the composite return must be excluded from the final federal adjustments used to calculate the tax on Schedule 1040PA-ME. Complete Form 1040ME consistent with the instructions for Schedule 1040C-ME, and check both Schedule 1040C-ME and Schedule 1040PA-ME boxes on page 1 of Form 1040ME. Also complete Schedules 1040PA-ME and 1040PA-2 in accordance with the instructions below. Include the following forms in this order: 1) Form 1040ME; 2) Amended Schedule 1040C-ME; 3) Schedule 1040PA-ME; 4) Schedule 1040PA-2; 5) supporting documentation.

Schedule 1040PA-ME General Instructions, continued

Composite Return Not Filed or Original Composite Return Not Amended. If, for the reviewed year, the partnership did not file a composite return, or did file a composite return but no amended composite return is required, complete Form 1040ME (including checking the Schedule 1040PA-ME box on page 1 of the form) and Schedules 1040PA-ME and 1040PA-2 in accordance with the instructions below. Include the following forms in this order: 1) Form 1040ME; 2) Schedule 1040PA-ME; 3) Schedule 1040PA-2; 4) supporting documentation.

Supporting documentation includes the following **required attachments**:

- **Partnerships** reporting adjustments with respect to an **IRS audit** must attach a copy of the notice of final partnership adjustment (FPA), including federal Form 15027 and federal Form 886-A.
- **Partnerships** reporting adjustments with respect to an **AAR** must attach federal Form 8082 and federal Form 1065-X, as applicable.
- **Tiered Partners** reporting adjustments with respect to a **modification amended return** or **alternative procedure report** filed as part of a modification request of an audited partnership must attach a copy of federal Form 8982 and the federal amended return or report.

Due Date. Form 1040ME, Schedule 1040PA-ME, and Schedule 1040PA-2 (if applicable) must be filed and any tax, interest, and penalties must be paid within 180 days of the final determination date of the final federal adjustments.

Extensions. The due date is automatically extended by 60 days for audited partnerships and tiered partners with 10,000 or more owners if the entity or partner provides written notice to Maine Revenue Services. Otherwise, the due date may be extended only by written agreement. For more information about requesting an extension, contact Maine Revenue Services by U.S. mail at P.O. Box 9107, Augusta, ME 04332-9107 or by email at partner-scorp.tax@maine.gov.

Signature. Schedule 1040PA-ME must be signed by the State Partnership Representative.

Credits. No credits may be claimed against the tax calculated on Schedule 1040PA-ME, other than the credit for tax paid to another jurisdiction, if applicable.

Schedule 1040PA-ME Specific Instructions

Entity Information. Print or type the entity's name, type, EIN, and current mailing address in the spaces provided. Indicate whether the entity is a partnership, S corporation, estate, trust, or other. Also enter the name, address, EIN, and contact information for the Designated State Partnership Representative in the spaces provided.

Line 1. Partnership net final federal adjustments and apportionment factor

Line 1a. Net positive final federal adjustments. Enter the total positive final federal adjustments included in the FPA or AAR. See the definition of final federal adjustment on page 1 and exclusions below.

Line 1b. Net negative final federal adjustments. Enter the total negative final federal adjustments included in the FPA or AAR. See the definition of final federal adjustment on page 1 and exclusions below.

Note: Unless otherwise indicated, the net final federal adjustments reported on lines 1a and 1b may not be reduced by amounts reported to partners through the alternative "push-out" election under IRC Section 6226(a).

Exclusions. Do not include the following on lines 1a or 1b:

1. Adjustments excluded from the FPA due to an amended return or alternative procedure report filed by a partner (including a tiered partner) during the federal modification period.
2. Other adjustments that are, pursuant to a federal modification request, excluded from the FPA or removed from an AAR.
3. Any final federal adjustments required under federal law or regulations to be taken into account by the audited or AAR partnership in the partnership return for the adjustment year or other year.

4. Any final federal adjustments allocable to direct exempt partners not subject to tax on unrelated business taxable income.
5. Any adjustment to a partnership-related item classified as a partnership-level federal tax credit or creditable expense.
6. Adjustments this state is prohibited from taxing under the Constitution or laws of the United States or the Constitution of the State of Maine reduced by expenses incurred in the production of that income to the extent that the expenses were included in the amount entered on lines 1a and 1b.

Attach a worksheet to support the amount entered on lines 1a and 1b.

Line 1c. Partnership apportionment factor. Enter the Maine apportionment factor for the partnership for the reviewed year. The apportionment factor must be determined in accordance with 36 M.R.S. Chapter 821 and MRS Rule 801.

Line 2. Direct Corporate Partners; Tax-Exempt Partners with Unrelated Business Income

Line 2a. Enter the amount from line 1a allocable to direct partners subject to Maine income tax as a taxable corporation.

Line 2b. Enter the absolute value of the amount from line 1b allocable to direct partners subject to tax as a taxable corporation.

Note: Lines 2a and 2b must include adjustments allocable to tax exempt entities that are subject to tax on the adjustments as unrelated business taxable income.

Line 2c. If line 2c is less than zero, enter as a negative.

Schedule 1040PA-ME

Specific Instructions, continued

Line 3. Direct Nonresident Individual, Estate, and Trust Partners

Line 3b. Enter the amount from Line 3a that is Maine-source income determined in accordance with 36 M.R.S. §§ 5142, 5175-A, and 5192. For more information on how to calculate the Maine-source income of a nonresident individual, estate, or trust, see MRS Rule 806. Attach a worksheet to support the amount entered on this line.

Line 3c. Enter the absolute value of the amount on line 1b allocable to direct nonresident individual, estate, and trust partners. Do not include any negative final federal adjustments pushed out to the partners unless it can be established that the adjustments will not be taken into account on the estate or trust Maine income tax return for the adjustment year or other year.

Line 3d. Enter the amount from line 3c that is Maine-source income determined in accordance with 36 M.R.S. §§ 5142, 5175-A, and 5192. For more information on how to calculate the Maine-source income of a nonresident individual, estate, or trust see MRS Rule 806. Attach a worksheet to support the amount entered on this line.

Line 3e. If the result is less than zero, enter as a negative.

Line 4. Direct Tiered Partners

Attach a worksheet to show the calculations for the amounts entered on lines 4a through 4i.

Note: For lines 4a, 4c, 4f, and 4h, exclude amounts allocable to direct partners that are estates or trusts.

Line 4a. Enter the amount of adjustments included on line 1a allocable to direct tiered partners that are of a type of income that would be subject to sourcing under 36 M.R.S. § 5142.

Line 4b. Enter the amount of line 4a properly sourced to Maine in accordance with 36 M.R.S. § 5142.

Line 4c. Enter the amount of **positive** adjustments included on line 1a allocable to direct tiered partners that are of a type of income that would **not** be subject to sourcing under 36 M.R.S. § 5142. For example, income from intangible personal property unrelated to a trade or business, profession or occupation is generally not subject to sourcing to a state other than the partner's state of domicile.

Line 4d. Enter the amount from line 4c that the partnership can clearly establish is allocable to indirect partners that are nonresident individuals, estates, trusts, or other partners that are not subject to Maine tax on the adjustments.

Line 4f. Enter the absolute value of **negative** adjustments included on line 1b allocable to direct tiered partners that are of a type of income that would be subject to sourcing under 36 M.R.S. § 5142. Do not include any negative adjustments that were pushed out to a tiered partner unless it can be established that the adjustments will not be taken into account by the tiered partner in the tiered partner's return for the adjustment year or other year.

Line 4g. Enter the amount of line 4f properly sourced to Maine.

Line 4h. Enter the absolute value of **negative** adjustments included in line 1b allocable to direct tiered partners that are of a type of income that would not be subject to sourcing under 36 M.R.S. § 5142. Do not include any negative adjustments that were pushed out to a tiered partner unless it can be established that the adjustments will not be taken into account by the tiered partner in the tiered partner's return for the adjustment year or other year.

Line 4i. Enter the amount from line 4h that the partnership can clearly establish is allocable to indirect partners that are resident individuals, estates, trusts, or other partners subject to Maine tax on the adjustments.

Line 4j. If the result is less than zero, enter as a negative.

Line 5. Direct Maine Resident Individual, Estate, and Trust Partners

Line 5a. Enter the amount of line 1a allocable to direct partners who are Maine resident individuals.

Line 5b. Enter the amount of line 1b allocable to direct partners who are Maine resident estates or trusts. Do not include any tax negative adjustments pushed out to an estate or trust unless it can be established that the adjustments will not be taken into account by the estate or trust in the estate or trust return for the adjustment year or other year. If the result is less than zero, enter as a negative.

Line 5c. If the result is less than zero, enter as a negative.

Line 5d. If the result is less than zero, enter as a negative.

Line 6. Tax Due or Overpayment. Enter the sum of lines 2d, 3f, 4k, and 5d. If the result is less than zero, enter as a negative.

Line 7. Credit for Taxes Paid to Other Jurisdiction on Final Federal Adjustments. A partnership may claim a credit for income taxes imposed on and paid by the partnership to another state of the United States, a political subdivision of any such state, the District of Columbia or any political subdivision of a foreign country that is analogous to a state of the United States with respect to the distributive shares of final federal adjustments allocable to direct Maine resident partners included in the calculation of the tax paid by the partnership to this State. The credit must be calculated in the same manner as the credit allowed under 36 M.R.S. § 5217-A, and must be calculated separately for each jurisdiction with respect to which the credit is claimed. For more information, see the Credit for Income Tax Paid to Other Jurisdictions worksheet and Guidance Document on the MRS website at www.maine.gov/revenue.

Line 7a. Enter the amount from line 5c. If the amount is zero or less, stop here; you not qualify for the credit.

Line 7b. Enter the amount of line 7a sourced to and taxed by the other jurisdiction. Exclude any adjustments taxed by the other jurisdiction that are not also subject to Maine income tax.

Line 7e. Enter the income tax paid by the partnership to the other jurisdiction on the adjustments shown on line 5c.

Schedule 1040PA-2 Specific Instructions

Partnerships subject to a partnership-level audit must use Schedule 1040PA-2 to report partnership adjustments and other information about each partner who filed an amended return or used the alternative reporting procedure during the federal modification period. If after the modifications are applied there are no federal adjustments remaining that are applied at the partnership level, the partnership should enter zero on lines 1 through 7 of Schedule 1040PA-ME and attach a completed Schedule 1040PA-2. Partnerships that file an AAR and tiered partners subject to Maine tax on final federal adjustments are not required to complete or file Schedule 1040PA-2.

Column 1. Enter each partner's last name, first name and middle initial. If a partner is other than an individual, enter the business or entity name.

Column 2. Enter each partner's social security number or, if the partner is other than an individual, the federal employer identification number.

Column 3. Check this box if the ID number entered in Column 2 is a federal employer identification number.

Column 4. Check this box if this partner is an indirect partner.

Column 5. Enter the distributive share percentage that applies to the partner for the reviewed year. If, for example, the distributive share percentage for a partner is 25%, enter the amount as 25.00.

Column 6. Enter positive final federal adjustments less negative final federal adjustments for the reviewed year attributable to this partner. If the result is less than zero, enter as a negative.