

MAINE DEPARTMENT OF LABOR
Bureau of Unemployment Compensation

EXPLANATION OF LOCALIZATION OF WORK PROVISION
Title 26, Section 1043,11,A of the Maine Employment Security Law

When an employee performs service in Maine and in some other State, the question of whether that employee is covered by the Maine Law is determined by one of four tests. These tests have the objective of avoiding duplicate reporting of wages to States when an employee performs service in more than one State for a single employer.

Starting with 1, if you answer yes, do not continue the test. The work would be subject to Maine Employment Security Law.

The tests are applied in the following order **to each employee** and not to the employer.

1. **Place Where Work Is Localized**

If the service of the individual is performed entirely within Maine, it would be subject to the Maine Law. This includes teleworkers, working in Maine for an out of state employer. If the out of state employer is FUTA liable, they are subject to Maine UI tax on the first day they employ a worker in Maine.

If the service is performed both within and outside Maine and the service performed outside Maine is incidental to the individual's service performed within Maine, it would be subject to the Maine Law. The word "incidental" is interpreted to mean temporary in nature or consisting of isolated transactions.

2. **Base of Operations**

If the individual performs some service in Maine and the base of operation is in Maine, the service would be subject to the Maine Law. "Base of operations" means the place from which the employee starts work, returns to receive instructions or communications, to replenish stocks of material, repair equipment, etc. It may be a business office, a residence of the worker or may be specified in the contract of employment.

3. **Place from Which The Service Is Directed Or Controlled**

If the individual has no base of operations, or performs no service in the State where base of operations is located, if some service is performed in Maine and if the service is directed or controlled from Maine the service would be subject to the Maine Law.

The place from which the individual's service is directed or controlled is the place at which the basic authority exists and from which general control emanates rather than the place at which a manager or foreman directly supervises the performance of service under general instructions from the place of basic authority.

4. **Place of Residence**

If none of the first three tests apply, and the individual performs some service in and the residence is in Maine, the service would be subject to the Maine Law.