**State of Maine: Notice of Agency Rulemaking – March 1, 2023**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one - the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions**: you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 §11112). **World‑Wide Web**: Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: <http://www.maine.gov/sos/cec/rules>. There is also a list of rulemaking liaisons (<http://www.maine.gov/sos/cec/rules/liaisons.html>), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **10-144** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services (MRS)**

CHAPTER NUMBER AND TITLE: **Ch. 102**, Electronic Funds Transfer (EFT)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P034**

BRIEF SUMMARY: Maine Revenue Services is proposing to amend Rule 102 ("Electronic Funds Transfer (EFT)") to reflect the current EFT methods available for payment of Maine taxes and to make other technical updates. Specifically, the rule removes references to the ACH Teledebit payment method, which has been discontinued, and adds references to the Maine Tax Portal ("MTP").

PUBLIC HEARING: N/A

COMMENT DEADLINE: April 3, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §§ 112, 193

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue).

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services (MRS)**

CHAPTER NUMBER AND TITLE: **Ch. 805**, Composite Filing

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P035**

BRIEF SUMMARY: Maine Revenue Services is proposing to amend Rule 805 ("Composite Filing") to reflect how a federal partnership audit administrative adjustment request ("AAR") or final federal adjustment ("FFA") affects the filing of a composite return, and to make other technical updates.

PUBLIC HEARING: N/A

COMMENT DEADLINE: April 3, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services (MRS)**

CHAPTER NUMBER AND TITLE: **Ch. 808**, Corporate Income Tax Nexus

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P036**

BRIEF SUMMARY: Maine Revenue Services is proposing to amend Rule 808 ("Corporate Income Tax Nexus") to reflect recently enacted legislation that provides for an exemption to the standard nexus rules for certain out-of-state suppliers of spirits to the Bureau of Alcoholic Beverages and Lottery Operations ("BABLO"), and to make other technical updates.

PUBLIC HEARING: N/A

COMMENT DEADLINE: April 3, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services (MRS)**

CHAPTER NUMBER AND TITLE: **Ch. 810**, Maine Unitary Business Taxable Income, Combined Reports, and Tax Returns

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P037**

BRIEF SUMMARY: Maine Revenue Services is proposing to amend Rule 810 ("Maine Unitary Business Taxable Income, Combined Reports, and Tax Returns") to reflect recently enacted legislation that provides for an exemption to the standard nexus rules for certain out-of-state suppliers of spirits to the Bureau of Alcoholic Beverages and Lottery Operations ("BABLO"), and to make other technical updates.

PUBLIC HEARING: N/A

COMMENT DEADLINE: April 3, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 M.S §112

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services (MRS)**

CHAPTER NUMBER AND TITLE: **Ch. 812**, Credit for Educational Opportunity

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P038**

BRIEF SUMMARY: Maine Revenue Services is proposing to amend Rule 812 ("Credit for Educational Opportunity") to reflect recently enacted legislation that limits the program to tax years beginning before January 1, 2022, and to make other technical updates.

PUBLIC HEARING: N/A

COMMENT DEADLINE: April 3, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services (MRS)**

CHAPTER NUMBER AND TITLE: **Ch. 813**, Property Tax Fairness Credit

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P039**

BRIEF SUMMARY: Maine Revenue Services is proposing to amend Rule 813 ("Property Tax Fairness Credit") to reflect recently enacted legislation that provides for an additional income tax credit for veterans totally and permanently disabled, and to make other technical updates.

PUBLIC HEARING: N/A

COMMENT DEADLINE: April 3, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Maine Revenue Services (MRS)**

CHAPTER NUMBER AND TITLE: **Ch. 202**, Tree Growth Tax Law Valuations

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P040**

BRIEF SUMMARY: MRS is proposing to repeal and replace Rule 202 (“Tree Growth Tax Law Valuations”). The following changes are being made to the proposed rule. The rule is being replaced to provide updated valuation rates for each forest type by region. 36 MRS §576 requires that the State Tax Assessor annually establish the value per acre for each forest type, by economic region, for parcels classified under the Tree Growth Tax Law.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov.

COMMENT DEADLINE: April 3, 2023

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: The rule has minimal impact on municipalities. The valuation amounts for the Tree Growth Tax Las program vary from year to year, which impacts the property tax assessed on land in the program. Fluctuations in local taxes due to valuation changes in this program are partially offset by reimbursement and state subsidy provisions.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §§ 112, 576

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue)

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov.

**ADOPTIONS**

AGENCY: **10-144 - Department of Agriculture, Conservation and Forestry (DACF)**

CHAPTER NUMBER AND TITLE: **Ch. 702**, Rules for the Low Income Spay/Neuter Program

ADOPTED RULE NUMBER: **2023-027**

CONCISE SUMMARY: Rule changing to accommodate administration by third party and the addition of feral cats per 7 MRS §3910-B(1-A), Companion Animal Sterilization Fund enacted in 2022, as well as updating program’s payment delivery to providers, increasing program efficiency, and reducing administration costs.

EFFECTIVE DATE: March 1, 2023

AGENCY CONTACT PERSON: Ronda Steciuk, Department of Agriculture…, 90 Blossom Lane – 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-5531. Email: Ronda.Steciuk@Maine.gov .

DACF WEBSITE: .

DACF RULEMAKING LIAISON: Shannon.Ayotte@Maine.gov .

AGENCY: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE**: Ch. 301**, Fee Schedule and Administrative Procedures for Payment of Court or Commission Assigned Counsel

ADOPTED RULE NUMBER: **2023-028**

CONCISE SUMMARY: This rule amends the MCILS fee schedule and administrative procedures for payment of Commission assigned counsel to set the hourly rate paid to attorneys providing indigent legal services at $150.00/hr. for fiscal year 2023, starting March 1, 2023.

EFFECTIVE DATE: February 24, 2023

AGENCY CONTACT PERSON: Justin Andrus, Executive Director, Maine Commission on Indigent Legal Services, 154 State House Station, Augusta, ME 04333. Telephone: (207) 287-3254. Email: Justin.Andrus@Maine.gov.

MCILS WEBSITE: <https://www.maine.gov/mcils/>.

MCILS RULEMAKING LIAISON: Eleanor.Maciag@Maine.gov.

AGENCY: **12-181** - Department of Labor (DOL), **Maine Apprenticeship Program**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Rules Relating to Labor Standards for Certification of Pre-Apprenticeship Training Programs

ADOPTED RULE NUMBER: **2023-029**

CONCISE SUMMARY: This rulemaking is to repeal and replace a rule pertaining to pre-apprenticeship training programs. The adoped rules establish, define, and provide for the certification and decertification of Pre-Apprenticeship Agreements and Training Programs with the Maine Apprenticeship Program. They contain procedures for holding hearings and give the authority and the effective date.

EFFECTIVE DATE: March 1, 2023

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, ME 0433-0054. Telephone: (207) 626-6232. Email: Isaac.H.Gingras@Maine.gov .

DOL WEBSITE: <https://www.maine.gov/labor/>.

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 506**, Eligibility for Disability Retirement Benefits

ADOPTED RULE NUMBER: **2023-030** *(New)*

CONCISE SUMMARY: This new rule sets forth the standards and processes for determining eligibility for disability retirement benefits. It (1) establishes applicable definitions; (2) establishes standards for initial eligibility, use of a medical review service provider or independent medical examination, determination of inability to perform essential functions of the position and application of disabled veteran presumption; and (3) establishes the process by which a disability retiree may be reviewed for continuing eligibility.

CHAPTER NUMBER AND TITLE: **Ch. 507**, Determination of Inability to Engage in Substantially Gainful Activity

ADOPTED RULE NUMBER: **2023-031** *(Repeal)*

CONCISE SUMMARY: This rule specifies the standards and definitions to be applied in determining under 5 MRS §§ 17907(2)(B), 17929(2)(B)(1), 18507(2)(B) and 18529(2)(B)(1) whether a disability retirement recipient is unable to engage in any substantially gainful activity. The rule is being repealed since its provisions have been included in the new disability rule (Chapter 506).

CHAPTER NUMBER AND TITLE: **Ch. 509**, Determination of Inability to Perform the Essential Functions of the Employment Position

ADOPTED RULE NUMBER: **2023-032** *(Repeal)*

CONCISE SUMMARY: This rule specifies the standard and definitions to be applied under 5 MRS §§ 17921 and 18521 in determining whether a disability applicant is unable to perform the functions of the employment position with reasonable accommodation. The rule is repealed since its provisions have been included in the new disability rule (Chapter 506).

CHAPTER NUMBER AND TITLE: **Ch. 510**, Reduction of Disability Retirement Benefits because of Lump-Sum Settlements of Benefits payable under the Workers’ Compensation or Similar Law or the United States Social Security Act

ADOPTED RULE NUMBER: **2023-033**

CONCISE SUMMARY: This rule sets forth the methodology by which disability retirement benefits are reduced when a recipient receives a lump-sum settlement of benefits under the workers’ compensation or similar law or the United States Social Security Act. The amendments align the rule with current provisions in law for the offset of benefits for participating local district disability retirement benefit recipients.

CHAPTER NUMBER AND TITLE: **Ch. 511**, Standards for Actively Seeking Work

ADOPTED RULE NUMBER: **2023-034**

CONCISE SUMMARY: This rule sets out the standards and definitions to be applied in determining under 5 MRS §§ 17929(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work. The amendment to the rule establishes a rebuttable presumption that the recipient has not been actively seeking work if no work has been secured within five years, which may be rebutted by a showing that the inability to secure work was out of the recipient’s control. The amendment also establishes how the five year provision applies to individuals in the actively seeking work program on December 31, 2022. The amendment also corrects a numbering format issue in the current rule.

CHAPTER NUMBER AND TITLE: **Ch. 702**, Appeals of decisions of the Chief Executive Officer

ADOPTED RULE NUMBER: **2023-035**

CONCISE SUMMARY: This rule sets out the process for appeals of decisions of the Chief Executive Officer to the Board of Trustees. It provides for the appointment of a hearing officer to conduct an appeal and to prepare a recommended decision for action by the Board. The amendments update and clarify the appeals process, including: (1) how an appeal can be filed; (2) how employers can participate in an appeal; (3) when an appellant is entitled to receive the appeals packet; (4) when an appellant is entitled to an IME; (5) how appellants must be notified of an abandoned appeal; (6) how testimony may be provided; and (7) how long the CEO has to reconsider decisions. The amendments also make non-substantive changes to the rule.

**EFFECTIVE DATE: March 1, 2023**

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Kathy Morin, Maine Public Employees Retirement System, P.O. Box 349, Augusta, Maine 04332-0349. Telephone:1 (800) 451-9800 or (207) 512-3108. Email: Kathy.Morin@MainePERS.org.

WEBSITE: <https://MainePERS.org>.