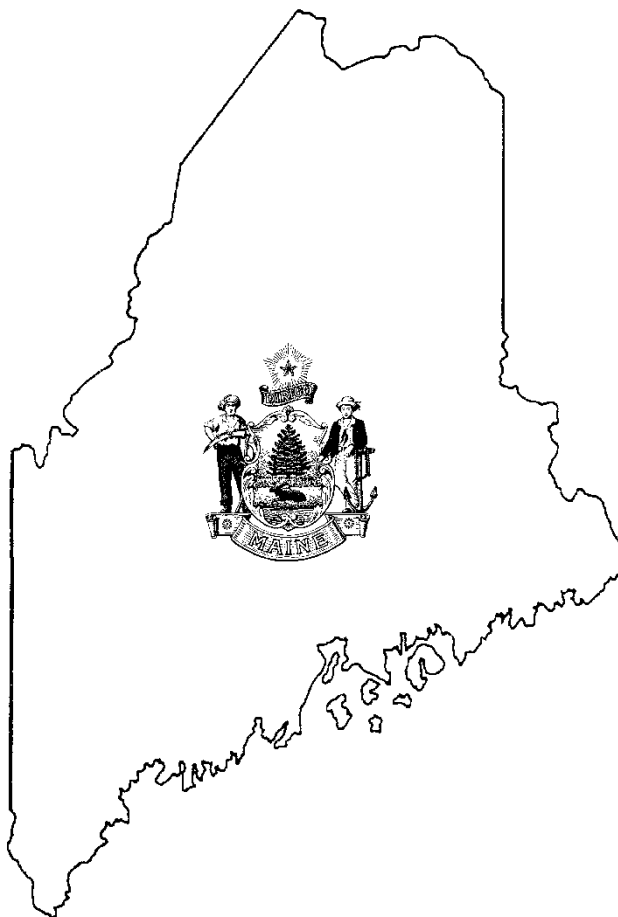


INDIVIDUAL INCOME TAX

Determining Residency Status



GUIDANCE DOCUMENT

Maine Revenue Services, Income/Estate Tax Division

Last Revised: January 2025

OVERVIEW

Unless otherwise indicated in this document, Maine income tax **guidance documents** are available at maine.gov/revenue/taxes/income-estate-tax/guidance-documents and Maine **tax forms** are available at maine.gov/revenue/tax-return-forms.

For Maine individual income tax purposes, there are four residency categories:

- A **“Maine resident”** taxpayer is a person who is domiciled in Maine (a “permanent legal resident”) or a statutory resident (see below).
- A **“safe harbor resident”** is a person who is domiciled in Maine but who is treated as a Maine nonresident for income tax purposes (see below). For more information and examples, see the *“Residency Safe Harbors for Residents Spending Time Outside Maine”* guidance document.
- A **“nonresident”** taxpayer, for Maine income tax purposes, is an individual who has Maine source income but who is not a Maine resident.
- A **“part-year resident”** of Maine is an individual who is domiciled in Maine for part of the year and who is not a statutory resident in that year (see below).

You can be a Maine resident either because you are domiciled in Maine or because you are a **statutory resident** as discussed below.

If you are a **Maine resident** for the entire tax year, you must pay Maine tax on all your taxable income regardless of its sources (e.g., wages, investment income, interest income, pension, dividends, etc.). Except, active-duty military pay earned by a Maine resident service member for service performed outside of Maine under written military orders is not subject to Maine individual income tax.

If you are a Maine resident subject to income tax by 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) on some of your Maine taxable income, you may be allowed an income tax credit for all or some of the tax paid to the other jurisdiction. For more information, see the *“Credit for Income Tax Paid to Other Taxing Jurisdiction”* guidance document.

If you are a **nonresident** or a **safe harbor resident** of Maine, you must pay Maine tax only on income that is derived from Maine sources. This includes income from work performed in Maine and income derived from sole proprietorships, partnerships, and S corporations, capital gains from real or tangible property sold in Maine, and income from rental of Maine property. Maine-source income also includes proceeds from any gambling activity conducted in Maine, lottery tickets purchased in Maine, and payments received from third parties as consideration for the transfer of rights to future proceeds related to gambling activity in Maine or lottery tickets purchased in Maine. Except for certain sales of a partnership interest on or after July 1, 2005, a nonresident generally is not required to pay Maine tax on interest, dividends, alimony, pensions, or other income from intangible sources unless such income is from property employed in a business carried on in Maine. For more information, see the *“Schedule NR”* guidance document or the *“Schedule NRH”* guidance document.

If you are a **part-year resident** of Maine, you must pay tax on all of your taxable income for the part of the year you were a Maine resident, and you must also pay tax on any taxable income derived from Maine sources during the part of the year you were a nonresident or a safe harbor resident.

Exceptions for certain income earned in Maine by nonresidents:

- A nonresident individual working in Maine as an employee is not required to pay a Maine tax or file a Maine tax return on income from personal services unless that individual works in Maine for more than 12 days or, having worked in Maine for more than 12 days, earns or derives income from all Maine sources totaling more than \$3,000. Up to 24 days performing certain personal services, such as training and site inspections, are not counted against the 12-day threshold. Also, generally, a nonresident individual present in Maine for business for no more than 12 days and earning no more than \$3,000 from business activity in Maine is not required to pay a Maine tax or file a Maine tax return on that income.
- Income earned by a nonresident employee of a political subdivision of an adjoining state performing services in Maine in accordance with an interlocal agreement under 30-A M.R.S., Chapter 115 is not considered Maine-source income, so long as the work performed does not displace a Maine resident employee.
- Compensation or income directly related to a declared state disaster or emergency is exempt from Maine tax if the taxpayer's only presence in Maine during the tax year is for the sole purpose of providing disaster relief.

For more information on these exceptions, see 36 M.R.S. §§ 5142(8-B) and 5142(9) and MRS Rule 806.

Note: Military service members and spouses, see additional guidance under “Military Personnel” below.

For more information on Maine residency status with respect to Maine individual income tax, see MRS Rule 807.

DOMICILE STATUS

The state in which you are domiciled is your **permanent legal residence**. This is the place you intend to make your home for a permanent or indefinite period of time. It is generally the place where you reside and which is the center of your domestic, social, and civic life.

Except for safe harbor residents, if you are domiciled in Maine, you are a Maine resident for income tax purposes – even if you are outside the state for part or all of the tax year. Under Maine law, a person can have only one domicile; therefore, if under Maine law, you are domiciled in Maine, you cannot be domiciled in another state or country.

Once your domicile is established in Maine, it continues until under Maine law you have established domicile elsewhere. If your domicile status becomes an issue, you will have the burden of showing that you have established domicile in another state or similar jurisdiction in this country (such as Washington, D.C. or Puerto Rico) or in another country (such as in a province in Canada).

If you move out of Maine temporarily without establishing domicile in the other state or country, you continue to be domiciled in Maine. This is the case even if you sell your home in Maine.

For most people, even those who divide their time between different states, there is no difficulty in determining where they are domiciled. It is usually clear where they maintain their home base.

For others, though, it can be more difficult. When MRS determines where a taxpayer is domiciled, it considers **all** of the taxpayer's relevant facts and circumstances (with a few exceptions noted below). You should do the same when determining how to file your income tax returns. Remember that although your **intent** is critical in determining where you are domiciled, a simple statement of intent – "I intended to make Florida my domicile in 2023," for example – is not conclusive. MRS may request additional information when you change your domicile, and you must demonstrate that a new domicile was established. Many factors are used as evidence of domicile.

It is important to know that **no single factor** will determine your state of domicile. Rather, all relevant factors are evaluated together. Below are some, but not all, of the factors MRS considers in making domicile determinations. You, too, should consider them to determine whether you are domiciled in Maine for income tax purposes.

Property ownership and residence:

- the location of your principal residence
- your mailing address
- where you spend the most amount of time
- whether you applied for a Homestead or Veterans property tax exemption in Maine or a comparable benefit in another state

Family and dependents:

- whether you can be claimed as a dependent on another person's federal income tax return and where that person is domiciled
- where your spouse or dependents reside
- where your dependents attend elementary and secondary school
- where you or your dependents qualify for in-state college tuition

Licenses and registrations:

- where you are registered to vote
- which state issued your driver's license
- where your vehicles are registered
- where you maintain professional licenses
- where you declare residency for hunting and fishing licenses

Financial data:

- the state where you qualify for unemployment insurance
- the state in which you filed previous resident tax returns
- the state where you earn your wages
- the address recorded for insurance policies, deeds, mortgages, or other legal documents
- the state where you maintain safety deposit boxes

Affiliations:

- the state in which you hold fraternal, social or athletic memberships
- the state where you maintain union memberships
- the location of a church or other house of worship of which you are a member

Other factors:

- where your personal property is located

- where you conduct your business
- the address listed for you in a telephone directory
- where you keep your pets

Certain factors may not be considered by MRS when making domicile determinations including:

- charitable contributions (whether made to an organization located in or outside of Maine)
- the geographic location of your professional advisors (doctors, lawyers, accountants, etc.)
- the geographic location of a financial institution with an active account or loan of an individual
- the geographic location of a political organization or candidate that an individual supports financially

Note: If you are married, both you and your spouse are presumed to have the same state of residency, even though you may live apart for a portion of the year. (This presumption can be overcome if the facts clearly show that the spouses are domiciled in different states.) Military service members and spouses, see additional guidance under “Military Personnel” below.

STATUTORY RESIDENCY STATUS

Even if you are domiciled in another state, you may still be taxed as a Maine resident if you are a statutory resident. **Statutory residency**, however, does not apply to military personnel. Military service members and spouses, see additional guidance under “Military Personnel” below.

You are a statutory resident if:

1. you spent more than 183 days in Maine during the tax year (with any portion of a day counted as a full day), **and**
2. you maintained a **permanent place of abode** in Maine.

A **permanent place of abode** is a house, apartment, residential care facility, dwelling place, or other residence that an individual maintains as a household for the entire tax year, whether or not that individual owns it.

The term does not include a seasonal camp or cottage that is used only for vacations, a hotel or motel room, or a dormitory room used by a student during the school year. A place of abode is not deemed permanent if it is maintained only during a temporary stay in Maine for the accomplishment of a particular purpose.

If you maintained a permanent place of abode in Maine, but claim you were domiciled elsewhere and that you were not present in Maine for more than 183 days in the tax year (as is the case with many so-called snowbirds, for example), you should keep adequate records to verify that more than half of the year was spent in another state. Records confirming your whereabouts commonly include planners, calendars, plane tickets, canceled checks, and credit card and other receipts.

RESIDENCY SAFE HARBORS

Maine law provides that certain individuals are treated as nonresident individuals for income tax purposes even though they are domiciled in Maine. These so-called safe harbor residents are limited to people who are absent from Maine for long periods of time. If you believe you qualify for either the General Safe

Harbor or the Foreign Safe Harbor described below, you should consult the “*Residency Safe Harbors for Residents Spending Time Outside Maine*” guidance document which contains more detailed information on eligibility and filing requirements.

General Safe Harbor: An individual who is domiciled in Maine will nevertheless be treated as a nonresident individual if, during the tax year in question, they satisfy all three of the following requirements:

- did not maintain a permanent place of abode in Maine
- maintained a permanent place of abode **outside** Maine
- spent **no more than 30 days** in the aggregate in Maine (with any portion of a day counted as a full day)

Foreign Safe Harbor: An individual who is domiciled in Maine will nevertheless be treated as a nonresident individual if they satisfy all three of the following requirements:

- within any period of 548 consecutive days (the “548-day period”) beginning or ending during that tax year, the individual is present in a foreign country (or countries) for at least 450 days
- during the 548-day period, the individual is not present in Maine for more than 90 days and does not maintain a permanent place of abode in Maine at which the individual’s spouse (unless the individual and their spouse are legally separated) or a minor child is present for more than 90 days
- during the nonresident portion of the taxable year with which or within which the 548-day period begins and during the nonresident portion of the taxable year with which or within which the 548-day period ends, the individual is present in Maine for a number of days that does not exceed an amount which bears the same ratio to 90 as the number of days contained in the nonresident portion of the taxable year bears to 548

RESIDENT and NONRESIDENT ALIENS

The guidelines that apply in determining Maine residency for taxpayers generally also apply in determining Maine residency for resident aliens and nonresident aliens.

MILITARY PERSONNEL

Individuals domiciled in Maine who are members of the armed forces of the United States, the National Guard, or Reservists who received federal orders for active duty continue to be domiciled in Maine for income tax purposes for the period of time they are stationed outside of Maine.

A **military service member’s** legal residence does not change solely because of a change in duty assignment. The legal residence designated at the time of entry into the service remains the same until the member establishes a new legal residence. A completed DD Form 2058, “State of Legal Residence Certificate” is evidence of a change in domicile (but does not prove it conclusively).

However, for tax years beginning on or after January 1, 2023, the Servicemembers Civil Relief Act (SCRA), as amended, allows the active-duty service member and the service member’s spouse to elect, for any taxable year of the marriage, to file state income taxes based on any one of the following three residency options:

- a. The residence or domicile of the service member.
- b. The residence or domicile of the service member's spouse.
- c. The permanent duty station of the service member.

The service member's Leave and Earnings Statement will indicate which state the service member and the service member's spouse are claiming as their legal residence.

The SCRA also provides that a **service member's spouse** cannot lose or acquire residence or domicile in a state for tax purposes when the service member's spouse is absent from, or located in, a state solely to be with the service member who is complying with military orders.

Active-duty military pay earned by a Maine resident service member for service performed outside of Maine under written military orders is not subject to Maine individual income tax.

Military pay earned by a nonresident who is stationed in Maine will not be taxed by Maine, nor will income from intangible sources, such as interest and dividends. However, if the nonresident service member works at an additional job in Maine or operates a business in Maine, that income will be taxed by Maine.

The income of a nonresident military spouse earned for the performance of services in Maine will not be treated as Maine-source income subject to Maine income taxation.

STUDENTS

Students generally remain residents of the state in which they were domiciled prior to attending college, even if they attend college full-time in another state.

If you are a Maine resident who attends school in another state, you remain a Maine resident and must pay Maine tax on all taxable income from all sources until you have established domicile in the other state.

NOW WHAT DO I DO?

Once you have determined your Maine residency status, you can identify what types of income are taxable to Maine, what credits you may be entitled to, and what tax forms you need to file.

If you are a full-year Maine **resident**, file Maine Form 1040ME, Individual Income Tax Return.

If you are a **nonresident** or a **safe harbor resident** for all or part of the year and your Maine gross income meets the Maine minimum filing requirement, you must file Form 1040ME and include either Schedule NR (Schedule for Calculating the Nonresident Credit) or Schedule NRH (Schedule for Apportionment and for Calculating the Nonresident Credit for Married Person Electing to File Single).

EXAMPLES

Example 1 - Full-year Domiciled Resident. Ben and Jennifer are retired. They own a home in Maine in which they reside from May 1 to October 1 (153 days) each year. Ben and Jennifer have Maine driver's

licenses and car registrations, and bank accounts in Maine. They are active in community and church affairs in Maine, vote in Maine, and consider Maine to be their home. Ben and Jennifer spend the rest of the year at their condominium in Florida. Ben and Jennifer are residents of Maine for tax purposes, even though they do not spend more than 183 days per year in the state, because they are domiciled in Maine.

Example 2 - Full-year Domiciled Resident. Stan and Susan own a house in Rockland, Maine. They register vehicles and are registered to vote in Maine. They use their Maine address on their insurance policies and mortgage documents. Their three children are enrolled in the Rockland school system. Stan is a merchant mariner who works for a company based out of Texas. Stan is assigned out to sea for four to five months at a time; but always returns to Rockland to be with his family between trips. Stan and four co-workers split the rent on a small apartment in Texas to use as a home base immediately before and/or after each trip and to provide an address for mail delivery. Stan is domiciled in Maine together with the rest of his family; Maine is his permanent legal residence. Stan is, therefore, a full-year Maine resident for tax purposes.

Example 3 – Nonresident. David is domiciled in New York. David is transferred to a Maine work office for a temporary assignment from March 1 to November 30 (274 days), after which David returns to New York. Although David takes an apartment in Maine during this period and spends more than 183 days of the taxable year in Maine, David is not a Maine resident, lacking a permanent place of abode in Maine for the entire year. Instead, David will be subject to tax as a nonresident on income from Maine sources, including any salary or other compensation for services performed in Maine.

Example 4 – Statutory Resident. Pete and Pam were formerly domiciled in Winthrop, Maine. In 2024, they retired from their jobs with the State of Maine and bought a home in Port Charlotte, Florida. Within a few months of that purchase, they obtained Florida drivers licenses, registered to vote in Port Charlotte and took other steps to establish domicile in Florida. As of the move, MRS considers them to be domiciled in that state. They continue to maintain their lakefront house in Winthrop for the entire year and return to Maine every year from mid-April to the end of October (200 days) to spend time with family and friends. Pete and Pam are statutory residents of Maine because they maintain a permanent place of abode in Maine for the entire year and spend more than 183 days in Maine.

Example 5 – Nonresident, then Statutory Resident. Sarah is domiciled in New Jersey. Sarah transfers to a Maine office for a work assignment from June 1, 2023 to August 1, 2024. If Sarah resides in an apartment in Maine during this period, Sarah will not be a statutory resident in Maine in 2023, even though more than 183 days of the taxable year were spent in Maine, because the apartment was not maintained for the entire year. Only income Sarah receives (such as salary) that is connected to or derived from sources in Maine will be subject to Maine's income tax in that year. If Sarah's assignment is extended in 2024 to last for the entire year and Sarah maintains the apartment as a residence throughout 2024, Sarah will be a statutory resident in 2024, and all of Sarah's income will be subject to Maine income tax that year.

Example 6 – Statutory Resident, then Domiciled Resident. In example 5 above, Sarah became a statutory resident in 2024. Sarah continued to maintain the Maine apartment in 2024, changed domicile from New Jersey to Maine in April 2024, and was present in Maine for more than 183 days in 2024. Under these circumstances, Sarah will be a full-year resident in 2024 and all of Sarah's income will be subject to Maine tax in that year.

Example 7 – Part-year Resident. Susan and Sam have been domiciled in Maine for the past five years. They are homeowners and calendar year taxpayers. Susan receives notice from her employer of a transfer to the company's office in New York. On September 1, 2024, Susan and Sam move to a new home in

Connecticut with the intent to make Connecticut their new state of domicile and take sufficient steps to make it so. Prior to leaving, they put their house in Maine on the market for sale with a local real estate office. An offer is made for the house on October 1, 2024. The house is sold on December 1, 2024. Under these facts, Susan and Sam are part-year residents for 2024. For the period from January 1 through September 1, 2024, they were residents because they were domiciled in Maine. After that date, they relinquished their domicile in Maine and became domiciled in Connecticut. As residents, any income they received from January 1 to September 1, from whatever source, is subject to Maine personal income tax. For the period from September 2 through December 31, 2024, only income received connected to or derived from sources in Maine (such as any taxable gain on the sale of their Maine home) will be subject to Maine income tax.

Example 8 – Resident Student. John attends a college outside of Maine and lives in a dormitory room on campus. John’s parents still live in Maine, and John stays with them on school breaks. Even though John spends most of the year in another state, John continues to be a Maine resident, having not established a new domicile in another state.

Example 9 – Nonresident Student. Donna is domiciled in New Jersey and attends college in Maine. Donna lives in a dormitory room on campus during the school year (240+ days), which runs from late August to May. When the school year ends, Donna moves out of the dormitory and returns to live with in New Jersey. The following August, Donna returns to college for another year and again resides in a dormitory room on campus.

Although Donna spends the most time in Maine, Donna has not changed domicile. In addition, Donna is not a statutory resident. Despite being present in Maine for more than 183 days, the dormitory room is not considered a permanent place of abode.