

2023 Maine Form 941ME

Quarterly Return of Maine Income Tax Withholding Instructions

Use this booklet to report employee or payee income tax withholding.

Do not use this booklet to report nonresident member withholding for pass-through entities. For more information regarding withholding for nonresident members of pass-through entities, go to the Maine Revenue Services (“MRS”) website at www.maine.gov/revenue/taxes/income-estate-tax (select Pass-through Entity Withholding (941P-ME) and Returns).

Payroll Processors

DOs and DON'Ts for Clients of Payroll Processors in Maine:

Using the services of a payroll processor can be a convenient and economical way for an employer or non-wage filer to file and pay withholding taxes. However, employers or non-wage filers face certain risks associated with the use of a processor, including possible lack of compliance and the risk of loss of funds that are under the control of the processor. Ultimately, it is the employer or non-wage filer who bears the responsibility for meeting its payroll tax obligations. **If you are an employer or non-wage filer that uses the services of a payroll processor, you should take the following precautions:**

- ✓ Educate yourself to understand your filing requirements and the risks associated with using a payroll processor.
- ✓ Verify with the Bureau of Consumer Credit Protection, (207) 624-8527 or www.credit.maine.gov, that the processor is licensed and has provided proof of fidelity insurance to protect payroll funds, including coverage for crimes such as fraud and theft. If the processor has access to your company's tax funds, verify with the Bureau of Consumer Credit Protection that the company has also posted a surety bond or letter of credit, or is enrolled in the state's Payroll Processor Recovery Fund.
- ✓ Obtain verification from the payroll processor and its insurer that the processor's liability insurance will remain in effect for a specified period of time.
- ✓ Read your contract with your processor carefully.
- ✓ **Ensure that the agreement/contract and any power of attorney that your processor has with you specifically requires that all notices sent by the IRS and state tax agencies be sent directly to you.**
- ✓ Never hesitate to contact tax authorities or the Bureau of Consumer Credit Protection directly when you feel it necessary.
- ✓ Check with the appropriate tax agency periodically to ensure that returns and payments are filed in a timely manner.
- ✓ Insist on verification from your processor that any problem for which the employer has received a tax agency notice has been resolved.
- ✓ Never assume that returns have been filed and taxes paid solely because you have not received notice of any problems from the IRS or MRS.
- ✓ Never sign a tax return before it is completed.
- ✓ **Require that the processor provide copies of returns, not just summaries, at the time of filing.**
- ✓ If you are using a payroll service, be sure you are assigned a direct contact person and telephone number.

A payroll processor is an entity that performs the following services for one or more employers or non-wage filers: prepares and issues payroll checks, prepares and files state or federal income tax withholding reports or unemployment insurance contribution reports or collects, holds and turns over to the State Tax Assessor or to Federal tax authorities income tax withholding or unemployment insurance contributions.

Employers and non-wage filers may be referred to throughout these instructions as payers.

By January 31st of each year, all payroll processing companies must obtain a license from the Maine Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection. For additional information and applications, contact the Bureau of Consumer Credit Protection at (207) 624-8527 or visit www.credit.maine.gov (select “Who We Regulate,” then select “Payroll Processors”).

All payroll processors that prepare and issue payroll checks must provide proof of fidelity insurance equal to twice the highest gross weekly payroll processed by the business in the preceding year or \$5,000,000, whichever is less. For fidelity insurance coverage, the processor may choose from a fidelity bond, employee dishonesty bond, third-party fidelity coverage or liability insurance that includes crime coverage.

Payroll processors who have authority to access, control, direct, transfer or disburse a client's funds must also provide evidence of a surety bond. The bond must be in an amount equal to the greater of \$50,000 or the total of all local, state and federal tax payments and unemployment contributions remitted by the payroll processor on behalf of employers in this state in the highest-volume three consecutive month period during the previous calendar year. The bond need not exceed \$500,000. A letter of credit or participation in the state's Payroll Processor Recovery Fund can be substituted for a surety bond.

A payroll processor must provide certain information to each client at least every quarter. This information must include an accounting of funds received and disbursed, contact information for state and federal tax agencies to verify payments have been made. Note that bonding does not necessarily ensure that all claims will be covered if the payroll processor fails to comply with its responsibilities.

A payroll processor may not designate itself as the sole recipient of notices from state or federal authorities for nonpayment of taxes or unemployment contributions. A payroll processor shall ensure that such notices are provided directly to the affected employers or non-wage filers.

Failure to license or abide by all statutory requirements will subject a payroll processor to certain civil penalties.

Electronic Filing Required for All Employers/Payers



MRS Rule 104 (Electronic Filing of Maine Tax Returns) generally requires all employers and non-wage payers to electronically file Maine income tax withholding returns and annual reconciliation of Maine income tax withholding. Employers/payers unable to meet the electronic filing requirement because of undue hardship may request a waiver from the State Tax Assessor. The request must be in writing and must include the name, address and withholding account number of the business, a detailed explanation of why filing electronically poses a significant hardship and the length of time for which you are requesting a waiver. Mail requests to: Maine Revenue Services, Withholding Unit, P.O. Box 1060, Augusta, ME 04332-1060. To view Rule 104, go to www.maine.gov/revenue/publications/.



www.maine.gov/revenue/portal

The **Maine Tax Portal ("MTP")**, available at www.revenue.maine.gov, replaces the **Maine Employers Electronic Tax Reporting System ("MEETRS")**, **Maine Withholding I-File**, and **EZ-Pay** as the primary electronic filing and payment system for Maine withholding returns and payments,

effective December 1, 2022. Use the MTP to create and manage your Maine withholding tax account, file tax returns (Forms 941ME and W-3ME) and pay Maine income tax withheld. Bulk filing is also available on the MTP for withholding tax for use by Payroll Service Providers and by other withholding tax bulk filers. Payroll Service Providers and other bulk filers must register for the MTP and obtain MTP usernames.

Note: The current MRS withholding I-File and MEETRS bulk filing programs will temporarily remain available until fully phased out early in 2023.

Quarterly return file specifications are available to view or download from the MRS website at www.maine.gov/revenue (select "Electronic Services").

Experienced personnel can assist with registration and answer any questions you may have. **Call (207) 626-8475, select option 4** to speak with Taxpayer Assistance for income tax withholding. For more information, see www.maine.gov/revenue.

Electronic Payment Options

Electronic Payment Required. MRS Rule 102 requires taxpayers with a combined annual tax liability for all taxes that is \$10,000 or more to pay electronically. Payroll processing companies must remit electronically for all clients, even if clients are not mandated to pay electronically. All semiweekly payments must be remitted electronically. MRS encourages voluntary participation by those not required to pay electronically. Taxpayers may request a waiver from this requirement for good cause. To obtain a waiver request form, see Contact Information below.

MRS accepts electronic payments by ACH credit and ACH debit methods.

ACH Debit. A taxpayer may make payments using this method by authorizing MRS to electronically transfer tax payments from the taxpayer's deposit account to the MRS deposit account. ACH debit payments can be made using the MTP.

ACH Credit. A taxpayer may make payments using this method by authorizing their bank to withdraw the tax payment from the taxpayer's deposit account and transfer it to the state's account.

You must have previously established a relationship with a bank that provides this service (generally larger commercial banks) and you must have previously registered with the MRS Operations Unit as a credit method payer.

Contact Information. For more information about electronic payment requirements, an application, a waiver request form or a copy of Rule 102, visit www.maine.gov/revenue and select Electronic Services; send an email to efunds.transfer@maine.gov; send a fax to (207) 287-6975; call (207) 624-9784; or write to: Taxpayer Registration, Maine Revenue Services, P.O. Box 1060, Augusta, ME 04332-1060.

Penalties. The penalty for insufficient funds applies to electronic funds transfers. The penalty is the greater of 1% of the payment amount or \$20.

The penalty for any person required to pay by electronic funds transfer who fails to do so is liable for a penalty equal to the lesser of 5% of the tax due or \$5,000.

Forms W-2, 1099, and Other Informational Forms

Employee income and withholding statements must be furnished to payees on or before the date that the related federal statements must be furnished. If employment ends before December 31, you may furnish copies to the employee at any time after employment ends, but no later than January 31. If a terminated employee requests Form W-2 in writing, you must give the employee

completed copies within 30 days of the request or within 30 days of the final wage payment, whichever is later. A person/employer who furnishes a false or fraudulent statement or fails to furnish a statement to MRS and to payees commits a civil violation subject to a fine of \$50 for each failure.

Reporting Third-Party Sick Pay

Many employers that provide wage protection for employees who miss work due to illness or injury often do so through a third party, such as an insurance company. Sick pay paid by a third party that is considered wages for federal purposes is treated as wages for Maine purposes and subject to voluntary withholding as requested by the employee.

A third party that withholds Maine income tax from sick pay is required to remit payment and file withholding returns under the same rules that apply to employers.

The third party must file returns under its own EIN and include all Maine income tax withheld for the quarter. The return must include, on Schedule 2, the amount withheld from each employee/payee, even if the Wage Statement (Form W-2) reflecting the sick payments will be issued by the employer and not the third party.

Employers: Do not include on Form 941ME any Maine income tax withheld and remitted by a third party from sick pay payments.

New Hire Reporting Requirements

Maine employers are required by law to report certain information to the Department of Health and Human Services (“DHHS”) within seven days of the date an employee is newly hired, rehired or terminated. Employers are also required to report the hiring of an independent contractor when reimbursement is anticipated to equal or exceed \$2,500.

For more information about New Hire Reporting, visit www.maine.gov/dhhs/ofi/programs-services/child-support-services/employers/report-new-hires, email maine.newhire@maine.gov or call the DHHS Division of Support Enforcement and Recovery at (207) 624-4100.

Employers must report the employee’s full name, address, social security number, date of birth, and date of hire, rehire, or termination, the most recent date that services for remuneration were first performed, as well as the employer’s name, address, telephone number, Maine Department of Labor Number and federal Employers Identification Number (“FEIN”). If reporting the hiring of an independent contractor, the report must also include the date a

contract is executed (or, if no contract, the date payments equal or exceed \$2,500), the total dollar amount of the contract (if any), and the expiration date of the contract (if any).

The required New Hire information may be reported in the following ways, but note that submission via the web portal is preferred:

- New Hire Portal: <https://portal.maine.gov/newhire>
- Email your report to: maine.newhire@maine.gov
- FAX a New Hire Report Form to (207) 287-6882 (local call).
- Obtain a New Hire Report Form by downloading it from the website at www.maine.gov/dhhs/ofi/programs-services/child-support-services/employers/report-new-hires, email maine.newhire@maine.gov or call (207) 624-4100.

New Hire information provided by Maine employers has resulted in collections of approximately \$70 million annually. This has made a great difference in the lives of many children who otherwise might not have received the financial support to which they are entitled.

Unclaimed Property Reporting Requirements

Maine businesses are required to identify, report, and remit unclaimed property to the Office of the State Treasurer in accordance with 33 M.R.S., Chapter 45. Information on how to report unclaimed property is available on the Maine State Treasurer’s website at www.maineunclaimedproperty.gov.

The report must be filed May 1st for life insurance property and gift cards/certificates and November 1st for all other property, such as bank accounts, uncashed checks, and securities. Visit www.maineunclaimedproperty.gov or call (207) 624-7470 for more information.

Fiscal Agent Requirements

Fiscal agents planning to act for their client employers within the meaning of 36 M.R.S. § 5250(5) must register with MRS by submitting the Application for Tax Registration available at www.maine.gov/revenue/tax-return-forms. Complete Sections 1 and 2 of the application, check the box in Section 2, line 9 for fiscal agents and follow all other relevant instructions for registration.

Upon receipt of the application, MRS will contact the fiscal agent to request additional information and required documents to complete the registration process. MRS will also inform the fiscal agent of special tax filing and payment requirements, as well as other legal and administrative responsibilities of a fiscal agent designated under 36 M.R.S. § 5250(5).

General Instructions

Form 941ME is used to report or correct total income tax withheld for the quarter and to reconcile semiweekly withholding payments made during the quarter.

A return must be filed for each quarter, even if there was no income tax withheld for that period.

- Each page submitted must include the Maine Withholding Account Number clearly printed at or near the top of the page.
- Do not write notes on the withholding listing pages.

Returns must be completed and filed with MRS each quarter according to the following schedule:

<u>Quarter</u>	<u>Period Covered</u>	<u>Due Date</u>
Quarter 1	01-01-23 to 03-31-23	05-01-23
Quarter 2	04-01-23 to 06-30-23	07-31-23
Quarter 3	07-01-23 to 09-30-23	10-31-23
Quarter 4	10-01-23 to 12-31-23	01-31-24

Except for payments required to be made on a semiweekly basis, withheld amounts must be remitted quarterly by the return due date.

Payers that reported Maine income tax withholding of \$18,000 or more for the 12 months ending June 30, 2022 are required to make payments of income tax withholding on a semiweekly schedule. These payments are required to be paid electronically per MRS Rule 102.

If the requirement to pay income tax withholding on a semiweekly basis has been met, Schedule 1 must be completed. See instructions for Schedule 1 below.

If it is necessary to correct a withholding amount reported or made for a particular payee in a previous quarter in the current year, submit an amended Form 941ME for that period, check box B and provide an explanation of the change on line 4. Refunds may not be claimed on an amended return filed for any period in a prior year if the overpayment includes amounts actually withheld from payees.

See instructions for line 4. Copies of original or corrected annual statements (e.g. Forms W-2, W-2C, 1099) that reflect the corrected amount of withholding for employees or payees listed on Schedule 2 must also be attached.

If an amended return is filed after filing the annual Form W-3ME, an amended Form W-3ME must also be filed.

Do not correct over-withheld Maine income tax from an employee or payee if the end of the year has passed. Instead, the employee/ payee should claim the withholding when filing their personal income tax return and receive the over-withheld portion directly from MRS in the form of an income tax refund.

When a business terminates, the requirement to withhold permanently ceases, or if there has been a change in the business name, address or telephone number, please report changes on Form 941BN-ME or manage your account online at www.revenue.maine.gov. **Do not make changes on Form 941ME.**

When using a paid preparer or payroll processor, enter their FEIN and Maine payroll processor license number in the designated fields.

If the current FEIN changes, call the Central Registration Unit at (207) 624-9784.

Interest and Penalties.

Beginning January 1, 2023, the interest rate is 7% per annum, compounded monthly.

The penalty for failure to pay the withholding tax on time is 1% per month up to a maximum of 25%.

The penalty for failure to file the return on time is 10% of the tax liability or \$25, whichever is greater. If the return is filed more than 60 days after the taxpayer receives a formal demand that the return be filed, the penalty is the greater of \$25 or 25% of the tax due.

Form 941ME - Specific Instructions

Enter the return due date, quarter number, quarterly period covered beginning and ending dates, withholding account number, entity name, and address in the spaces provided.

Box A. Check this box only if the entity is a non-wage withholder and has received written permission to exclude Schedule 2. Checking this box requires the entity to file Forms 1099 directly with MRS for all payees in accordance with the MRS 1099/W-2G File Upload Specifications. **This box must be checked every quarter for which the permission is effective.**

Box B. Check this box if the return being filed is an amended return.

Box C. Check this box if this is the entity's last return and you want MRS to close your Maine income tax withholding account.

Line 1. Enter the total amount of Maine income tax withheld. This amount should agree with the total amounts entered on Schedule 2, line 6 (all pages). For amended returns only: Enter the total amount from Schedule 2, line 7 (all pages).

Line 2a. Enter the total amount of semiweekly payments for the quarter, plus any payments remitted with the original return, or payments for this period made after the original return was filed.

Line 2b. If filing an amended return, enter the overpayment (refund) on the original return or the adjusted refund amount. **Note: Refunds may not be claimed on an amended return filed for any period in a prior year if the overpayment includes amounts actually withheld from payees.**

Lines 3a and 3b. If line 1 equals line 2c, leave lines 3a and 3b blank.

3a: If line 2c is positive and line 1 is greater than line 2c, enter line 1 minus line 2c. Enclose the amount due with the return.

3b: If line 2c is greater than line 1, enter line 2c minus line 1 to determine the amount to be refunded.

Line 4. Check all boxes that apply. In the space provided, explain the adjustments being made. If more space is needed, attach an additional sheet. Attach documentation to support the changes in withholding amounts. Overpayments will not be refunded without sufficient explanation.

Note: Pursuant to 36 M.R.S. § 5276, if there is an overpayment of tax required to be deducted and withheld under § 5250, a refund will be made to the employer only to the extent that the overpayment was not deducted and withheld by the employer.

Schedule 1 - Reconciliation of Semiweekly Payments of Income Tax Withholding

Complete Schedule 1 if the requirement to pay income tax withholding on a semiweekly basis has been met (see page 4). Complete one line of the schedule for each semiweekly payment remitted during the quarter.

On Form 941ME, Schedule 1, enter the payroll date in the Date Wages or Non-wages Paid column and enter the amount of corresponding withholding paid to MRS for that payroll period in the Amount of Withholding Paid column.

Semiweekly Schedule	
<u>Day Wages Paid</u>	<u>Remittance Due</u>
Wednesday, Thursday, or Friday	On or before the following Wednesday
Saturday, Sunday, Monday, Tuesday	On or before the following Friday

Line 5. Add the subtotals for the payment amount columns and enter the total payment amount for this quarter. Then, enter the total payment amount on line 2a. The payment amount includes all payments made during the quarter.

Schedule 2 - Income Tax Withholding Listing

All filers reporting income tax withheld on Form 941ME, line 1 must complete Schedule 2, column A, column B, column C, and line 6. Use as many pages as necessary to report all employees/payees. Include backup withholding, pension withholding, non-wage payments withholding (unless Form 941ME, box A is checked), etc.

Amended returns: If this is an amended return, complete columns A, B, C, and D listing all employees/payees and related information. In column C, enter the withholding as originally reported or previously adjusted. Enter in column D the correct withholding amount for the period.

Column A. Enter the last name, first name, and middle initial of each payee who received wages or non-wage payments during the quarter.

Column B. Enter the full 9-digit social security number of each payee who received wages or non-wage payments during the quarter.

Column C. Enter the total Maine income tax withheld for each payee who received wages or non-wage payments during the quarter. For amended returns only: Enter the amount of income tax withheld as originally reported or previously adjusted.

Column D. For amended returns only: Enter the correct Maine income tax withheld for each payee. If there was no withholding for the quarter, enter zero (\$0).

Line 6. On each page, enter the total Maine income tax withheld for payees listed in column C on line 6. If no income tax was withheld, enter zero (\$0).

Line 7. On each page, enter the total Maine income tax withheld for payees listed in column D on line 7. If no income tax was withheld, enter zero (\$0).

Note: An amended return must also be filed to report corrections to employee or payee identification numbers. The following steps must be followed for each quarter being corrected:

Step 1: List the employee or payee under the incorrect ID number used on the original return. In column C, enter the original amount withheld. In column D, enter zero (\$0).

Step 2: On a separate line, list the employee or payee under the correct ID number. Enter zero (\$0) in column C and the correct withholding amount in column D.

Mission Statement

MRS' mission is to fairly and efficiently administer the State's tax laws with integrity and professionalism.

Maine Revenue Services Privacy Policy

Maine Revenue Services ("MRS") maintains the highest standards in handling personally identifiable taxpayer information. Taxpayers have the right to know what information is kept on file about them, to have reasonable access to it, and to receive a copy of their file. Under penalty of law, employees and agents of MRS are prohibited from willfully inspecting information contained on any tax return for any purpose other than the conduct of official duties. In addition, MRS employees and agents are prohibited from disclosing tax information to anyone other than the taxpayer except in a limited number of very specific circumstances. No unassociated third parties may receive information pertaining to tax returns without written permission from the affected taxpayer except as allowed under 36 M.R.S. § 191. Communications that do not meet the definition of tax information are subject to the general confidentiality and public inspection provisions of Maine's "Freedom of Access" laws. When confidential taxpayer information is stored by MRS, it is kept in a secure location where it is accessible only to authorized employees and agents of MRS. If you have any questions regarding the Privacy Policy, please contact MRS at (207) 626-8475.

Questions?

For questions on filing income tax withholding returns, call (207) 626-8475, select option 4 or email withholding.tax@maine.gov. MRS telephone assistance is available Monday through Friday between 9:00 a.m. and 12:00 p.m., excluding holidays.

See important tax law changes at www.maine.gov/revenue/publications/rules.

Stay current with the latest tax news and information by subscribing to the online Maine Tax Alert Newsletter. It's free! Sign up at www.maine.gov/revenue/publications/maine-tax-alerts.