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Guidance Document

INSTRUCTIONAL PAMPHLET FOR INDIVIDUAL INCOME TAX

Credit for Income Taxes Paid to Other Jurisdictions
(formerly Schedule 3 Credit)

Last Revised: January 21, 2011

CREDIT FOR INCOME TAXES PAID TO OTHER JURISDICTIONS

(formerly Schedule 3 Credit)

WHO MAY CLAIM THE CREDIT?

Generally, if a **resident** of Maine (excluding "Safe Harbor" residents) is required to pay income taxes to another jurisdiction, that person may claim a credit on the Maine individual income tax return for the taxes paid to the other jurisdiction (36 MRSA § 5217-A). The credit is calculated on the Maine Worksheet for Credit for Income Tax Paid to Other Jurisdictions, entered onto Maine Schedule A, Section 2, line 8, and appears as a tax credit on page 1 of the Maine long form (Form 1040ME). The credit is limited to the Maine tax calculated on the income taxed by the other jurisdiction or the actual tax assessed on that income by the other jurisdiction, whichever is less.

A **nonresident** or **"Safe Harbor" resident** of Maine may ***not*** claim a credit for income taxes paid to another jurisdiction. Instead, nonresidents and "Safe Harbor" residents are allowed a credit based on the amount of non-Maine source income as calculated on Schedule NR or NRH, instead of the Credit for Income Tax Paid to Other Jurisdictions.

A **part-year resident** usually cannot claim a credit for income tax paid to other jurisdictions. Occasionally, however, a situation may occur where a part-year resident is entitled to a credit for income tax paid to other jurisdictions (*see* "Double Credit" on page 6).

GENERAL INFORMATION

To qualify for the credit for income tax paid to other jurisdictions, the other taxing jurisdiction to which income taxes are paid must be another state of the United States, a political subdivision of any state, the District of Columbia, or a political subdivision of a foreign country that is analogous to a state of the United States (for example, New Brunswick, Canada). If a resident has to pay income taxes to both a state and a political subdivision of a state (usually a city), the taxes of the state and the political subdivision must be combined when calculating the allowable credit on the worksheet for credit for income tax paid to other jurisdictions.

The credit is limited to the portion of the individual's Maine income tax that relates to the income being taxed by the other jurisdiction that is derived from sources in that jurisdiction. **Income sourced to another state must be determined in the same way that a Maine nonresident calculates Maine-source income for purposes of Schedule NR or Schedule NRH** (see page 4). Also see 36 MRSA § 5142 and Maine Rule 806. The credit also cannot be more than the income tax actually paid to the other jurisdiction. See the credit for income tax paid to other jurisdictions worksheet on page 5.

The credit is calculated by dividing the income sourced to and taxed by the other jurisdiction by the taxpayer's Maine adjusted gross income. The resulting percentage is multiplied by the Maine tax liability (before credits) to determine the amount of Maine tax that relates to the income being taxed by the other jurisdiction. The lesser of this amount or the actual taxes paid to the other jurisdiction (on income sourced to that jurisdiction) is the amount of the credit.

***For example**: Mildred is a Maine resident and had Maine adjusted gross income of $50,000 in 2010. $10,000 of her income was earned in and taxed by Massachusetts. Assume that Mildred's income taxes for Maine are $2,858 based on $50,000 Maine adjusted gross income. Her income taxes for Massachusetts are $484 (based on $10,000 in Massachusetts wages less $880 exemption amount). The portion of Mildred's $2,858 tax liability due to Maine that is attributable to the $10,000 earned in Massachusetts is $572 ($10,000 divided by $50,000, which is 20%, x $2,858). She may claim a $484 credit for taxes paid to Massachusetts (the lesser of $572 and $484 of actual taxes assessed by Massachusetts). In this example, Mildred receives a full credit for the taxes paid to Massachusetts. However, if her Maine tax liability had only been $2,000, and the Massachusetts tax remained the same, she would have only received a $400 credit ($2,000 x 20%, or $400, which is less than the $484 tax assessed by Massachusetts).*

Generally, if Maine's income tax rate is higher than another jurisdiction's income tax rate, the taxpayer will usually get credit for the entire amount of taxes actually paid to the other jurisdiction. If Maine's tax rate is lower than the other jurisdiction's rate, then the taxpayer will usually get credit only for the percentage of the Maine tax that relates to the income taxed by the other jurisdiction.

An individual may use only the actual amount of income taxes imposed by the other jurisdiction as the basis for the credit for income tax paid to other jurisdictions, not the amount of income taxes withheld for that jurisdiction.

Income taxes imposed by another jurisdiction means the tax after credits (except withholding and estimated tax payments).

To continue with the example above, let's assume that Massachusetts had withheld $700 from Mildred's paychecks. When she completed her Massachusetts income tax return, she was entitled to a $216 refund ($700 withholding minus $484 tax liability). Mildred cannot use the $700 withholding as the basis for the Maine credit; she may use only the $484, her actual tax liability to Massachusetts. Whether Mildred received a refund or had to pay additional money, the basis for the credit is the actual tax liability to Massachusetts.

Multiple Taxing Jurisdictions: If an individual has to pay income taxes to more than one other jurisdiction, such as Massachusetts and Connecticut, the individual must complete a separate worksheet for each jurisdiction. The separately calculated credits are then added together to arrive at the total credit for taxes paid to other jurisdictions. The combined total credit cannot reduce the Maine tax liability below zero.

Business Taxes: The tax eligible for the credit for tax paid to other jurisdictions must have been imposed on the individual. It cannot have been imposed on another entity, such as a partnership, S corporation or C corporation, even though the individual may own, or partly own, the company. However, an individual may claim the credit based on income taxes imposed by another jurisdiction on a sole proprietorship since this entity is not considered distinct and separate from its owner.

Taxable Year: The income tax being imposed on the individual by another jurisdiction that is eligible for the credit for income tax paid to other jurisdictions is limited to the taxes imposed by the other jurisdiction in the same taxable year as the Maine return on which the Maine credit is being claimed. Taxes paid to another jurisdiction for a prior year may not be claimed as a credit on a current year Maine income tax return, even if the income to which the prior year's taxes relate now appears on the Maine return.

***For example**: Ellen, a resident of New York, sold a piece of property in New York in 2008 on an installment sale basis. In 2010, Ellen moved out of New York and became a Maine resident. New York required Ellen to report the entire future gain from the installment sale on her 2010 New York return or to post a bond to ensure that she filed the appropriate returns with New York until all the gain is reported. She opted to include all the gain on the 2010 return, even though recognition of the installment sale had not changed for federal purposes. The actual amount of the installment sale gain received in 2010 will appear on Ellen's federal and Maine returns. Therefore, her credit for income tax paid to other jurisdictions for 2010 is limited to the New York tax on that portion of the gain reported to Maine. In no event may her taxes due to Maine be reduced below zero. When Ellen files her 2011 income tax returns, she will report the amount received in 2011 from the installment sale to both the IRS and to Maine. Because she did not have any tax liability in New York for tax year 2011she will not be allowed to claim a credit for income tax paid to other jurisdictions in 2011.*

Amended Return: If an individual amends an out-of-state return for a prior year, the individual must amend the Maine return for the corresponding year to report the adjustment within 90 days of the change. A refund claim must be filed within the statute of limitations period for making a refund claim (generally within 3 years of filing the original return).

Maine Minimum Tax: The credit for income taxes paid to another jurisdiction cannot be used to offset any tax liability due under the Maine minimum tax. Instead, the Maine minimum tax has provisions built into its calculations to allow a credit against the Maine minimum tax if an individual is required to pay a minimum tax to another jurisdiction.

Source of Income: Generally, income of a Maine resident (except "Safe Harbor" residents) that is sourced to and taxed by another jurisdiction can be used as the basis for a credit for income tax paid to other jurisdictions. Income sourced to another state must be determined in the same way that a Maine nonresident calculates Maine-source income for purposes of Schedule NR or Schedule NRH. *See also* 36 MRSA § 5142 and Maine Rule 806.

Income sourced to another jurisdiction may include the following:

1. Salaries and wages earned working in the other jurisdiction, including all taxable benefits such as annual and sick leave;
2. Distributive share of income (loss) from partnerships and S corporations apportioned to the other jurisdiction;
3. Shares of trust and estate income derived from sources in the other jurisdiction;
4. Income (loss) attributed to the ownership or disposition of real or tangible personal property located in the other jurisdiction.
5. Gain (or loss) from sale of a partnership interest, except certain investment partnerships.

NOTE:

Income that cannot, for purposes of the credit for income tax paid to other jurisdictions, be sourced to the other jurisdiction includes income from intangible sources, such as interest, dividends, pensions, annuities, gains or losses attributable to intangible personal property (except for a gain (or loss) from the sale of a partnership interest), unless such income is attributable to a business or profession carried on in that jurisdiction. Also salaries and wages earned while working in Maine, whether for the convenience of the employee or at the request of the employer, cannot be sourced to another jurisdiction for purposes of claiming this credit.

Dual Residence Credit: Individuals who are considered to be residents of both Maine (excluding "Safe Harbor" residents) and another state for income tax purposes may qualify for a dual resident credit under 36 MRSA § 5128. For more information, see www.maine.gov/revenue/forms or call (207) 626-8475.

2010 - Worksheet for Credit for Income Tax Paid to Other Jurisdictions
Schedule A, Line 8 - FOR MAINE RESIDENTS ONLY

Enclose with your Form 1040ME. You must also attach a copy of the income tax return filed with the other jurisdiction.

Residents (excluding "Safe Harbor" residents) 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 analogous to 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); and, **(3)** the income taxed by the other jurisdiction is derived from sources in that jurisdiction. Income sourced to another state must be determined in the same way that a Maine nonresident calculates Maine-source income for purposes of Schedule NR or Schedule NRH. For a description of Maine-source income, see 36 MRSA § 5142 and Maine Rule 806. The income considered taxed by the other jurisdiction is income, after deductions, that is analogous to Maine adjusted gross income (federal adjusted gross income plus or minus income modifications).

- Individuals who are considered to be residents of both Maine (excluding "Safe Harbor" residents) and another state for income tax purposes may qualify for a dual resident credit under 36 MRSA § 5128. For more information, *see* www.maine.gov/revenue/forms or call (207) 626-8475.
- A **part-year resident** may claim a credit for tax paid to another jurisdiction on income earned during the period of Maine residency only (**excluding** period of "Safe Harbor" residency). Enter on line 1 your Maine adjusted income while a Maine resident (excluding period of "Safe Harbor" residency). Enter on line 2 the portion of line 1 that was taxed by the other jurisdiction. Compute line 4a on the basis of the Maine tax relating to the Maine adjusted gross income shown on line 1. Enter on line 4b the income tax paid to the other jurisdiction relating to the income shown on line 2. **Part-year residents who qualify for both the credit for tax paid to another jurisdiction and the nonresident credit - follow the special instructions included in the Instructional Pamphlet for Credit for Income Tax Paid to Other Jurisdictions available at www.maine.gov/revenue/forms.**
- Line 4b is the income tax assessed by the other jurisdiction minus any tax credits (except withholding and estimated tax payments).

1	Maine adjusted gross income from Form 1040ME, page 1, line 16	1	_____
2	Income sourced to and taxed by _____ (⇦ other jurisdiction) included in line 1	2	_____
3	Percentage of income taxed by other jurisdiction (divide line 2 by line 1 - if line 2 is greater than line 1, enter 1.0000).....	3	___ . ___ ___ ___ ___
4	Limitation of Credit:		
	a Form 1040ME, page 1, line 20 $_____ multiplied by __ . __ __ __ __ on line 3.....	4a	_____
	b Income taxes paid to other jurisdiction on income shown on line 2 (not the amount withheld)	4b	_____
5	Allowable Credit, line 4a or 4b, whichever is less. Enter here and on Maine Schedule A, line 8	5	_____

- ***Special instructions for taxpayers who claim credit for income tax paid to more than one other jurisdiction:*** The credit for each jurisdiction must be computed separately. Use a separate worksheet for each jurisdiction. Print the name of the other jurisdiction in the space provided on line 2. Add the line 5 results together and enter the total on Maine Schedule A, line 8. **Attach a copy of the income tax return filed with the other jurisdiction.**

Note: You may photocopy this page if you need additional worksheets.

DOUBLE RESIDENT CREDIT - For Part-year Residents Eligible to Claim both the Credit for Tax Paid to Other Jurisdictions and the Nonresident Credit

Generally, a part-year resident cannot claim both a nonresident credit (Schedule NR/NRH) and a credit for income taxes paid to another jurisdiction. However, when a part-year resident of Maine earns income in another jurisdiction both as a resident and as a nonresident of Maine during the same tax year, the part-year resident may be able to claim both credits. The nonresident credit (Schedule NR/NRH) is calculated first and is based on the income earned while a nonresident of Maine. The credit for income taxes paid to another jurisdiction is calculated next and is based on the income earned while a resident. **This is the only time when a part-year resident can claim a credit for income tax paid to other jurisdictions.** A part-year resident can usually claim a nonresident credit, provided that the individual had income while a nonresident of Maine. Following are examples of when a taxpayer can or cannot claim both credits:

Both Credits Allowable: A taxpayer lives in New Hampshire and works in Massachusetts. In June, the taxpayer moves from New Hampshire to Maine, but continues to work in Massachusetts. This taxpayer could claim both credits. The nonresident credit would be based on the income earned prior to moving to Maine. The credit for income taxes paid to another jurisdiction would be based on the income earned after moving to Maine that was also taxed by Massachusetts. The income earned before moving to Maine, although taxed by Massachusetts, could not be used when calculating the credit for income taxes paid to another jurisdiction because the taxpayer was not a resident of Maine at the time the income was earned.

Nonresident Credit Only: A taxpayer lives in New Hampshire and works in Massachusetts. In June, the taxpayer moves from New Hampshire to Maine. The job in Massachusetts is terminated at the time of the move and a new job is obtained in Maine. The taxpayer could claim a nonresident credit based on the income earned in Massachusetts while living in New Hampshire. The taxpayer could not claim a credit for income taxes paid to Massachusetts because none of the income taxed by Massachusetts was earned while the taxpayer was a Maine resident.

FOLLOW THESE STEPS FOR THOSE CLAIMING BOTH CREDITS:

NOTE to Nonresident and "Safe Harbor" Resident Servicemembers

See the instructions on page 8 for completing your Maine income tax return. Certain military compensation of nonresident or "Safe Harbor" resident servicemembers is excludable from Maine taxable income.

1. **Determining Maine Taxable Income.** Maine taxable income is the federal adjusted gross income adjusted by Maine modifications, exemptions and deductions, calculated as if you were a Maine resident for the entire year. This establishes the appropriate tax rate to be applied to the taxpayer's income. **Complete the Maine long form through the Total Tax line (Form 1040ME, line 23).** (If filing Schedule NRH, refer to the instructions for Schedule NRH.)
2. **Complete Schedule A, Adjustments to Tax, exclusive of the credit for income taxes paid to another jurisdiction (line 8).** The credit for tax paid to other jurisdictions will be calculated later using the applicable worksheet. Do not calculate the Total Credits on Schedule A, line 19 at this point. Enter the amount from line 4 of Schedule A on Form 1040ME, line 21 and use the amounts on lines 5 and 7 of Schedule A for purposes of calculating the nonresident credit on Schedule NR or Schedule NRH under item 3 below.
3. **Calculate the nonresident credit using Schedule NR/NRH.** Complete Maine Worksheets A, B, and either Schedule NR or NRH according to the instructions on the form.
4. **Calculate the credit for taxes paid to other jurisdictions** according to the worksheet for income tax paid to other jurisdictions on page 7. Enter the result on Schedule A, line 8.
5. **Complete Maine Schedule A and Form 1040ME.** Attach a copy of the worksheet for income tax paid to other jurisdictions (on page 7) and Schedule NR or NRH to your return.

Maine Worksheet for Credit Paid to Other Jurisdictions for Part-Year Residents Only

You must attach a copy of the out-of-state income tax return.
Include a copy of this worksheet with your return.

Name of other taxing Jurisdiction*: _____

***If claiming credit for income tax paid to more than one other jurisdiction,** credit for each jurisdiction must be computed separately. Use a separate worksheet for each jurisdiction. Add the results together and enter on Maine Schedule A, line 8.

1. Adjusted gross income while a Maine resident (Form 1040ME, line 16, minus Schedule NR, line 6 or Schedule NRH, line 6, column C) ..... $ _____

2. Income sourced to and taxed by other jurisdiction included in line 1 (See instructions below) ..... $ _____

3. Percentage of income sourced to and taxed by other jurisdiction (divide line 2 by line 1) ..... __ . __ __ __ __

4. Limitation of Credit:
   a. Maine tax (Form 1040ME, line 20 minus Form 1040ME, line 25 $_____ multiplied by __ . __ __ __ __ on line 3 above) ..... $ _____
   b. Income taxes paid to other jurisdiction on income shown on line 2 (Not the amount withheld. *See* instructions below) ..... $ _____

5. Allowable Credit, line 4a or 4b, whichever is less. Enter here and on Maine Schedule A, line 8 ..... $ _____

Specific Instructions:

Line 2 Enter income included on line 1 (*based on income entered on Maine Worksheet B, column C*) that is sourced to, and that was taxed by, the other jurisdiction while a Maine resident. Do not include any income that was earned while a nonresident or a "Safe Harbor" resident of Maine. See page 4 for a general description of income that may be considered sourced to another jurisdiction.

Line 4b Enter the amount of income tax actually paid to the other jurisdiction on the income shown on line 2. This is the tax liability on the income shown on line 2 before tax payments. If income taxes were paid to the other jurisdiction on the income shown on line 2 both while a resident and a nonresident of Maine, prorate the amount of the income taxes paid to that jurisdiction based on the percentage of the income that was earned while a Maine resident. Do not report income taxes withheld on this line.

NONRESIDENT & "SAFE HARBOR" RESIDENT SERVICEMEMBERS:

The Servicemembers Civil Relief Act "SCRA" (Public Law No. 108-189) provisions which offset the computation of Maine individual income tax for certain nonresidents (including "Safe Harbor" residents) as follows:

1) Section 511(d) of the Act prevents states from including the military compensation of nonresident servicemembers in the total income when computing the applicable rate of tax imposed on other income earned by the nonresident servicemember, or their spouse, that is subject to tax by the state. These changes affect Maine returns beginning on or after January 1, 2003 for some military taxpayers (Maine returns beginning on or after January 1, 2007 for "Safe Harbor" residents.)
2) Amendments were made to the SCRA in 2009 to provide that a spouse of a servicemember may retain residency in their home state for voting and tax purposes if the spouse is in Maine solely to be with the servicemember who is in the state due to military orders. Income earned in Maine by a nonresident servicemember's spouse who is domiciled in another state may not be considered Maine-source income. These changes affect Maine tax years beginning on or after January 1, 2009.

Since the 2010 Maine income tax return includes income of the nonresident servicemember, a deduction must be made on the Maine return for a nonresident (or "Safe Harbor" resident) servicemember. To deduct the military income of a nonresident (or "Safe Harbor" resident) servicemember from the Maine taxable income in 2010, use the following instructions:

1) Enter the total federal adjusted gross income on Form 1040ME, line 14.
2) Complete Form 1040ME, Schedule 1. Include the amount of military compensation of the nonresident servicemember on Form 1040ME, **Schedule 1, line 2k, *'Other'*** and enter *"NR military compensation"* in the space provided.
3) Complete Form 1040ME, lines 15 through 24.
4) Complete Form 1040ME, Worksheet A (if applicable) and Worksheet B for Part-Year Residents/Nonresidents/"Safe Harbor" Residents. **NOTE:** When completing Worksheet B, include the military compensation received by the nonresident ("Safe Harbor" resident) servicemember and the Maine earned income of the servicemember's spouse on *line 1, columns A and D.* This procedure will ensure the proper determination of non-Maine-source income.
5) Complete Form 1040ME, Schedule NR or Schedule NRH (whichever is applicable).

   NOTE: The military income of a nonresident ("Safe Harbor" resident) servicemember should be included on both *line 1, boxes A and C* and *line 5b* of **Schedule NR**. On line 5b, write "NR military compensation" in the space provided.

   The Maine earned income of the servicemember's spouse should be included on *line 1, boxes A and C* of **Schedule NR**.

   The military income of a nonresident servicemember filing **Schedule NRH** should be included on both *line 1* and *line 5b, columns A, B and C* of Schedule NRH. On line 5b, write "NR military compensation" in the space provided.

   The Maine earned income of the nonresident servicemember's spouse filing **Schedule NRH** should be included on *line 1, columns A, B* and *C* of Schedule NRH.

   This procedure will ensure the proper ratio for the determination of the non-resident credit.

   If you are completing Schedule NRH, see the Guidance Document titled "Instructional Pamphlet for Individual Income Tax, Schedule NRH" for more information.
6) Complete Form 1040ME, lines 25 through 36.

A "servicemember" is defined as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. It also includes a member of the National Guard who is under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency declared by the President and supported by Federal funds.

Any further questions about the computation of Maine individual income tax for certain nonresidents should be directed to the Income/Estate Tax Division of Maine Revenue Services at: income.tax@maine.gov/revenue or call 207-626-8475.