

## GENERAL INSTRUCTIONS

### 1. CORPORATIONS SUBJECT TO INCOME TAX:

Every entity subject to federal income tax as a corporation (including exempt organizations) and doing business in Maine must file Form 1120ME and pay its applicable Maine corporate income tax. Corporations who elect to file under Subchapter "S" of the Internal Revenue Code (except those with federal taxable income at the corporate level), insurance companies subject to tax under 36 M.R.S.A., Chapter 357 (Insurance Premiums Tax and Fire Investigation and Prevention Tax) and financial institutions subject to tax under 36 M.R.S.A., Chapter 819 (Franchise Tax) are not subject to Maine corporate income tax. Corporate small business investment companies, licensed under the United States Small Business Investment Act of 1958 who are commercially domiciled in Maine and do business primarily in Maine are also not subject to this tax.

**2. BANKING INSTITUTIONS SUBJECT TO FRANCHISE TAX:** Every corporation that is a financial institution, except a credit union; any service corporation or subsidiary as defined in 9B M.R.S.A., Section 131 and any financial institution holding company that is doing business in this state must file Form 1120B-ME and pay Maine franchise tax. **Do not use Form 1120ME.**

**3. DATE FOR FILING RETURN:** Corporations reporting for the calendar year 1992 should file, with payment, on or before March 15, 1993. Fiscal year taxpayers should file, with payment, on or before the 15th day of the third month following the close of their taxable year.

**4. EXTENSIONS FOR FILING:** The State Tax Assessor may grant a reasonable extension of time for filing a return. The request for extension must be filed by the 15th day of the third month following the close of the taxable year – even if no additional tax is due. An extension for filing the return is not an extension for payment of tax. Failure to Pay penalties apply if the tax is not paid by the original due date of the return. Use the extension voucher provided with Form 1120ES-ME when requesting extensions that necessitate an additional deposit. If no additional tax is due, file a copy of federal form 7004 with your extension request.

**5. PAYMENT OF CORPORATE INCOME TAX:** All corporations subject to income taxes shall pay an estimated tax unless the liability for the current taxable year or for the prior tax year reduced by any allowable credits is less than \$500. See instructions for Form 1120ES-ME for details.

**6. INTEREST:** Interest at 10% per annum compounded monthly will be added to any balance of tax due from the original due date to the date of payment and should be included with any payment.

### 7. PENALTIES:

**a. Underpayment of estimated tax penalty** (at 10% per annum compounded monthly) may be assessed if the sum of quar-

terly estimated tax payments is not at least equal to the lesser of the previous year's Maine income tax liability or ninety percent (90%) of the tax liability for the current year, except certain large corporations cannot utilize the previous year's liability in determining the required amount of estimated tax payments.

**b. Late filing – late payment penalties.** If a past-due return is filed either before the receipt or within 30 days of the receipt of a demand notice, the penalty for failure to file is the greater of \$10 or 10% of the amount of tax due. If the return is filed more than 30 days after the receipt of a demand notice, the failure to file penalty becomes 100% of the tax otherwise due.

For failure to pay a tax liability in a timely fashion, the penalty is the greater of \$5 or 1% of the tax liability for each month the payment is delinquent, up to a maximum of \$25 or 25%.

**c. Other Penalties.** The law also provides for penalties for substantial understatement of tax, negligence, fraud, and for payment of tax with a check that is returned for insufficient funds.

**8. ACCOUNTING PERIOD COVERED BY RETURN:** Your Maine return covers the same accounting period as your federal corporate return.

**9. ACCOUNTING METHODS:** A taxpayer's accounting method for Maine income tax purposes must be the same as that used for federal income tax purposes.

**10. ADDITIONAL FORMS TO ACCOMPANY STATE RETURN:** Any corporation that is part of an affiliated group is required to file Schedule CB. Exempt organizations filing the Maine corporate return, Form 1120ME, must attach a legible copy of the corporation's federal return, Form 990T.

**11. FILING REQUIREMENTS FOR S CORPORATIONS AND PARTNERSHIPS:** S corporations and partnerships that have Maine source income or that have resident shareholders or partners are required to file an information return consisting of Form TR (transmittal form), a copy of the federal return and Schedules K-1.

Shareholders and partners are subject to Maine income tax. Those who are nonresident individuals and who have no other Maine-source income may satisfy the filing requirement with a composite return. In that event, the entity would file a return on behalf of its shareholders or partners using form 1040ME labeled "composite return." For additional information, see Rule 805.

S corporations that incur federal taxable income (e.g. certain capital gains, certain built-in gains) that is taxed at the corporate level are required to file form 1120ME and report only the income on form 1120ME that is taxed at the corporate level for federal purposes.

**12. FEDERAL AUDIT CHANGES AND AMENDED RETURNS:** All taxpayers must file a Maine amended return for any change or correction by the Internal Revenue Service in federal taxable income within 90 days after final determination of such

change or correction. Attach a copy of the Internal Revenue Agent's report to your Maine amended return.

Any taxpayer filing an amended federal income tax return must, within 90 days, file an amended Maine income tax return and attach a copy of federal Form 1120X. When filing returns that reflect federal net operating losses, a copy of the federal Form 1139 must be attached.

The state does not provide a form for amended returns. Use Form 1120ME for the year(s) you are amending and print or type "amended" in the upper left corner of the form.

**13. COMBINED REPORTS:** A taxable corporation that is a member of an affiliated group and that operates in a unitary fashion must file a combined return based upon federal taxable income. Corporations that may be part of an affiliated unitary group but are not required to file a federal income tax return are to be excluded from combined filing. Additionally, 80-20 corporations

are excluded from the combined group.

Maine defines affiliated group to mean a group of two or more corporations in which more than 50% of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, or by one or more of the member corporations. Unitary is defined as a business activity that is characterized by unity of ownership, functional integration, centralization of management and economies of scale.

A single return may be filed on which the aggregate Maine income tax liability of the Maine-nexus members of a unitary group is reported. All members of the affiliated group are to be listed on Schedule CB. For detailed instructions see Schedule CB.

**14. 80-20 CORPORATION DEFINED:** An 80-20 corporation is an entity with more than 80% of its aggregate property and payroll located outside the 50 states and District of Columbia and none of its property and payroll located in this State.

**IN ALL CORRESPONDENCE PLEASE REFER TO YOUR EMPLOYER FEDERAL IDENTIFICATION NUMBER**

**SPECIFIC INSTRUCTIONS FOR PAGE 1 OF FORM 1120-ME**

**Line 1. FEDERAL TAXABLE INCOME:** Enter federal taxable income from line 30 of federal Form 1120 or line 26 of federal Form 1120A, unless the corporation is an S corporation. In that case, use the S corporation's corporate level federal taxable income. Corporations that are members of an affiliated unitary group should see the instructions under "Combined Reports" in paragraph 13 above and on Schedule CB.

**Line 2a. NONTAXABLE INTEREST:** Enter here interest on U.S. Bonds, U.S. Treasury Notes, or other obligations of the U.S., which by law are exempt from state taxes, but taxable by the Federal Government.

Interest from bonds issued by Maine municipalities is exempt from Maine income tax even if taxed on the federal return. Taxpayers may subtract from federal taxable income interest income and capital gains from the sale of bonds issued by the Waste Management Agency to the extent included in federal taxable income.

**Line 2b. FOREIGN DIVIDEND GROSS-UP:** This amount is from federal Form 1120, Schedule C, line 15.

**Line 2c. FEDERAL JOBS CREDIT ADJUSTMENT:** An adjustment equal to the taxpayer's Federal Jobs Credit is allowed. Enter the amount of the required reduction of salaries and wages on your federal return due to the Jobs Credit. Also attach a copy of federal Form 5884, "Jobs Credit."

**Line 2d. INCOME NOT TAXABLE UNDER THE CONSTITUTION OF MAINE OR THE U.S.:** Enter non-unitary income this State is prohibited from taxing under the constitutions of the United States or the State of Maine. The amount must be decreased by any expenses incurred in the production of that income to the extent that these expenses are deductible in determining federal taxable income (attach schedule).

**Line 2e. DIVIDENDS FROM AFFILIATED CORPORA-**

**TIONS:** Enter 40% of all apportionable dividends from affiliated corporations that are not included with the taxpayer in a Maine combined report. (Dividends must be included in federal taxable income, line 1.)

**Line 2f. NET OPERATING LOSS DEDUCTION:** If you have a net operating loss for tax years beginning in 1989, 1990, and 1991 that was carried back for federal purposes but not allowed for Maine, you are allowed a deduction on this line as a net operating loss carry-forward. However, the net operating loss carry-forward cannot reduce Maine Net Income to less than zero.

**Line 4a. INCOME TAXES IMPOSED BY MAINE OR ANY OTHER STATE:** Maine does not permit a deduction for income taxes imposed by Maine or any other state. Income taxes taken as a deduction on federal Form 1120 must be added back to arrive at Maine taxable income.

**Line 4b. UNRELATED EXPENSES:** If the corporation(s) included on this return is (are) part of a group, but filing separately for Maine, then any expenses incurred by the corporation(s) on behalf of subsidiaries or other members of a group who are not included on this return must be added back. Attach supporting schedules.

**Line 4c. INTEREST ON STATE AND MUNICIPAL BONDS OTHER THAN MAINE:** Corporations must add interest on state and municipal bonds that originate outside Maine to their federal taxable income for Maine income tax purposes.

**Line 4d. NET OPERATING LOSS RECOVERY ADJUSTMENT:** Enter on this line:

(1) The amount of any net operating loss for this taxable year which has or will be carried back to previous taxable years pursuant to Internal Revenue Code, Section 172, and

(2) The amount of any net operating loss carryover deduction

claimed in this taxable year under Internal Revenue Code, Section 172, which has previously been used to offset Maine modifications to federal taxable income. 36 M.R.S.A., Section 5200A, Subsection 1.

**Line 6. MAINE TAXABLE INCOME:** Corporations that are not part of an affiliated-unitary group and have income solely from business activity within Maine enter on line 6 the same amount as on line 5. Corporations having income from within and outside the state apportion income on Schedule A and enter on this line the amount shown on line 17 of Schedule A. All corporations who are members of an affiliated-unitary group must complete Schedule A. See General Instructions, paragraph 13, page 3 of this booklet and the instructions on Schedule CB.

**Line 7a. MAINE CORPORATION INCOME TAX:** For tax years beginning in 1991 and 1992, the Maine corporate tax rate is as follows:

|  |                 |                               |           |
|--|-----------------|-------------------------------|-----------|
| <i>If the Maine Taxable Income is:</i> |                 | <i>The Tax is:</i>            |           |
| Not over \$25,000.....                 |                 | 3.85% of Maine Taxable Income |           |
| <i>But not over</i>                    |                 | <i>of excess over</i>         |           |
| \$ 25,000                              | \$ 75,000 ..... | \$ 963 plus 8.723%            | \$ 25,000 |
| 75,000                                 | 250,000 .....   | 5,325 plus 9.163%             | 75,000    |
| 250,000                                | or more .....   | 21,360 plus 9.823%            | 250,000   |

In the case of an affiliated group of corporations subject to Maine tax engaged in a unitary business, the respective preferential rates shall be applied only to the first \$250,000 of Maine net income of the entire group and shall be divided equally among the taxable corporations unless those taxable corporations jointly

elect a different assignment. The balance of the Maine net income of the entire group shall be taxed at 9.823%. Schedule D, page 2, 1120-ME must be completed.

**Line 7b. MINIMUM TAX:** Minimum tax is imposed, for each taxable year, upon every corporate taxpayer required to file a Maine corporate income tax return. Complete Schedule E to compute the amount to be entered on this line.

**Lines 8a, b, c. CREDITS:** These lines are for taxpayers who have made estimated tax payments and deposits when requesting an extension of time for filing, as well as for taxpayers filing amended returns and claiming credit for tax paid with original return.

**Line 8d. OTHER CREDITS:** Enter on this line the amount on Schedule F, line 33g (1120-ME, page 3). (Note: the amount on line 33g cannot exceed the tax liability on line 7c of form 1120-ME.) See instructions for Schedule F on page 5.

**Line 9b. PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX:** If the corporation underpaid estimated tax, complete and attach Form 2220-ME to the corporate return.

**Line 11a. AMOUNT OF LINE 10 YOU WISH CREDITED:** Use this block only if you want to have all or a portion of the overpayment on line 10 credited to your next year's estimated Maine corporate income tax.

**Line 11b. AMOUNT TO BE REFUNDED:** Enter here the difference between lines 10 and 11(a). Amounts on this line greater than \$.99 will be refunded automatically.

### SCHEDULE A INSTRUCTIONS

**GENERAL INSTRUCTIONS:** Schedule A is for corporations engaged in interstate business. Maine employs a three-factor formula to determine the percentage of corporate income which is apportioned to Maine. This percentage is derived by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is 4. If the apportionment provisions do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the Tax Assessor may require, in respect to all or any part of the taxpayer's business activity:

- (a) Separate accounting.
- (b) The exclusion of any one or more of the factors.
- (c) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state.
- (d) The employment of any other method to effectuate an equitable apportionment of the taxpayer's income.

"Tax period," referred to in instructions for lines 12, 13, and 14, means the period represented by adjusted federal taxable income on line 5 of form 1120ME.

"Sales" means all gross receipts such as trade sales, dividends, interest, rents, and royalties.

Those corporations that are members of an affiliated unitary group see further instructions on Schedule CB.

**Line 12. SALES FACTOR:** The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

**Sales of tangible personal property** are attributed to Maine if (1) the property is delivered or shipped to a purchaser, other than the United States Government, in Maine, regardless of the F.O.B. point or other conditions of the sale; or (2) the property is shipped from an office, store, warehouse, factory or other place of storage in Maine and the purchaser is the United States Government or the taxpayer is not taxed in the state of the purchaser.

**Sales, other than sales of tangible personal property,** are attributed to Maine if (1) the income producing activity is performed in this state; or (2) the income producing activity is performed both in and outside Maine and a greater proportion of the income producing activity is performed in this state than in any other state, based on costs of performance.

**Line 13. PAYROLL FACTOR:** The payroll factor is a fraction,

the numerator of which is the total paid in Maine during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period. "Compensation" means wages, salaries, commissions and any other form of remuneration to employees for personal services, including deferred compensation. Compensation is paid in Maine if (1) the individual's service is performed entirely within this state; or (2) the individual's service is performed both within and outside Maine, but the service performed outside the state is incidental to the individual's service within Maine; or (3) some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in Maine.

**Line 14. PROPERTY FACTOR:** The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property (including inventory) owned or rented and used in Maine during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property (including inventory) owned or rented and used during the tax period.

Property owned by the taxpayer is valued at original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rate received by the taxpayer from subrentals. The average value of the property shall be determined by averaging the values at the beginning and ending of the tax period, but the tax assessor may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

**Line 16.** Enter adjusted federal taxable income from page 1, line 5 of form 1120-ME.

#### SCHEDULE F

**a. Maine Seed Capital Tax Credit:** Enter on this line the tax credit as authorized by the Finance Authority of Maine. A copy of the tax credit certificate must be attached to the return. The amount of credit is subject to limitations as outlined in 36 M.R.S.A., Section 5216-B.

**b. Jobs and Investment Credit:** A tax credit for qualifying jobs and investment credit is entered on this line. Eligibility for the credit requires the addition of \$5 million of IRC Section 38 property based on the Internal Revenue Code of 1954, as of December 31, 1985, Section 38, (b) (1), and 200 new jobs in the 12 month period following the date the property was placed in service. For further details see 36 M.R.S.A., Section 5215.

**c. Employer Assisted Child Care Tax Credit:** A taxpayer constituting an employing unit is allowed a credit for providing or paying day care expenses of employees subject to the limitations of 36 M.R.S.A., Section 5217. The tax credit is limited to the lowest of five thousand dollars, twenty percent of the cost incurred, or one hundred dollars for each child of an employee of the taxpayer enrolled on a full-time basis. 36 M.R.S.A., Section 5217.

**d. Employer-Provided Long-Term Care Benefits Credit:** A taxpayer constituting an employing unit is allowed a credit against the tax subject to the limitations of 36 M.R.S.A., Section 5217-B. The tax credit is limited to the lowest of five thousand dollars, twenty percent of the costs incurred, or one hundred dollars for each employee provided long-term care policy.

Any unused credit may be carried over to the following year or years for a period not to exceed 15 years.

**e. Investment Tax Credit:** For tax years beginning on or after January 1, 1991, taxpayers will be able to claim a credit equal to 1% of the amount of qualified investments made in the previous five taxable years (six years for taxable years ending in 1995). Qualified investments are investments in manufacturing machinery and equipment made on or after January 1, 1989. Excess credits cannot be carried back, but can be carried forward for a maximum of five years. Furthermore, taxpayers are prohibited from considering any potential current year investment tax credits in the determination of required estimated income tax payments.

**f. Maine Minimum Tax Credit:** A minimum tax credit is available for tax years beginning in 1992. This credit is modelled after the federal alternative minimum tax credit. Complete Schedule I on page 4 of form 1120ME to calculate your credit.

(NOTE: The total of these credits cannot be more than the tax liability on line 7c of form 1120-ME.)

**IMPORTANT: IF ALL REQUIRED LINES AND SCHEDULES (INCLUDING SCHEDULE CB) ARE NOT COMPLETED, THE RETURN IS INCOMPLETE AND NOT CONSIDERED A FILED RETURN.**



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## TAX LAW CHANGES

**Solid Waste Reduction Investment Tax Credit.** New legislation reinstates this credit for equipment purchased and placed into use during the period January 1, 1990 to June 30, 1991. The credit also applies to equipment purchased on or after January 1, 1993. However, the credit cannot be used to reduce taxes in any tax year beginning before January 1, 1993.

**Tax Penalty Provisions.** If a past-due return is filed either before the receipt or within 30 days after the receipt of a demand notice from the State Tax Assessor, the penalty for failure to file is the greater of \$10 or 10% of the amount of tax due. If the return is filed more than 30 days after the receipt of a demand notice, the failure to file penalty becomes 100% of the tax otherwise due.

A new penalty for substantial understatement of tax is assessed at a rate of \$5 or 1% of the understatement for each month the tax remains unpaid, up to a maximum of \$25 or 25%, whichever is greater. There is a substantial understatement of tax if the amount of the understatement on the return exceeds 5% of the tax required to be shown on the return or \$1,000, whichever is greater. This penalty is effective August 1, 1992.

The penalty for filing a return that results in an underpayment of tax attributable to fraud with the intent to evade the tax is now \$75 or 75%, whichever is greater (effective August 1, 1992). Effective July 1, 1993, the penalty for negligence not attributable to fraud is increased from \$10 or 10% to \$25 or 25% of the underpayment.

The State Tax Assessor has the authority to waive or abate the failure to file, the failure to pay, and the substantial underpayment penalties for reasonable cause. The burden of establishing grounds for waiver or abatement is on the taxpayer.

## IMPORTANT TAX INFORMATION

**Corporate Income Tax Surcharge.** A 10% surcharge on all corporate tax liabilities is effective for tax years beginning in 1991 and 1992.

**Interest Rate.** The interest rate is now 10% annually, compounded monthly.

**Underpayment of Estimated Tax Penalty.** The penalty for the underpayment of estimated tax is 10% annually, compounded monthly.

**Transmittal Form for S Corporations and Partnerships.** S corporations and partnerships must complete Form TR (transmittal form) when filing copies of federal returns with Maine. S corporations and partnerships that do business in Maine or that have resident shareholders or partners are required to file copies of federal forms 1120S or 1065. The copies, along with Form TR, must be filed with the Maine Bureau of Taxation by the 15th day of the third month following the close of the taxable year for S corporations and by the 15th day of the 4th month following the close of the taxable year for partnerships. Form TR is available upon request from the Bureau of Taxation, Income Tax Division, Augusta, Maine 04333-0024.

INFORMATION:  
BUREAU OF TAXATION – INCOME TAX DIVISION  
State Office Building  
Augusta, Maine 04333-0024  
Telephone: (207) 626-8475

FORMS: order by calling  
toll-free within Maine  
1-800-773-7894