



DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
BUREAU OF REVENUE SERVICES, INCOME/ESTATE TAX DIVISION

**Rule No. 901 (18-125 CMR 901)**

**MAINE RESIDENTS PROPERTY TAX PROGRAM**

**SUMMARY:** The purpose of this rule is to provide comprehensive definitions and explanations of statutory terms and procedures for claiming benefits under the Maine Residents Property Tax Program for applications filed before August 1, 2013.

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**.01 Claimant**

**A. Generally.** A claimant must have been domiciled in Maine and owned or otherwise maintained a homestead in Maine during the entire calendar year for which relief is requested under the Maine Residents Property Tax Program. In addition, a claimant must have occupied the homestead for at least six (6) months during that year, and, except for a homestead held in a revocable trust or under a legally binding agreement that allows the owner to transfer title to the property but continue to occupy the dwelling as a home, must have been personally responsible for the payment to the municipality or other taxing authority of property tax on the homestead or for the payment to the lessor of rent on the homestead. The legal guardian or attorney in fact of a claimant may file a claim on behalf of the claimant.

**B. Death of Claimant.** The right to file a claim does not survive the claimant's death. If a valid claim was filed prior to death, reimbursements made after the death of the claimant will be made to the claimant's spouse, or if no spouse, will be divided equally among surviving members of the household. If the claimant was the only member of the household, reimbursement may be made to the claimant's personal representative. If a personal representative is not appointed within two (2) years of the filing of the claim, the amount of the claim escheats to the State.

**C. Unmarried individuals.** If a homestead is occupied by two or more unmarried individuals, none of whom is a dependent of another, and all of whom meet the qualifications of a claimant, each must file a separate application as if living alone. Each must list his or her income and claim his or her share of the total tax assessed or rent paid.

**D. Marital status.** If a married couple was living together in the same homestead on the last day of the claim year, only one application can be filed. The claimant may be either the husband or the wife, but there may be only one claimant per household. If the spouses are living apart and thereby do not occupy the same homestead on the last day of the claim year and filed Maine income tax returns as married filing separate, separate applications may be filed containing the claimant's and dependents' household income (excluding the spouse's income) and claiming the property tax or rent on the separate homestead. However, if the spouses file a joint Maine income tax return, only one application can be filed. On this application, they must include their combined household income and can claim the tax or rent on only one of the homesteads as if they were living together.

**E. One spouse a resident, the other a nonresident.** If the homestead is jointly owned by the spouses, the spouse who is the Maine resident is the claimant. The claimant must include the income of both spouses on the application and claim the total property tax assessed or rent paid on the Maine homestead.

**F. Spouse confined to a nursing home.** If a husband and wife own a homestead jointly and one spouse is a patient in a nursing home, the application must include the income of both spouses and claim the total property tax assessed or rent paid on the homestead only.

**G. Dependent.** A dependent is a person who is claimed (or could be claimed) as a dependent on another person's income tax return. A dependent does not qualify as a claimant.

**H. Ownership of homestead as heirs or devisees.** To qualify as a claimant, an heir or devisee must document his or her ownership of the homestead for the entire year for which a claim is filed, occupy the homestead for at least six months of the year for which a claim is filed, and otherwise qualify to be the claimant. A copy of a will listing all the devisees to the property is one example of acceptable documentation of ownership. If more than one heir or devisee has an ownership interest in the property (even if merely beneficial), a written statement is required from all other heirs or devisees stating that they did not occupy the homestead or, if occupancy was shared, must include information related to the actual percentage of occupancy claimed for purposes of their own application for refund.

## **.02 Homestead**

**A. Generally.** "Homestead" means the dwelling owned or rented by the claimant or held in a revocable living trust for the benefit of the claimant and occupied by the claimant and the claimant's dependents as a home. The homestead may consist of a part

of a multidwelling or multipurpose building and up to 10 acres of contiguous land. Separate parcels of land are considered contiguous if separated solely by a road, or public or private right of way. “Dwelling” means an individual house, apartment, duplex unit, co-op unit, condominium unit, mobile home, or mobile home pad. “Owned” includes possession by a purchaser under a land contract and 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.

**B. Ownership of homestead.** 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 a refund is claimed.

**C. Room and Board.** A homestead does not include room and board when amounts paid for food, personal care, laundry, or similar items or services are not distinguishable from amounts paid for the right to occupy a homestead. A homestead also does not include a nursing home or a room in another person’s private home.

**D. Seasonal Dwelling Occupied as a Home.** Generally, a claimant who has more than one home or apartment at the same time during the year must base a claim on the claimant’s primary homestead. For example, an applicant owns a seasonal house which he or she occupies as a home for part of the year. During the remainder of the year, the claimant rents and occupies an apartment. Both the house and the apartment are in Maine. The claim must be based on a prorated share of the tax on the seasonal home and the rent paid for the apartment during occupancy. The prorated tax amount is based on the time the claimant occupies the seasonal home divided by the period of ownership.

**E. Congregate Housing.** Congregate housing generally allows individuals to live independently. However, the rent amount usually includes heat, utilities, 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 may qualify as a claimant (if otherwise eligible) based on the amount of rent paid for the right to occupy the apartment. The remainder of the monthly rent amount that covers heat, utilities, services, meals, or similar items must be excluded from the rent claimed on the application.

**F. Occupying the homestead.** A claimant must have occupied his or her homestead for at least six months during the claim year in order to be eligible for a refund. A claimant 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 claimant does not rent the homestead to another person during the period of temporary absence.

**G. Maintaining the homestead.** A claimant must have owned or rented (as a lessee) one or more homesteads in Maine for all 12 months during the year for which relief is

requested. A homestead is not maintained during any period in which the owner or lessee leases or sub-leases the dwelling to another person.

### **.03 Household and Household Income**

**A. Household.** A “household” is comprised of a claimant, spouse and any individual who the claimant is entitled to claim as a dependent under Maine income tax laws for the year for which relief is requested, whether or not the individual is actually claimed as a dependent on a tax return. A spouse is not considered a member of the household only if: (1) the spouse is living in a homestead other than the homestead of the claimant; and (2) separate applications are being filed in accordance with section .01(D) above.

**B. Household income; amounts included.** Annual household income includes the following income received by all members of the household, including the claimant and the claimant’s spouse and any dependents:

1. The sum of Maine adjusted gross income, defined as federal adjusted gross income modified by 36 M.R.S. § 5122, reported or required to be reported on all Maine income tax returns filed by each member of the household; plus
2. Income (other than amounts excluded below) that is received by each member of the household that is **not** included in Maine adjusted gross income, including, but not limited to:
  - (a) Salaries and wages;
  - (b) Dividends and interest;
  - (c) Loss add-back amounts;
  - (d) Social Security benefits, railroad retirement benefits, pensions, and distributions from ROTH IRAs;
  - (e) Contributions to pension, annuity or retirement plans made on behalf of that member of the household;
  - (f) Cash public assistance;
  - (g) State supplemental income;
  - (h) Alimony payments;
  - (i) Capital gains;
  - (j) Child support payments;

- (k) Gambling and lottery winnings;
- (l) Cash inheritances (except as provided by subsection C below);
- (m) Jury duty payments;
- (n) Life insurance proceeds (except as provided by subsection C below);
- (o) Nontaxable lawsuit awards (except as provided by subsection C below);
- (p) Nontaxable strike benefits;
- (q) Nontaxable employee contributions to a Flexible Spending Arrangement;
- (r) Employer-paid benefits for a Dependent Care Assistance Program under Section 129 of the Internal Revenue Code;
- (s) Prizes and awards;
- (t) Rental income;
- (u) Unemployment compensation;
- (v) Worker's compensation and loss of time insurance; and
- (w) Any other income received by each household member who did not file a Maine income tax return to the extent the income should have been included in Maine adjusted gross income if the household member had filed a Maine income tax return.

**C. Household income; amounts excluded.** Annual household income does **not** include:

1. Rollovers of IRA, pension or annuities into another IRA, pension or annuity, even if they were included in Maine adjusted gross income;
2. Refunds received from the Maine Residents Property Tax and Rent Refund Program;
3. The first \$5,000 in proceeds of a life insurance policy, whether paid in a lump sum or in the form of an annuity. An applicant who receives a lump-sum benefit should subtract \$5,000 from the amount received and report the remainder as income. For example, an applicant who receives \$25,000 in life insurance benefits would include \$20,000 in income on the application (\$25,000 minus \$5,000). If the benefits are being paid in an annuity, the benefits received must be included in income once the first \$5,000 is exceeded. For example, an applicant who receives \$3,000 a year for 20

years would exclude the \$3,000 received in the first year and \$2,000 received in the second year. The remaining \$1,000 received in the second year and all benefits received in the succeeding years must be included in income;

4. Gifts from nongovernmental sources or surplus foods or other relief in-kind that is supplied by a governmental agency;
5. Inheritance from a deceased spouse; or
6. Reimbursement of medical and legal expenses resulting from a lawsuit award.

#### **.04 Property Taxes Accrued.**

**A. Definition.** “Property taxes accrued” means property taxes exclusive of special assessment, delinquent interest, and charges for service levied on a claimant’s homestead in this State as of April 1 of the claim year. “Property taxes accrued” means only the portion of property taxes levied that was not abated for infirmity or poverty during the year for which the claimant requests relief. If a claimant owns and occupies two (2) or more different homesteads in Maine in the same calendar year, property taxes accrued means the total of the property taxes owed for the time that each property was occupied by the claimant and claimant’s household as a homestead. To calculate the amount attributable to each property, the April 1 assessment on each homestead is multiplied by the percentage of 12 months that each property was owned and occupied by the claimant as the claimant's homestead during the year for which relief is requested. When a municipality changes the dates of its fiscal year (for example, from January 1-December 31 to July 1-June 30) and assesses an eighteen-month tax amount, the property taxes accrued will be the eighteen-month amount based on the April 1 assessment for that claim year, even if the municipality issues two separate tax bills spaced several months apart.

**B. Exemptions.** If the claimant has an exemption for part of the valuation of the property, such as a veteran’s exemption or a homestead exemption for part of the valuation of the property and the homestead is part of a larger unit, the amount of the exemption must be subtracted from the valuation of the house and house lot.

**C. Multiple owners.** Generally, a claimant who occupies a homestead that is owned by several persons, one of whom is the claimant, must base the claim on his or her pro rata share of the property tax assessed on the homestead. For example, if a homestead is owned by three persons and one of those persons occupies it, that person is the claimant and can claim one-third of the total tax. The others cannot file a claim based on that homestead because they live elsewhere. If, however, the claimant is solely responsible for the payment of the tax under the terms of a written agreement with all the other owners that states the claimant is allowed to occupy the homestead, he or she can base the claim on the total tax.

**D. 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 accrued for the homestead equal a percentage of the total property taxes that represent the percentage of the homestead's value to the total value of the larger unit.

**.05 Rent constituting property taxes accrued.** The term "rent," for purposes of 36 M.R.S. § 6201(11) and (11-A), means the gross rent actually paid in cash or its equivalent for right of occupancy in any year for which relief is requested by the claimant or a member of the claimant's household. Rent does not include amounts paid by municipal general assistance vouchers. Rent also does not include amounts paid for utilities, services, furniture, furnishings, or personal property appliances or for anything other than the right to occupy a homestead. First-time claimants must provide proof of payment for rents exceeding \$9,000 annually.

**.06 Application.** This Rule applies to Maine Residents Property Tax Program applications filed before August 1, 2013.

**AUTHORITY:** 36 M.R.S. § 112.

**ORIGINAL EFFECTIVE DATE:** January 1, 1997.

**AMENDED:** June 6, 2006 (Effective date July 11, 2006).

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