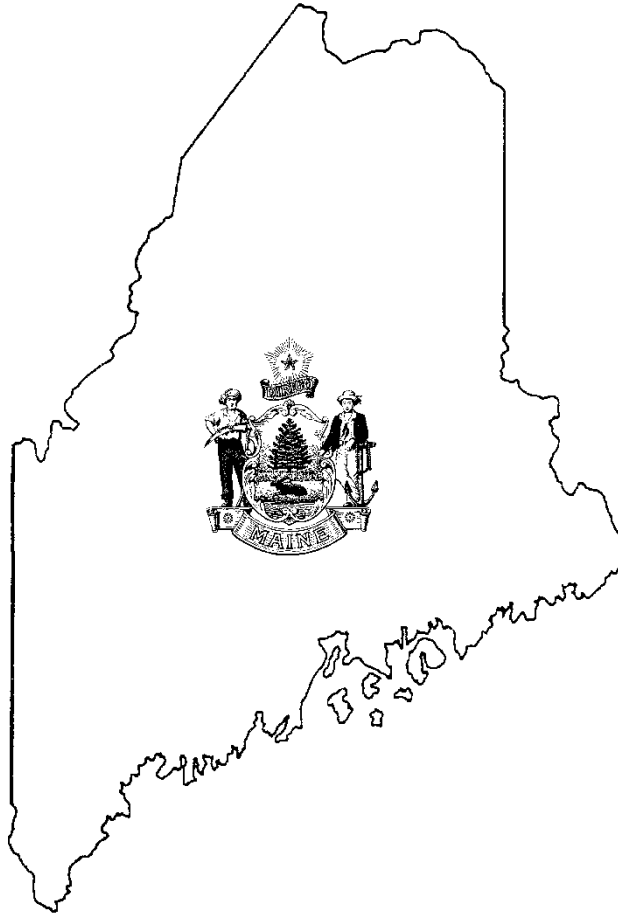


# **INDIVIDUAL INCOME TAX**

## **Credit for Income Taxes Paid to Other Jurisdictions**



# **GUIDANCE DOCUMENT**

**Maine Revenue Services, Income/Estate Tax Division**

Last Revised: February 2019

# CREDIT FOR INCOME TAXES PAID TO OTHER JURISDICTIONS

## Who May Claim the Credit?

Generally, if a **resident** of Maine (excluding “Safe Harbor” residents) is required to pay income taxes to another jurisdiction, that person may claim a credit on the Maine individual income tax return for the taxes paid to the other jurisdiction (36 M.R.S. § 5217-A). **Note** that a resident of Maine who participates in a composite tax return filed with another state may claim credit for tax paid to the other jurisdiction limited to their ownership interest in the entity. The credit is calculated on the Maine Worksheet for Credit for Income Tax Paid to Other Jurisdictions, entered onto Maine Schedule A, Section 2, line 12, and appears as a tax credit on Maine Form 1040ME. The credit is limited to the Maine tax calculated on the income taxed by the other jurisdiction or the actual tax assessed on that income by the other jurisdiction, whichever is less.

A **nonresident** or “**Safe Harbor**” resident of Maine may ***not*** claim a credit for income taxes paid to another jurisdiction. Instead, nonresidents and “Safe Harbor” residents are allowed a credit based on the amount of non-Maine source income as calculated on Schedule NR or NRH.

A **part-year resident** usually cannot claim a credit for income tax paid to other jurisdictions. Occasionally, however, a situation may occur where a part-year resident is entitled to a credit for income tax paid to other jurisdictions (*see* “Double Credit” below).

## General Information

To qualify for the credit for income tax paid to other jurisdictions, the other taxing jurisdiction to which income taxes are paid must be another state of the United States, a political subdivision of any state, the District of Columbia, or a political subdivision of a foreign country that is analogous to a state of the United States (for example, New Brunswick, Canada). If a resident pays income taxes to both a state and a political subdivision of a state (usually a city), the taxes of the state and the political subdivision must be combined when calculating the allowable credit on the worksheet for credit for income tax paid to other jurisdictions.

The credit is limited to the portion of the individual’s Maine income tax that relates to the income being taxed by the other jurisdiction that is derived from sources in that jurisdiction. **Income sourced to another state must be determined in the same way that a Maine nonresident calculates Maine-source income for purposes of Schedule NR or Schedule NRH** (see “Source of Income” below). Also see 36 M.R.S. § 5142 and Maine Rule 806. The credit cannot be more than the income tax actually paid to the other jurisdiction. See the credit for income tax paid to other jurisdictions worksheet available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms).

The credit is calculated by dividing the income sourced to and taxed by the other jurisdiction by the taxpayer’s Maine adjusted gross income. The resulting percentage is multiplied by the Maine tax liability (before credits) to determine the amount of Maine tax that relates to the income being taxed by the other jurisdiction. The **lesser** of this amount or the actual taxes paid to the other jurisdiction (on income sourced to that jurisdiction) is the amount of the credit.

**Example:** *Mildred is a Maine resident and had Maine adjusted gross income of \$50,000 in 2018. \$10,000 of her income was earned in and taxed by Massachusetts. Assume that Mildred’s income taxes for Maine are \$2,081 based on \$50,000 Maine adjusted gross income. Her income taxes for Massachusetts are \$465 (based on \$10,000 in Massachusetts wages less \$880 exemption amount). The portion of Mildred’s \$2,081 tax liability due to Maine that is attributable to the \$10,000 earned*

*in Massachusetts is \$416 (\$10,000 divided by \$50,000, which is 20%, x \$2,081). She may claim a \$416 credit for taxes paid to Massachusetts (the lesser of \$416 and \$465 of actual taxes assessed by Massachusetts). In this example, Mildred receives a credit for the portion of taxes paid to Massachusetts. However, if her Maine tax liability had been \$2,500, and the Massachusetts tax remained the same, she would have received the full \$465 credit (the lesser of the Maine tax: \$2,500 x 20%, or \$500, or the \$465 tax assessed by Massachusetts).*

An individual may use only the actual amount of income taxes imposed by the other jurisdiction as the basis for the credit for income tax paid to other jurisdictions, not the amount of income taxes withheld for that jurisdiction.

Income taxes imposed by another jurisdiction means the tax after credits (except withholding and estimated tax payments).

To continue with the example above, let's assume that Massachusetts had withheld \$700 from Mildred's paychecks. When she completed her Massachusetts income tax return, she was entitled to a \$235 refund (\$700 withholding minus \$465 tax liability). Mildred cannot use the \$700 withholding as the basis for the Maine credit; she may use only the \$465, her actual tax liability to Massachusetts. Whether Mildred received a refund or had to pay additional money, the basis for the credit is the actual tax liability to Massachusetts.

**Multiple Taxing Jurisdictions:** If an individual pays income taxes to more than one other jurisdiction, such as Massachusetts and Connecticut, the individual must complete a separate worksheet for each jurisdiction. The separately calculated credits are then added together to arrive at the total credit for taxes paid to other jurisdictions. The combined total credit cannot reduce the Maine tax liability below zero.

**Business Taxes:** The tax eligible for the credit for tax paid to other jurisdictions must have been imposed on the individual. Thus, a tax imposed by another jurisdiction on a business entity, such as a partnership, S corporation or C corporation, does not qualify for the Maine credit, even though the individual may own, or partly own, the entity. However, income taxes paid by an individual to another jurisdiction on business income (such as income from pass-through entities and sole proprietorships sourced to that jurisdiction) that is included in the individual's taxable income of the other jurisdiction will generally qualify for the Maine credit.

**Taxable Year:** The income tax being imposed on the individual by another jurisdiction that is eligible for the credit for income tax paid to other jurisdictions is limited to the taxes imposed by the other jurisdiction in the same taxable year as the Maine return on which the Maine credit is being claimed. Taxes paid to another jurisdiction for a prior year may not be claimed as a credit on a current year Maine income tax return, even if the income to which the prior year's taxes relate now appears on the Maine return.

**Example:** *Ellen, a resident of New York, sold a piece of property in New York in 2016 on an installment sale basis. In 2018, Ellen moved out of New York and became a Maine resident. New York required Ellen to report the entire future gain from the installment sale on her 2018 New York return or to post a bond to ensure that she filed the appropriate returns with New York until all the gain is reported. She opted to include all the gain on the 2018 return, even though recognition of the installment sale had not changed for federal purposes. The actual amount of the installment sale gain received in 2018 will appear on Ellen's federal and Maine returns. Therefore, her credit for income tax paid to other jurisdictions for 2018 is limited to the New York tax on that portion of the gain reported to Maine. In no event may her taxes due to Maine be reduced below zero. When Ellen files her 2019 income tax returns, she will report the amount received in 2019 from the installment sale to both the IRS and to Maine. Because she did not have any tax liability in New*

*York for tax year 2019 she will not be allowed to claim a credit for income tax paid to other jurisdictions in 2019.*

**Amended Return:** If an individual amends an out-of-state return for a prior year, the individual must amend the Maine return for the corresponding year to report the adjustment within 90 days of the change. A refund claim must be filed within the statute of limitations period for making a refund claim (generally within 3 years of filing the original return).

**Source of Income:** Generally, income of a Maine resident (except “Safe Harbor” residents) that is sourced to and taxed by another jurisdiction can be used as the basis for a credit for income tax paid to other jurisdictions. Income sourced to another state must be determined in the same way that a Maine nonresident calculates Maine-source income for purposes of Schedule NR or Schedule NRH. See 36 M.R.S. § 5142 and Maine Rule 806.

Income sourced to another jurisdiction may include the following:

1. Salaries and wages earned working in the other jurisdiction, including all taxable benefits such as annual and sick leave;
2. Distributive share of income (loss) from partnerships and S corporations apportioned to the other jurisdiction;
3. Shares of trust and estate income derived from sources in the other jurisdiction;
4. Income (loss) attributed to the ownership or disposition of real or tangible personal property located in the other jurisdiction.
5. Gain (or loss) from sale of a partnership interest, except certain investment partnerships.

**Dual Residence Credit:** Individuals who are considered to be residents of both Maine (excluding “Safe Harbor” residents) and another state for income tax purposes may qualify for a dual resident credit under 36 M.R.S. § 5128. For more information, see [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) or call (207) 626-8475.

**Note:** Income that cannot, for purposes of the credit for income tax paid to other jurisdictions, be sourced to the other jurisdiction includes income from intangible sources, such as interest, dividends, pensions, annuities, gains or losses attributable to intangible personal property (except for a gain (or loss) from the sale of a partnership interest), unless such income is attributable to a business or profession carried on in that jurisdiction. Also, salaries and wages earned while working in Maine, whether for the convenience of the employee or at the request of the employer, cannot be sourced to another jurisdiction for purposes of claiming this credit. In addition, no income may be sourced to a jurisdiction unless the minimum taxability threshold described in 36 M.R.S. § 5142(8-B) has been exceeded with respect to that jurisdiction.

### **DOUBLE CREDIT – For Part-year Residents Eligible to Claim both the Credit for Tax Paid to Other Jurisdictions and the Nonresident Credit**

Generally, a part-year resident cannot claim both a nonresident credit (Schedule NR/NRH) and a credit for income taxes paid to another jurisdiction. However, when a part-year resident of Maine earns income in another jurisdiction both as a resident and as a nonresident of Maine during the same tax year, the part-year resident may be able to claim both credits. The nonresident credit (Schedule NR/NRH) is calculated first and is based on the income earned while a nonresident of Maine. The credit for income taxes paid to another jurisdiction is calculated next and is based on the income earned while a resident. **This is the only time**

**when a part-year resident can claim a credit for income tax paid to other jurisdictions.** A part-year resident can usually claim a nonresident credit, if the individual had income while a nonresident of Maine. Following are examples of when a taxpayer can or cannot claim both credits:

**Both Credits Allowable:** A taxpayer lives in New Hampshire and works in Massachusetts. In June, the taxpayer moves from New Hampshire to Maine, but continues to work in Massachusetts. This taxpayer could claim both credits. The nonresident credit would be based on the income earned prior to moving to Maine. The credit for income taxes paid to another jurisdiction would be based on the income earned after moving to Maine that was also taxed by Massachusetts. The income earned before moving to Maine, although taxed by Massachusetts, could not be used when calculating the credit for income taxes paid to another jurisdiction because the taxpayer was not a resident of Maine at the time the income was earned.

**Nonresident Credit Only:** A taxpayer lives in New Hampshire and works in Massachusetts. In June, the taxpayer moves from New Hampshire to Maine. The job in Massachusetts is terminated at the time of the move and a new job is obtained in Maine. The taxpayer could claim a nonresident credit based on the income earned in Massachusetts while living in New Hampshire. The taxpayer could not claim a credit for income taxes paid to Massachusetts because none of the income taxed by Massachusetts was earned while the taxpayer was a Maine resident.

**For those claiming both credits, follow these steps:**

**NOTE to Nonresident and “Safe Harbor” Resident Service Members.** See the instructions below for completing your Maine income tax return. Certain military compensation of nonresident or “Safe Harbor” resident service members is excludable from Maine taxable income.

1. **Determining Maine Taxable Income.** Maine taxable income is the federal adjusted gross income adjusted by Maine modifications, exemptions and deductions, calculated as if you were a Maine resident for the entire year. This establishes the appropriate tax rate to be applied to the taxpayer’s income. **Complete Form 1040ME through line 21 “Total Tax”.** (If filing Form 1040ME, Schedule NRH, refer to the instructions for Schedule NRH.)
2. **Complete Form 1040ME, Schedule A, Adjustments to Tax, exclusive of the credit for income taxes paid to another jurisdiction (line 12).** The credit for tax paid to other jurisdictions will be calculated later using the applicable worksheet. Do not calculate the Total Nonrefundable Credits on Schedule A, line 21 at this point. Enter the amount from line 7 of Schedule A on Form 1040ME, line 25c.
3. **Calculate the nonresident credit using Form 1040ME, Schedule NR/NRH.** Complete Maine Worksheets A, B, and either Schedule NR or NRH according to the instructions on the form.
4. **Calculate the credit for taxes paid to other jurisdictions** according to the worksheet for income tax paid to other jurisdictions available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms). Enter the result on Form 1040ME, Schedule A, line 12.
5. **Complete Maine Form 1040ME, Schedule A and Form 1040ME.** Attach a copy of the worksheet for income tax paid to other jurisdictions (available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms)) and Form 1040ME, Schedule NR or NRH to your return.

## NONRESIDENT & "SAFE HARBOR" RESIDENT SERVICE MEMBERS:

The Servicemembers Civil Relief Act "SCRA" (Public Law No. 108-189) provisions offset the computation of Maine individual income tax for certain nonresidents (including "Safe Harbor" residents) as follows:

- 1) Section 511(d) of the Act prevents states from including the military compensation of nonresident service members in the total income when computing the applicable rate of tax imposed on other income earned by the nonresident service member, or their spouse, that is subject to tax by the state. These changes affect Maine returns filed for tax years beginning on or after January 1, 2003 for some military taxpayers (Maine returns filed for tax years beginning on or after January 1, 2007 for "Safe Harbor" residents).
- 2) Amendments were made to the SCRA in 2009 for tax years beginning on or after January 1, 2009 to provide that a spouse of a service member may retain residency in their home state for tax purposes if the spouse is in Maine solely to be with the service member who is in the state due to military orders. The SCRA was further amended in 2018 for tax years beginning on or after January 1, 2018 to provide that a spouse of a service member may adopt the home of record of their military spouse for tax purposes. Income earned in Maine by a nonresident service member's spouse who is domiciled in another state may not be considered Maine-source income.

Since the 2018 Maine income tax return includes income of the nonresident service member, a deduction must be made on the Maine return for a nonresident (or "Safe Harbor" resident) service member. To deduct the military income of a nonresident (or "Safe Harbor" resident) service member from the Maine taxable income in 2018, use the following instructions:

- 1) Enter the total federal adjusted gross income on Form 1040ME, line 14.
- 2) Complete Form 1040ME, Schedule 1 and the Worksheet for Form 1040ME, Schedule 1, Line 2k (see line 3). Include the amount of military compensation of the nonresident service member on Form 1040ME, **Schedule 1, line 2k, 'Other'**.
- 3) Complete Form 1040ME, lines 15 through 22.
- 4) Complete Form 1040ME, Worksheet A (if applicable) and Worksheet B for Part-Year Residents/Nonresidents/"Safe Harbor" Residents. **NOTE:** When completing Worksheet B, include the military compensation received by the nonresident ("Safe Harbor" resident) service member and the Maine earned income of the service member's spouse on *line 1, columns A and D*. This procedure will ensure the proper determination of non-Maine-source income.
- 5) Complete Form 1040ME, Schedule NR or Schedule NRH (whichever is applicable).

**NOTE:** The military income of a nonresident ("Safe Harbor" resident) service member should be included on both *line 1, boxes A and C* and *line 5b* of **Schedule NR**. On line 5b, write "NR military compensation" in the space provided.

The Maine earned income of the service member's spouse should be included on *line 1, boxes A and C* of **Schedule NR**.

The military income of a nonresident service member filing **Schedule NRH** should be included on both *line 1* and *line 5b, columns A, B and C* of Schedule NRH. On line 5b, write "NR military compensation" in the space provided.

The Maine earned income of the nonresident service member's spouse filing **Schedule NRH** should be included on *line 1, columns A, B and C* of Schedule NRH.

This procedure will ensure the proper ratio for the determination of the non-resident credit.

*If you are completing Schedule NRH, see the Guidance Document titled "Instructional Pamphlet for Individual Income Tax, Schedule NRH" for more information.*

6) Complete Form 1040ME, lines 23 through 34.

A "service member" is defined as a member of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. It also includes a member of the National Guard who is under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency declared by the President and supported by Federal funds.

Any further questions about the computation of Maine individual income tax for certain nonresidents should be directed to the Income/Estate Tax Division of Maine Revenue Services at: [income.tax@maine.gov](mailto:income.tax@maine.gov) or call 207-626-8475.