

FORM 1041ME - GENERAL INSTRUCTIONS

WHO MUST FILE

The fiduciary or trustee of a resident or nonresident estate or trust must file Form 1041ME if the estate or trust has any:

- Maine tax additions (see Maine Schedule A, Section 1);
- Maine taxable income; or
- Gross income greater than \$10,000 for the taxable year.

Gross income equals the amount on federal Form 1041, line 9. The Maine-source income of a nonresident estate or trust is determined on Schedule NR. A resident estate or trust with nonresident or "safe harbor" resident beneficiaries must also complete Schedule NR. See the instructions for Schedule NR. *See page 2 of the Maine individual income tax booklet for a description of nonresident and "Safe Harbor" resident statuses.*

NOTE: *Grantor Trusts and all Charitable Remainder Trusts are not required to file a Maine return.*

FEDERAL RETURN REQUIRED

- **A completed copy of federal Form 1041 must accompany the Maine nonresident return.**
- **If the federal income (federal Form 1041, line 9) is greater than \$150,000, you must include the entire federal Form 1041 with Form 1041ME. For other returns that have a capital gain or loss, attach pages 1 and 2 and Schedule D of the federal return.**

DEFINITION OF RESIDENT AND NONRESIDENT ESTATE OR TRUST

Domicile of the decedent, grantor or settlor determines residency. Situs of the trust instrument, the property held in trust, the location of the trustees, the adoption of the laws of any state in the governing instrument are irrelevant for the purpose of determining residency.

A resident estate is the estate of a decedent who, at death, was domiciled in Maine. A resident testamentary trust is a trust which is created by the last will and testament of a decedent who, at death, was domiciled in Maine. Any estate or testamentary trust created by the will of a decedent who was not domiciled in the State of Maine at death shall be considered a nonresident estate or nonresident testamentary trust.

A resident irrevocable inter vivos trust is a trust which was created by or consisted of property of a person domiciled in Maine at the time it was funded. An irrevocable inter vivos trust will be classified as a nonresident trust if the creator of the trust is not domiciled in Maine when funded.

If the settlor of a revocable inter vivos trust is domiciled in Maine when the trust is created, the trust is considered a resident inter vivos trust until the settlor becomes domiciled in another state. A nonresident revocable inter vivos trust will become a resident trust if and when the creator of the trust becomes domiciled in Maine.

QUALIFIED FUNERAL TRUST (QFT)

If you meet the criteria of a qualified funeral trust at the federal level, you can file using the same status for Maine purposes. Check the box for "Qualified Funeral Trust" on page 1 of Form 1041ME and enter the required federal QFT taxpayer identification number (EIN) in the space provided (in the upper right corner of the return). For a Maine composite return, attach a schedule listing for each beneficiary: Maine taxable income, Maine income tax, name, social security number and whether or not the beneficiary is a resident of Maine. Since each beneficiary is considered a separate trust, Maine income tax must be calculated separately for each beneficiary. The total tax for all beneficiaries is then entered on line 4 of Form 1041ME.

BANKRUPTCY

For bankruptcy estates (chapter 7 or 11), use Form 1041ME as a transmittal for Form 1040ME. In the top margin of Form 1040ME,

write "attachment to Form 1041ME. DO NOT DETACH." Complete the name, address, and identification information at the top of Form 1041ME. Then complete Form 1040ME through line 23. Enter the amount from Form 1040ME, line 23 on line 4 of Form 1041ME, then follow the instructions for completing lines 5 - 10 on Form 1041ME.

WHEN TO FILE

The due date is April 15, 2010. For fiscal year filers, the due date is the 15th day of the fourth month following the close of the taxable year.

EXTENSIONS

A State of Maine extension request form is not required. If you are unable to file your return by the original due date of the return, Maine allows an automatic extension equal to any federal extension or 6 months, whichever is the longer period of time. **Caution: An extension to file your Maine return is not an extension for payment of tax.** If you owe money, you must pay at least 90% of that amount by the original due date for filing your return in order to avoid the penalty for late payment of tax. Any remaining tax must be paid when the return is filed by the extended due date in order to avoid the failure-to-pay penalty. Interest is charged on any tax paid after the original due date of the return.

Remit your extension payment with the payment voucher by the original due date for filing your Maine return to: Maine Revenue Services, P.O. Box 9114, Augusta, ME 04332-9114.

INTEREST AND PENALTIES

Interest will be added each month on overdue tax until the entire tax amount is paid. For calendar year 2010, the interest rate is 7% per year, compounded monthly. In addition to interest, a penalty is assessed for late filing. A separate penalty is assessed for the late payment of tax. The penalty for late filing is \$25 or 10% of the tax due, whichever is greater. If a tax return is not filed upon demand, the penalty for late filing is 100% of the tax due. The penalty for late payment of the tax is 1% per month up to a maximum of 25%. Both penalties are assessed when the return is filed late and the tax is paid late. The law also provides for penalties for the underpayment of estimated tax, for preparing or filing a fraudulent income tax return, and for the understatement of income.

WHOLE DOLLAR AMOUNTS

Show money items as whole dollar amounts. Drop any amount under 50 cents to the lower dollar amount and increase any amount 50 cents through 99 cents to the higher dollar amount.

ACCOUNTING PERIODS AND METHODS

The accounting period and the method of accounting used are the same as those used for federal tax purposes (for more information, see instructions for federal Form 1041). If the taxable year or method of accounting is changed for federal income tax purposes, the change also applies to the Maine return.

REPORT OF CHANGE IN MAINE TAXABLE INCOME

If the amount of the federal taxable income is changed or corrected by the Internal Revenue Service, or if the Maine tax liability changes for any other reason, the fiduciary must report the changes on an amended Maine return within 90 days after the final determination of the change. Any fiduciary filing an amended federal income tax return must also file an amended Maine return within 90 days. Failure to comply with these requirements could result in failure-to-file and failure-to-pay penalties. To file an amended return, use Form 1041ME for the year(s) you are amending and check the "amended return" box at the top of the form. **Attach a statement explaining the changes if applicable and a copy of your federal amended return or Internal Revenue agent's report to the Maine amended return.**

PAYMENT OF ESTIMATED TAX

Estates and trusts subject to Maine income tax are required to make installment payments of estimated tax if the estimated tax liability is \$1,000 or more or an unusual event has occurred. Generally, payments must be made in four equal installments due April 15, June 15, September 15, and January 15. Payments can be made electronically using Maine EZ Pay (no forms required) at www.maine.gov/revenue or download Form 1041ES-ME (and the instructions for Form 1040ES-ME) at www.maine.gov/revenue/forms or call (207) 624-7894 to order the forms.

Note: Maine's estate/trust estimated tax filing requirements differ from federal requirements in that Maine 1041 estimate payments must be made after the first year filing. 36 MRSA § 5228.

THIRD PARTY DESIGNEE

You may designate a third party to discuss your return with Maine Revenue Services by checking the "Yes" box on page 1 of Form 1041ME. Also enter the person's name, phone number, and any 5-digit number the person chooses as their personal identification number (PIN). Checking the "Yes" box will enable Maine Revenue Services to call the person you have chosen if there are any questions or if additional information is needed to process your return.

SIGNATURE

Any person who prepares a taxpayer's return for compensation must also sign and enter his or her social security number or PTIN as assigned by the IRS. If the return is prepared by a firm or corporation, the federal identification number of the firm must also be listed.

TAXPAYER ASSISTANCE and FORMS

Visit www.maine.gov/revenue to obtain the latest tax updates, electronic tax assistance, download Maine tax forms and instructions, learn the status of your refund, pay your tax or email tax-related questions.

Recent tax law changes: www.maine.gov/revenue/rules/legischange09.htm.

Refund information only: www.maine.gov/revenue

To order forms: Download forms from the Maine Revenue Services web site at www.maine.gov/revenue/forms or call (207) 624-7894 - Every day 24 Hours.

Assistance to help you with your tax questions: (207) 626-8480 - Weekdays 8:00 a.m.- 5:00 p.m. or send an email to estate.tax@maine.gov or write to Maine Revenue Services, PO Box 9108, Augusta, ME 04332-9108.

NexTalk (hearing-impaired only): (888) 577-6690
Weekdays 8:00 a.m.- 4:30 p.m.

FAQs: For information and answers to most Frequently Asked Questions (FAQs), go to www.maine.gov/revenue/income.

Collection problems: (207) 621-4300 - Weekdays 8:00 a.m.- 5:00 p.m. Call this number if you have a tax balance due currently being collected by Maine Revenue Services that you would like to resolve.

Payment plan questions for income tax returns: (207) 621-4300 - Weekdays 8:00 a.m.- 5:00 p.m.

Tax violations hot line: (207) 624-9600 Call this number or send an email to compliance.tax@maine.gov to report possible tax violations including failure to file tax returns, failure to report all income and failure to register for tax filing.

SPECIFIC INSTRUCTIONS

(Please show negative income amounts on your form by placing a minus sign in the box to the left of the amount.)

(Nonresident estates and trusts and resident estates and trusts with nonresident or "safe harbor" resident beneficiaries, see the instructions for Schedule NR).

Line 1. Federal Taxable Income - resident estates and trusts only. Enter the amount of taxable income shown on federal Form 1041, the amount of unrelated business taxable income from federal Form 990-T and the taxable income of the S corporation portion of Electing Small Business Trusts (ESBT) (if applicable).

Line 2. Fiduciary Adjustment - resident estates and trusts only. The fiduciary adjustment is determined on Schedule 1 and allocated in accordance with Schedule 2 on page 2 of Form 1041ME. If any of the income adjustments apply, complete these schedules before proceeding with page 1 of Form 1041ME. Detailed instructions for the schedules follow.

Line 4. Maine Income Tax. Compute the tax on the amount shown on line 3 by using the following table:

TAX TABLE	
If the taxable income is:	The tax is:
Less than \$5,050	2.0% of the taxable income
\$5,050 but less than \$10,050	\$101 plus 4.5% of excess over \$5,050
\$10,050 but less than \$20,150	\$326 plus 7.0% of excess over \$10,050
\$20,150 or more	\$1,033 plus 8.5% of excess over \$20,150

This tax rate schedule is effective for tax years beginning in 2009.

Line 7a. Maine Income Tax Withheld. Enter the total amount of Maine income tax withheld. Enclose (do not staple or tape) supporting W-2 and 1099 forms. Only send 1099 forms if there is

State of Maine income tax withheld shown on them, unless otherwise required to send as supporting documentation for another schedule or worksheet. Legible photocopies of your W-2 forms and 1099 forms on 8 1/2 by 11 inch paper are preferred.

Line 7b. 2009 Estimated Tax Payments, 2008 Overpayment Carried Forward and Extension Payments. Enter the total amount of estimated taxes actually paid for 2009 and any 2008 credit carried forward. See general instructions above for further explanation of estimated payments. Also enter any extension payment made for this return.

Nonresident estates or trusts enter on this line amounts withheld in 2009 on the sale of real estate in Maine. Enclose a copy of Form REW-1 or Form 1099ME to support your entry.

Line 8. Tax Balance Due. Any balance of tax liability should be paid in full with the return. Remit your payment using Maine EZ Pay at www.maine.gov/revenue or mail a check payable to Treasurer, State of Maine with the return. Please write the federal estate or trust identification number on the check.

If the amount owed (line 6 minus line 7a) is \$1,000 or more, complete Form 2210ME and attach it to the return. If Form 2210ME shows a penalty amount due, enter it on line 8b and submit payment for the entire balance.

Line 10a. Amount of Line 9 You Want Credited. Use this block only if electing to have all or a portion of the overpayment on line 9 credited to next year's estimated tax.

SCHEDULE 1 – FIDUCIARY ADJUSTMENT (Enter combined amounts for both the beneficiaries and the estate or trust).

Line 1. ADDITIONS to federal taxable income. Also include the taxpayer's distributive share of addition modification items from trusts, partnerships and S Corporations where applicable.

Line 1a. Income from municipal and state bonds, other than Maine. Enter the income from municipal and state bonds, other than Maine, that is not included in federal taxable income. For example, enter interest from City of New York bonds on this line. However, do not enter interest from Portland, Maine bonds.

Line 1b. Net Operating Loss Adjustment. Enter on this line any amount of federal net operating loss carry forward included in federal taxable income. Enter any amount of federal NOL carried back to this year (AMENDED returns only). For more information and examples, go to www.maine.gov/revenue/forms (select *Income Tax Guidance Documents*).

Line 1c. Maine Public Employees Retirement System Contributions ("MePERS"). Enter the amount of 2009 MePERS Contributions on this line. To calculate this amount, subtract federal wages from state wages appearing on the 2009 State of Maine W-2 form. These contributions are tax deferred for federal tax, but are subject to Maine income tax.

Line 1d. Domestic Production Activities Deduction Add-back. Enter the amount of federal domestic production activities deduction used to reduce federal taxable income.

Line 1e. Bonus Depreciation/IRC §179 Expense Add-back. Federal taxable income must be increased by the net increase in depreciation applicable to the 50% bonus depreciation claimed for federal tax purposes and section 179 expense due to federal law changes enacted during and since 2003. The amount of this modification is determined by first recalculating the depreciation and/or section 179 expense on federal Form 4562 exclusive of bonus depreciation and section 179 expense increases. Enter on line 1e the difference between this recalculated Form 4562 amount and the original Form 4562 amount claimed for federal income tax purposes. **If the difference is less than zero, enter zero.** Enclose both the actual and pro forma versions of federal Form 4562 with the Maine return. Property expensed under the provisions of section 179 at the federal level cannot be capitalized for Maine purposes. For more information and examples go to www.maine.gov/revenue/forms (select *Income Tax Guidance Documents*).

Line 1f. Enter the amount of **discharge of indebtedness** deferred for federal income tax purposes in accordance with Code § 108(i).

Line 1g. Other. Enter on this line • unemployment compensation benefits (except unemployment benefits issued by the U.S. Railroad Retirement Board) excluded from federal taxable income • the amount of loss, deductions, and other expenses of a financial institution subject to Maine franchise tax that are included in federal taxable income due to an ownership interest in the financial institution that is a partnership, S corporation, or entity disregarded as separate from its owner • income taxes imposed by Maine or other states, mortgage insurance premiums and interest or expenses incurred in the production of income exempt from Maine taxation deducted in arriving at federal taxable income • amounts deducted as a business or other expense for federal tax purposes that are included in the credit base for the high-technology investment tax credit and the forest management planning credit • the amount deducted at the federal level for qualified tuition and other educational expenses under IRC § 222 • qualified payments and tax benefits from states or municipalities to firefighters and emergency medical responders that are excluded from federal taxable income pursuant to Code section 139B • the administrative expense deduction claimed for federal fiduciary income tax purposes that is also used to determine the

taxable estate in calculating the Maine estate tax • the estate's/trust's share of the fiduciary adjustment of another estate/trust – **additions only** (36 MRSA §§ 5122(3) and 5164). *List the source of each amount claimed in the space provided. Attach supporting documentation when claiming an amount on this line.*

Line 2. SUBTRACTIONS from federal taxable income. Also include the taxpayer's distributive share of subtraction modification items from trusts, partnerships and S Corporations where applicable.

Line 2a. U.S. Government Bond Interest. Enter income from direct obligations of the United States Government, such as Series EE and Series HH Savings bonds and U.S. Treasury bills and notes. Include on this line only the amount of interest included in federal taxable income.

Line 2b. Social Security and Railroad Retirement Benefits included in Federal Taxable Income. Social security benefits issued by the U.S. Government and railroad retirement benefits (tier 1 and tier 2) issued by the U.S. Railroad Retirement Board are not taxed by Maine. Also, unemployment and sick benefits issued by the Railroad Retirement Board are not taxable to Maine. However, benefits issued by the Canadian Railroad Retirement Board are taxable to Maine.

Line 2c. Interest from Maine Municipal General Obligation & Private Activity Bonds & Bonds issued by a Maine Airport Authority included in Federal Taxable Income. There may be interest from Maine Municipal General Obligations, Private Activity Bonds and bonds issued by a Maine Airport Authority included in federal taxable income. Interest from these bonds is exempt from Maine income tax. If interest of this type is included in federal taxable income, enter the amount on this line. You must include supporting documentation if greater than \$25,000.

Line 2d. Maine Public Employees Retirement System ("MePERS") Pick-Up Contributions. Enter contributions paid that have been previously taxed by the state. Use this line only if the person retired after 1988 and received retirement benefits from the MePERS in 2009. To calculate the amount for this line, subtract the state taxable gross amount from the federal taxable gross amount shown on the check stub of the last pension check received from the MePERS in 2009 (if you have a Form 1099-R issued by the MePERS, subtract the amount in box 12 from the amount in box 2a). Also enter on this line MePERS rollover amounts previously taxed by the state, whether or not included in federal taxable income.

Line 2e. Qualified Tuition Program Contributions. Enter on this line up to \$250, per beneficiary, of contributions made to a Maine or non-Maine qualified state tuition program ("529 college savings plan").

Line 2f. Bonus Depreciation/IRC § 179 Expense Recapture. Amounts required to be added to income under 36 MRSA §§ 5122(1)(N), 5122(1)(AA) or 5200-A(1)(N) may be recaptured over the life of the applicable asset. For more information and examples, visit www.maine.gov/revenue/forms (select *Income Tax Guidance Documents*).

Line 2g. Other Subtractions. Enter **ONLY** items specifically listed. **NOTE:** *Maine net operating loss carryover deductions are not allowed for tax years beginning in 2009, 2010 and 2011. For more information on Maine's treatment of NOLs, go to www.maine.gov/revenue/forms (select *Income Tax Guidance Documents*).*

List the source of each amount claimed in the space provided and attach supporting documentation when claiming an amount on this line. Enter on this line • military compensation received by a nonresident servicemember • income earned in Maine by a spouse of a nonresident military servicemember if the spouse is

also a nonresident of Maine living in Maine solely for the purpose of being with the military servicemember serving on military orders

- the amount of the reduction in the salaries and wages deduction directly related to the federal Work Opportunity Credit or the federal Empowerment Zone Credit. These amounts are reported on federal Form 5884, line 2 or federal Form 8844, line 2 (owners of pass-through entities, enter the share of the amount from line 3 of these forms to the extent not included on line 2). Note: do not enter wage amounts from Form 8844 related to the federal Renewal Community Credit
- amounts received from a Holocaust victims settlement that are included in federal income (36 MRSA § 5122(2)(O))
- account proceeds from a Family Development Account administered by FAME (36 MRSA § 5216-C)
- state income tax refunds
- earnings from fishing operations contributed to a capital construction fund
- income from investments in the Northern Maine Transmission Corporation
- the estate's/trust's share of a fiduciary adjustment – **subtractions only** (36 MRSA §§ 5122(3) and 5164)
- interest income and capital gains from the sale of bonds issued relative to the Maine Waste Management & Recycling Program to the extent included in federal taxable income
- all items of income, gain, interest, dividends, royalties, and other items of income of a financial institution subject to the Maine franchise tax that are included in federal taxable income due to an ownership interest in the financial institution that is a partnership, S corporation, or entity disregarded as separate from its owner
- up to \$6,000 in pension

- income pursuant to 36 MRSA § 5122(2)(M)
- the amount of military retirement benefits, not otherwise deducted, received by certain licensed dentists who practice an average of 20 hours or more per week in Maine and accept patients who receive MaineCare benefits
- up to \$750 of property tax benefits provided by municipalities to senior citizens pursuant to 36 MRSA § 6232(1-A)
- expenses incurred in the production of income subject to Maine tax, but exempt from federal tax (an example is expenses related to the production of non-Maine municipal bond interest)
- long-term care insurance premiums paid by the estate or trust that have not been claimed as an itemized deduction on the decedent's federal income tax return or as a federal adjustment by self-employed individuals
- the total of capital gains and ordinary income resulting from depreciation recapture pursuant to Code sections 1245 and 1250 realized on the sale of multifamily affordable housing property certified by the Maine State Housing Authority. A copy of the MSHA certificate must be attached to the return.

Line 3. Net Fiduciary Adjustment. The shares of the beneficiaries and of the estate/trust in the Maine fiduciary adjustment are in proportion to their respective shares of federal distributable net income of the estate or trust. **Resident estates and trusts:** Multiply line 3 by the percentage on Schedule 2, Column 3, line f. Enter the result on page 1 of Form 1041ME, line 2. **Nonresident estates and trusts:** Multiply line 3 by Schedule 2, Column 3, line f. Enter the result on Form 1041ME, Schedule NR, line 7, Column A.

SCHEDULE 2 – ALLOCATION OF FEDERAL INCOME AND MAINE-SOURCE INCOME

The purpose of this schedule is to show the distribution of federal distributable net income (DNI) and Maine-source income of nonresident and “safe harbor” resident beneficiaries. See page 2 of the Maine individual income tax booklet for a description of nonresident and “Safe Harbor” resident statuses. **ALL estates/trusts must complete Schedule 2.**

Column 1. Enter the name of each beneficiary of the estate or trust, including nonresident and “safe harbor” resident beneficiaries. Enter the estate/trust name on line f. If there are more than 5 beneficiaries, use a separate sheet of paper.

Column 2. Enter the respective shares of federal distributable net income of each beneficiary and of the estate/trust on the appropriate lines.

Column 3. Determine the percentage share for each beneficiary and for the estate/trust based on the amounts in column 2.

Columns 4 and 5. Enter the state of domicile and the social security number/EIN of each beneficiary of the estate or trust, including nonresident and “safe harbor” resident beneficiaries.

Column 6. Nonresident estates or trusts enter on line g, column 6, the amount from Schedule NR, line 4, column B. For lines a through e, allocate line g to the nonresident and “safe harbor”

resident beneficiaries in proportion to their respective shares of federal distributable net income. The income, as allocated, has the same character as it does for federal income tax purposes.

Resident estates or trusts with nonresident and “Safe Harbor” resident beneficiaries must complete a pro forma Schedule NR (as if the estate or trust were a nonresident estate or trust) in order to complete Column 6 of Schedule 2. Enter on Schedule 2, line g, Column 6 the amount from Schedule NR, line 4, Column B. Follow the instructions for completing Schedule NR. Attach a copy of the pro forma Schedule NR to the Maine income tax return for the estate or trust. Do not complete column 6 for resident beneficiaries (except “Safe Harbor” resident beneficiaries).

If the estate or trust has no federal distributable net income, the share of each beneficiary in the Maine-source income is in proportion to the beneficiary's share of the estate or trust income for the taxable year, including that which is required by local law of the governing instrument to be distributed in such year. Any balance of the Maine-source income not allocable to beneficiaries shall be allocated to the estate or trust. If the shares in the Maine-source income are allocated in accordance with this paragraph, show the allocation in a schedule attached to the return.

SCHEDULE 3 – CREDIT FOR INCOME TAX PAID TO ANOTHER JURISDICTION

Resident estates and trusts may claim a credit against Maine income tax for income tax paid to another jurisdiction if all the following conditions are met:

- (1) The other jurisdiction is another state, a political subdivision thereof, the District of Columbia, Canadian Province or any political subdivision of a foreign country that is like a state of the United States.
- (2) The tax paid to the other jurisdiction is directly related to the income received during the tax year covered by this return. Tax payments made to other taxing jurisdictions for prior year tax liabilities cannot be considered when computing this credit.

- (3) The income taxed by the other jurisdiction is derived from sources in that jurisdiction determined in the same manner as Maine-source income is determined for nonresidents of Maine under 36 MRSA § 5142.

Line 4b is the income tax assessed by the other jurisdiction minus any tax credits (except withholding and estimated tax payments).

Complete a separate Schedule 3 for each jurisdiction to which taxes are paid and for which a credit is being claimed. Enclose a copy of each Schedule 3 completed. Add the credits together and enter the total on Schedule A, line 4. **Attach a copy of the income tax return filed with the other jurisdiction.**