

18 DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

125 BUREAU OF REVENUE SERVICES

Chapter 813: PROPERTY TAX FAIRNESS CREDIT

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**SUMMARY:** The purpose of this rule is to provide comprehensive definitions and explanations of statutory terms and procedures for claiming the Maine individual income tax property tax fairness credit pursuant to 36 M.R.S. § 5219-KK.

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**.01 Taxpayer.**

**A. Generally.** A Maine resident individual is allowed a property tax fairness credit computed in accordance with 36 M.R.S. § 5219-KK and this rule. The credit is based on property taxes paid, or rent constituting property taxes paid, by the resident individual during the tax year on the individual's homestead in Maine. The credit allowed is refundable.

**B. Unmarried individuals sharing a homestead.** Unmarried individuals who shared a homestead in Maine during the tax year and are claiming the property tax fairness credit must each claim the property tax fairness credit based on their individual income and their respective share of the property taxes paid or rent constituting property taxes paid for the right to occupy the homestead.

**C. Married individuals filing joint return.** Married individuals filing a joint income tax return and claiming the property tax fairness credit must do so based on their joint income and on the property taxes paid or rent constituting property taxes paid during the tax year on their homestead in Maine.

Individuals who married during the tax year may claim on the joint Maine income tax return property taxes paid or rent constituting property taxes paid on the homestead owned or rented in Maine by each prior to marriage.

**D. Married individuals filing separate returns.** Married individuals filing separate returns must each claim the property tax fairness credit based on their separate amounts of income and property taxes paid or rent constituting property taxes paid during the tax year on their homestead in Maine.

If each spouse filing a separate return is entitled to claim property taxes paid or rent constituting property taxes paid on the same homestead, the credit that each spouse may claim cannot exceed 50% of the credit amount for married individuals filing a joint return.

## **.02 Homestead.**

**A. Generally.** “Homestead” means the dwelling owned or rented by the taxpayer or held in a revocable living trust for the benefit of the taxpayer and occupied by the taxpayer and the taxpayer’s dependents as a home. The home must have been occupied as the primary residence of the taxpayer. A taxpayer may not occupy more than one homestead at the same time except in the case of individual spouses who, prior to becoming married during the tax year, occupied separate homesteads in Maine and who file a married joint Maine tax return. The homestead may consist of a part of a multidwelling or multipurpose building and up to 10 acres of contiguous land upon which the homestead is built. Separate parcels of land are considered contiguous if separated solely by a road, or public or private right of way.

“Owned” includes possession by a purchaser under a land contract, possession by one or more joint tenants or tenants-in-common, and possession under a legally binding agreement that allows the owner of the dwelling to transfer title to the property but continue to occupy the dwelling as a home until some future event stated in the agreement.

Ownership of a homestead may be by fee, by life tenancy, by bond for a deed, as mortgagee, or any other similar possessory interest provided that the owner is personally responsible to the municipality or taxing authority for the property tax for which the property tax fairness credit is claimed.

**B. “Dwelling”** means an individual house or apartment, duplex unit, cooperative unit, condominium unit, mobile home, or mobile home pad.

A dwelling does not include room and board, a nursing home room or a room in another person’s private home.

**C. Occupying the homestead.** The taxpayer must occupy the homestead as the taxpayer’s primary residence. A taxpayer is considered to have occupied the homestead

during a temporary absence due to exigent circumstances (such as illness, hospitalization and military deployment), provided that the taxpayer does not rent the homestead to another person during the period of temporary absence.

**D. Congregate housing / Assisted living facilities.** Congregate housing and assisted living facilities generally allow individuals to live independently in a house or apartment. However, the rent amount includes heat, utilities, medical services, housekeeping services, transportation, and use of common areas. In addition, meals are available in a central dining room for an additional charge. An individual living in congregate housing or assisted living facilities may qualify for the credit, if otherwise eligible, based on the amount of rent paid for the right to occupy the house or apartment. Other charges for heat, utilities, services, meals, or similar items must be excluded from the rent claimed.

**E. Seasonal dwelling occupied as a homestead in Maine.** When a taxpayer occupied a seasonal home in Maine as a primary residence for part of the tax year and occupied an apartment or other home in Maine as a primary residence for the remainder of the year, the property tax fairness credit must be determined on the basis of the property taxes paid on the seasonal home with respect to that part of the tax year during which the taxpayer occupied the seasonal home as a primary residence in Maine and on the basis of the property taxes paid or rent constituting property taxes paid on the apartment or other home with respect to that part of the tax year during which the apartment or other home was occupied as a primary residence in Maine.

**.03 Income.** The income of the taxpayer is equal to federal adjusted gross income increased by:

**A.** Certain trade and business losses; capital losses; any net loss resulting from combining the income or loss from rental real estate and royalties, the income or loss from partnerships and S corporations, the income or loss from estates and trusts, the income or loss from real estate mortgage investment conduits and net farm rental income or loss; any loss associated with the sale of business property; and farm losses included in federal adjusted gross income;

**B.** Tax exempt interest;

**C.** Nontaxable social security and railroad retirement benefits; and

**D.** Certain amounts deducted in arriving at federal adjusted gross income pursuant to 36 M.R.S. §5219-KK(1)(D)(4).

**.04 Property Taxes Paid.**

**A. Property taxes paid.** “Property taxes paid” means property taxes paid during the taxable year on the homestead in Maine exclusive of special assessment, interest and charges for service levied on a taxpayer’s homestead. Property taxes paid does not

include property taxes paid on a home in Maine during that part of the tax year the taxpayer was not a resident of Maine.

**B. Multiple owners.** A taxpayer who is one of two or more owners of a homestead in Maine may claim a credit on the basis of the property taxes paid by the taxpayer to the extent the home is occupied by the taxpayer as a homestead in Maine. The taxpayer must exclude the amount of property taxes paid by the other owners. Owners who do not occupy the home as a homestead in Maine may not claim the property taxes they paid on the homestead.

**C. Part of a larger unit.** If a homestead is an integral part of a larger parcel of property, such as a farm or multipurpose or multi-dwelling building, the property taxes that may be claimed for purposes of the credit is limited to the property taxes paid on the taxpayer's homestead, including up to 10 acres of contiguous land upon which the homestead is built.

**D. Business use of the homestead.** Property taxes paid does not include property taxes paid on any part of the homestead used exclusively for business purposes. Property taxes paid must exclude property taxes claimed as a business expense on the taxpayer's federal income tax return for the taxable year.

**.05 Rent Constituting Property Taxes Paid.**

**A. Rent constituting property taxes paid.** "Rent constituting property taxes paid" means 15% of the gross rent actually paid during the tax year by the taxpayer in cash or its equivalent solely for the right of occupancy of a homestead in Maine. Rent does not include amounts paid for heat, utilities, furniture, furnishings, appliances, housekeeping services, medical services, transportation or for anything other than the right to occupy a homestead. Rent does not include amounts paid by a state or federal government program or by municipal general assistance vouchers.

**B. Part-year residents.** Rent constituting property taxes paid by a part-year resident means the rent paid on a homestead in Maine during that part of the tax year during which the individual was a Maine resident.

**C. Business use of the homestead.** Rent constituting property taxes paid does not include rent paid on any part of the homestead used exclusively for business purposes. Rent constituting property taxes paid must exclude rent claimed as a business expense on the taxpayer's federal income tax return for the taxable year.

**.06 Application.** This rule applies to tax years beginning on or after January 1, 2014.

STATUTORY AUTHORITY: 36 M.R.S. § 112

EFFECTIVE DATE: May 5, 2015 – filing 2015-080