

**Chapter 104: FILING OF MAINE TAX RETURNS**

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**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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**OUTLINE OF CONTENTS:**

- .01 Definitions
  - .02 General filing requirements
  - .03 Mandatory participation – individual income tax returns
  - .04 Mandatory participation – sales, use and service provider tax returns
  - .05 Mandatory participation – income tax withholding, competitive skills scholarship fund, and unemployment compensation insurance returns
  - .06 Mandatory participation – corporate income tax returns
  - .07 Mandatory participation – real estate transfer tax
  - .08 Request for waiver from mandatory participation
  - .09 Penalties
  - .10 Software specifications
  - .11 Application date
- 

**.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, 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 or unemployment compensation return for which MRS provides a program for electronic filing or electronic data submission, including Maine individual income tax returns (including amended returns), sales/use/service provider tax returns, corporate income tax returns,

income tax withholding returns (Forms 941ME, 941P-ME and 941/C1ME), annual reconciliation of Maine income tax withheld (Form W-3ME), unemployment compensation returns (Form ME UC-1 ), 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 or unemployment compensation laws.
- F. **“Tax return preparer”** means a person who prepares Maine tax returns, or who employs one or more employees 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 Title 36, 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 person preparing Maine tax returns for sales, use, or service provider tax 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 withholding, competitive skills scholarship fund, and unemployment compensation insurance returns**

- A. For returns required to be filed with respect to tax periods beginning on or after January 1, 2015, employers that are registered for Maine income tax withholding, third-party filers or payroll processors as defined in 10 M.R.S., chapter 222, 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. For returns required to be filed with respect to tax periods beginning on or after January 1, 2015, employers, third-party filers, and payroll processors must electronically file all Maine quarterly returns (Form ME UC-1) that are eligible for electronic filing with respect to the competitive skills scholarship fund and unemployment compensation insurance under 26 M.R.S., chapter 13, subchapters 5 and 7.
- C. Pass-through entities with any nonresident members that are subject to pass-through withholding on Maine-source income must electronically file Form 941P.

**.06 MANDATORY PARTICIPATION - corporate income tax returns**

For tax years beginning in 2013, 2014, or 2015, corporations, including tax-exempt entities, required to file Form 1120ME with total assets of \$10 million or more as of the last day of that tax year must file returns by electronic data submission unless the taxpayer has been granted a waiver from mandatory participation under section .08.

For tax years beginning on or after January 1, 2016, corporations, including tax-exempt entities, required to file Form 1120ME with total assets of \$5 million or more as of the last day of that 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 for calendar year 2017 the tax return preparer prepared fewer than 200 Maine tax returns for real estate transfer tax that are 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 for calendar year 2018 the tax return preparer prepared fewer than 100 Maine tax returns for real estate transfer tax that are 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 for calendar year 2019 the tax return preparer prepared fewer than 50 Maine tax returns for real estate transfer tax 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 for in the previous calendar year the tax return preparer prepared fewer than 10 Maine tax returns for real estate transfer tax that are 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 causes 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 causes undue hardship. A person subject to this subsection may request a waiver from participation by submitting a waiver request in writing that clearly indicates the undue hardship that the person 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.

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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