

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, the following terms have the following meanings:

- A. “Electronic filing” or “Electronic data submission” means the submission of return or document information through the use of 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 Revenue Services (“MRS”) website or by contacting MRS.
- B. “Maine tax return” means any Maine tax return 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 individual income tax returns, sales/use tax returns, service provider tax returns, corporate income tax returns, income tax withholding returns (Forms 941ME), pass-through entity withholding returns (Form 941P-ME), annual reconciliations of Maine income tax withheld (Form W-3ME), and real estate transfer tax declarations.

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

- 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 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 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 - individual income tax returns

A tax return preparer must file by electronic data submission all Maine tax returns for individual income tax that are eligible for electronic filing, unless:

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

.04 MANDATORY PARTICIPATION – sales, use, and service provider tax returns

A tax return preparer must file all Maine tax returns for sales, use, or service provider tax that are eligible for electronic filing by electronic data submission.

.05 MANDATORY PARTICIPATION – income tax and pass-through entity withholding returns

- A. 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 must file electronically all Maine quarterly returns that are eligible for electronic filing with respect to Maine income tax withholding.
- B. Pass-through entities with any nonresident members that are subject to pass-through withholding on Maine-source income must electronically file Form 941P-ME.

.06 MANDATORY PARTICIPATION – 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 unless the taxpayer has been granted a waiver from mandatory participation under section .08.

.07 MANDATORY PARTICIPATION – real estate transfer tax

- A. For returns filed in calendar year 2018, a tax return preparer must file by electronic data submission all Maine tax returns for real estate transfer tax that are eligible for electronic filing except:
 1. Where the tax return preparer prepared fewer than 200 Maine tax returns for real estate transfer tax in calendar year 2017 that were eligible for electronic filing; or
 2. Where the tax return preparer has been granted a waiver from mandatory participation under section .08.
- B. For returns filed in calendar year 2019, a tax return preparer must file by electronic data submission all Maine tax returns for real estate transfer tax that are eligible for electronic filing, except:

1. Where the tax return preparer prepared fewer than 100 Maine tax returns for real estate transfer tax in calendar year 2018 that were eligible for electronic filing; or
 2. Where the tax return preparer has been granted a waiver from mandatory participation under section .08.
- C. For returns filed in calendar year 2020, a tax return preparer must file by electronic data submission all Maine tax returns for real estate transfer tax that are eligible for electronic filing, except:
1. Where the tax return preparer prepared fewer than 50 Maine tax returns for real estate transfer tax in calendar year 2019 that are eligible for electronic filing; or
 2. Where the tax return preparer has been granted a waiver from mandatory participation under section .08.
- D. For returns filed in calendar year 2021 or any subsequent calendar year, a tax return preparer must file by electronic data submission all Maine tax returns for real estate transfer tax that are eligible for electronic filing, except:
1. Where the tax return preparer prepared fewer than 10 Maine tax returns for real estate transfer tax in the previous calendar year that were eligible for electronic filing; or
 2. Where the tax return preparer has been granted a waiver from mandatory participation under section .08.

.08 REQUEST FOR WAIVER FROM MANDATORY PARTICIPATION

The Assessor shall waive the requirement to participate 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 clearly indicates the tax type for which the waiver is requested, the undue hardship that the person states will be caused by complying 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.

.09 PENALTIES

Any person that fails to file returns electronically as required by this rule is liable for the penalty under 36 M.R.S. § 187-B(5-B). Penalties shall be waived or abated for reasonable cause pursuant to 36 M.R.S. § 187-B(7).

.10 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 requirement to participate 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 clearly indicates the undue hardship that the software developer states 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.

.11 APPLICATION DATE

Except where otherwise stated, this Rule applies to tax years 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