18 DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

125 MAINE REVENUE SERVICES

Chapter 104: FILING OF MAINE TAX RETURNS

SUMMARY: This rule describes the requirements for filing certain Maine tax returns, including mandatory electronic filing of certain Maine tax returns, and requirements of software developers to develop Maine tax return forms.

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.01 Definitions. As used in this rule, unless the context otherwise indicates or may otherwise require, the following terms have the following meanings that shall apply throughout the rule.

A. "Electronic filing" or "Electronic data submission" means the submission of return or document information using a computer, the internet, or any other means of electronic submission of data in a manner prescribed by the State Tax Assessor ("Assessor") where the return or document information is electronically accepted by the Assessor. Specifications for the manner of the transfer of data may be found on the Maine Tax Portal, Maine Revenue Services ("MRS") website, or by contacting MRS.

B. "Maine tax return" means any Maine tax return, including, but not limited to, any schedule, worksheet, report, application, or form for purposes of 36 M.R.S. § 193 (original or amended ~~return~~) for which MRS provides a program for electronic filing or electronic data submission~~, including, but not limited to, individual income tax returns sales/use tax returns, service provider tax returns, income tax withholding returns (Forms 941ME), pass-through entity withholding returns (Form 941P-ME), real estate withholding ("REW") returns (Forms REW-1-1040, REW-1-1041, REW-1-1120, and REW-5), corporate income tax returns, real estate transfer tax declarations, franchise tax returns, insurance tax returns, fuel tax returns (gasoline distributor tax, special fuel tax), special tax returns, applications for the refundable seed capital investment tax credit by private venture capital funds, applications for the certified visual media production wage reimbursement, and returns and reports required to report federal adjustments under 36 M.R.S. §§ 5195-5198~~.

C. "Person" means an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, business trust, receiver, assignee, or any other group or

combination acting as a unit, other than the State or Federal Government or any political subdivision or agency of either government.

D. "Prepares" means completes Maine tax returns directly or through employees.

E. "REW filer" means a person, such as a title company, broker, or other REW preparer that files Maine real estate withholding tax forms pursuant to 36 M.R.S. § 5250-A on behalf of a buyer or seller of Maine real property.

F. "Software developer" means a person that develops computer-generated forms or payroll services that are used in connection with Maine tax laws.

G. "Special tax" means the blueberry tax, cannabis excise tax, cigarette tax, health care provider tax, hospital tax, ~~initiator of deposit tax,~~ mahogany quahog tax, milk handling fee, potato tax, railroad tax, or tobacco tax.

H. "Tax return preparer" or "preparer" means a person who prepares Maine tax returns or who employs one or more persons to prepare Maine tax returns. An employee of a tax return preparer is not considered a tax return preparer for purposes of this rule.

I. "Threshold amount" means, for the taxable year, the sum of the applicable Maine standard deduction amount and the Maine personal exemption amount for each taxpayer and for each dependent.

.02 General Filing Requirements – individual income tax returns

A. **Resident individuals**. Unless an exception applies, a Maine income tax return is required to be filed by every resident individual:

1. Who is required to file a federal income tax return for the taxable year; or

2. Who has a Maine individual income tax liability (before tax credits) for the taxable year under 36 M.R.S., Part 8.

B. **Exceptions**. The following taxpayers who would otherwise be required to file under subsection A, paragraph 1, above, are not required to file a Maine income tax return:

1. A resident individual who does not have a Maine income tax liability pursuant to Part 8 for the taxable year and who filed a federal income tax return for the taxable year for the sole purpose of claiming a credit under Internal Revenue Code section 32; and

2. ~~For taxable years beginning on or after January 1, 2013, a~~ A resident individual whose federal adjusted gross income is less than the applicable threshold amount and who is not subject to any of the addition modifications under 36 M.R.S. § 5122(1).

.03 Mandatory Participation. The following returns and applications must be submitted by electronic data submission in accordance with this section, unless a waiver from mandatory participation under section .04 has been granted:

A. **Individual income tax returns.** A tax return preparer must file~~ by electronic data submission~~ all Maine tax returns for individual income tax by electronic data submission, unless:

1. During the previous calendar year, the tax return preparer prepared 10 or fewer Maine tax returns for individual income tax; or

2. The taxpayer refuses to allow the return to be filed by electronic data submission and the tax return preparer notes the refusal in the taxpayer's records.

B. **Sales~~,~~ and use~~, and service provider~~ tax returns.** A tax return preparer must file all Maine tax returns for sales~~,~~ and use~~, or service provider~~ tax by electronic data submission.

C. **Income tax withholding, REW, and pass-through entity withholding returns.**

1. Employers that are registered for Maine income tax withholding, third-party filers or payroll processors as defined in 10 M.R.S., Chapter 222, fiscal agents designated in accordance with 36 M.R.S. § 5250(5), and non-wage payers that are subject to Maine income tax withholding under 36 M.R.S. §§ 5255-B and 5255-C must file all Maine quarterly returns with respect to Maine income tax withholding by electronic data submission~~ all Maine quarterly returns with respect to Maine income tax withholding~~.

2. Pass-through entities with any nonresident members that are subject to pass-through withholding on Maine-source income must file Form 941P-ME by electronic data submission.

3. A buyer of real property located in Maine~~ who~~ that is required to withhold Maine income tax under 36 M.R.S. § 5250-A(2), or the REW filer for such buyer, must~~, for returns due on or after January 1, 2025,~~ file Forms REW-1-1040, REW-1-1041, and REW-1-1120 by electronic data submission.

4. A nonresident seller (determined in accordance with the provisions of 36 M.R.S. § 5250-A) of real property located in Maine that submits Form REW-5 to request an exemption or reduction in the real estate withholding amount, or the REW filer for such seller, must~~, for Forms REW-5 submitted on or after May 1, 2025,~~ file Form REW-5 by electronic data submission.

D. **Corporate income tax returns.** Corporations, including tax-exempt entities, required to file Form 1120ME with total assets of $5 million or more as of the last day of the tax year must file returns by electronic data submission. ~~For returns filed in calendar year 2025 or any subsequent calendar year, c~~Corporations, including tax-exempt entities, subject to the tax imposed by 36 M.R.S., Chapter 817 and a tax return preparer for such corporation that is required to file the federal corporate return electronically for the taxable year must file Maine~~ Form 1120ME~~ corporate income tax returns by electronic data submission.

E. **Real estate transfer tax returns.** ~~Starting with returns filed in calendar year 2021, a~~ A tax return preparer must file~~ by electronic data submission~~ all Maine tax returns for real estate transfer tax by electronic data submission, except where the tax return preparer prepared fewer than 10 Maine tax returns for real estate transfer tax in the previous calendar year.

F. **Franchise tax returns.** ~~Starting with returns filed in calendar year 2025, a~~ A financial institution subject to the tax imposed by 36 M.R.S., Chapter 819, and a tax return preparer for such financial institution must file ~~by electronic data submission~~ all Maine tax returns for franchise tax by electronic data submission.

G. **Insurance premiums tax returns.** ~~Starting with returns filed in calendar year 2025, a~~ A person subject to the taxes imposed by 36 M.R.S., Chapter 357, or 25 M.R.S. § 2399, and a tax return preparer for such person, must file ~~by electronic data submission~~ all Maine tax returns required by 36 M.R.S. §§ 2521-A and 2531(3) by electronic data submission.

H. **Fuel tax returns and refund applications.** ~~Starting with returns filed in calendar year 2025, a~~ A tax return preparer must file ~~by electronic data submission~~ all Maine gasoline distributor and/or special fuel supplier tax returns, including the annual shrinkage returns and schedules by electronic data submission. Starting with fuel refund applications submitted on and after July 1, 2026, a tax return preparer must submit all Maine off-highway, political subdivision, and/or retail dealer gasoline shrinkage fuel tax refund applications by electronic data submission.

I. **Special tax returns and cigarette tax refund applications.** ~~Starting with returns filed in calendar year 2025, a~~ A tax return preparer must file ~~by electronic data submission~~ all Maine special tax returns by electronic data submission. Starting with applications submitted on and after July 1, 2026, a tax return preparer must submit by electronic data submission all Maine cigarette tax refund applications.

J. **Applications for the refundable seed capital investment tax credit by private venture capital funds under 36 M.R.S. § 5216-B(2).** ~~Starting with applications filed in calendar year 2025 for investments made in calendar year 2024 or later, a~~ A private venture capital fund and a tax return preparer for such fund must file ~~by electronic data submission~~ all applications for the refundable seed capital investment tax credit under 36 M.R.S. § 5216-B(2) by electronic data submission.

K. **Applications for the certified visual media production wage reimbursement under 36 M.R.S., Chapter 919-A.** ~~Starting with applications filed in calendar year 2025, a~~ A visual media production company and a tax return preparer for such company must file ~~by electronic data submission~~ all applications for the certified visual media production wage reimbursement under 36 M.R.S., Chapter 919-A by electronic data submission.

L. **Income tax returns for estates and trusts.** ~~Starting July 1, 2025, a~~ A tax return preparer must file ~~by electronic data submission~~ all Maine income tax returns for estates and trusts by electronic data submission, unless during the previous calendar year, the tax return preparer prepared 10 or fewer Maine income tax returns for estates and trusts.

M. **Partnership audit returns and reports.** ~~Starting January 1, 2026, a~~ A partnership required to report federal adjustments under 36 M.R.S. §§ 5195-5198, and the tax return preparer or state partnership representative for such partnership, must file ~~by electronic data submission~~ all Maine tax returns and reports required to be filed pursuant to 36 M.R.S. §§ 5195-5198 by electronic data submission.

N. **Returns for the mining excise tax.** Starting with returns filed in calendar year 2027, a person subject to the taxes imposed by 36 M.R.S., Chapter 371, and a tax return preparer for such person, must file all Maine tax returns required by 36 M.R.S., Chapter 371, by electronic data submission.

O. **Returns for composite filing.** Starting with returns filed in calendar year 2027, an entity filing a return in accordance with Maine Revenue Services Rule 18-125 CMR ch. 805, and a tax return preparer for such entity, must file all such Maine tax returns by electronic data submission.

.04 Request for Waiver from Mandatory Participation

The Assessor shall waive the mandatory participation requirement under section .03 where the Assessor determines that the requirement may cause undue hardship. A person subject to mandatory participation under this rule may request a waiver from participation by submitting a waiver request in writing that indicates with specificity the tax type for which the waiver is requested, the undue hardship that will result from compliance with the electronic filing requirements, and the date by which the person intends to be in compliance. A determination by the Assessor under this section is subject to the administrative appeal provisions of 36 M.R.S. § 151.

.05 Penalties

Any person that fails to file returns by electronic data submission as required by this rule is liable for the penalty under 36 M.R.S. § 187-B(5-B). The Assessor shall waive or abate penalties for reasonable cause pursuant to 36 M.R.S. § 187-B(7). A determination by the Assessor under this section is subject to the administrative appeal provisions of 36 M.R.S. § 151.

.06 Software Specifications

Software developers are required by this rule to include 2-D barcodes pursuant to MRS specifications on all Maine substitute forms produced by the software developer. The Assessor shall waive the mandatory participation requirement under section .03 where the Assessor determines that the requirement may cause undue hardship. A software developer subject to this section may request a waiver from participation by submitting a waiver request in writing that indicates with specificity the undue hardship that will be caused by complying with this section. A determination by the Assessor under this section is not subject to the administrative appeal provisions of 36 M.R.S. § 151.

.07 Application date

Except where otherwise stated, this Rule applies to tax periods beginning on or after January 1, 2016.

STATUTORY AUTHORITY: 36 M.R.S. §§ 193, 5220(7)

EFFECTIVE DATE:
February 11, 2008 – filing 2008-68

AMENDED:
November 21, 2008
December 16, 2008 – filing 2008-576

March 1, 2010 – filing 2010-49
October 31, 2010 – filing 2010-522
October 21, 2012 – filing 2012-289
April 22, 2013 – filing 2013-101
January 31, 2016 – filing 2016-013
October 8, 2016 – filing 2016-164
August 28, 2017 – filing 2017-130
July 4, 2021 – filing 2021-142
April 27, 2024 – filing 2024-090
August 4, 2024 - filing 2024-171