

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
BUREAU OF REVENUE SERVICES, INCOME/ESTATE TAX DIVISION**Rule No. 803 (18-125 CMR 803)****WITHHOLDING TAX REPORTS AND PAYMENTS**

**SUMMARY:** This rule identifies income subject to Maine withholding and prescribes the methods for determining the amount of Maine Income Tax to be withheld from wages, non-wage payments, and pass-through entity income. It also explains the related reporting requirements, including mandated electronic filing.

**Outline of Contents:**

- 1 General Information
- 2 Persons Required to Withhold Maine Income Tax
- 3 Computing the Amount of Maine Taxes to Withhold
- 4 Reporting
- 5 Payment
- 6 Registration by Persons Required to Withhold Income Tax
- 7 Returns
- 8 Cancellation of Withholding Registration

**SECTION 1. GENERAL INFORMATION**

Maine law requires employers and other persons to withhold money from certain payments, most commonly wages, and submit that money to Maine Revenue Services for application against the Maine income tax liability of employees and other payees. The amount of withholding must be calculated according to the provisions of this rule and must constitute a reasonable estimate of the Maine income tax due on the receipt of the payment. Amounts withheld must be paid over to Maine Revenue Services on a periodic basis as provided by Maine law and by this rule. See 36 MRSA Chapter 827 (sections 5250 through 5255-B).

**SECTION 2. PERSONS REQUIRED TO WITHHOLD MAINE INCOME TAX**

**1. Generally.** Any person who maintains an office or transacts business in Maine and who is required to withhold federal income tax from a particular payment must also withhold Maine income tax, unless the payment constitutes income that is excluded from taxation under Maine law. See 36 MRSA §§ 5250 and 5255-B.

**2. Pass-through entities.** A pass-through entity doing business in Maine must withhold Maine income tax for nonresident members based on Maine-source member income. See 36 MRSA §5250-B.

**SECTION 3. COMPUTING THE AMOUNT OF MAINE TAXES WITHHELD**

**1. Wage Methods of Withholding.** Any of the following methods may be used by persons responsible for withholding to determine the amount of Maine income tax to be withheld from payments

subject to the federal wage method of withholding. Generally, the amount of withholding is determined based on the information provided on the Maine Withholding Allowance Certificate (Form W-4ME).

**A. Percentage method.** The amount of tax to be deducted and withheld under the percentage method of withholding is determined using the applicable percentage method tax rate schedule contained in the current year “Withholding Tables Maine Individual Income Tax” booklet prepared by Maine Revenue Services according to the instructions contained therein.

**B. Wage-bracket tables method.** The amount of tax to be deducted and withheld under the wage-bracket table method is determined using the applicable wage bracket withholding table contained in the current year “Withholding Tables Maine Individual Income Tax” booklet with respect to the period in which such wages are paid. Each table consists of wage brackets that establish the tax to be withheld by number of withholding allowances.

**C. Requests for increased withholding.** An employee or other payee may request that the employer or other payer deduct and withhold an additional amount from wages or other periodic payments. The employer or other payer must comply with the employee’s or payee’s request, except that the amount deducted and withheld cannot exceed the payment amount that remains after the employer or other payer has deducted and withheld all amounts otherwise required to be deducted and withheld by federal and state law. The employee or other payee must make the request for the additional withholding amount on a Maine Withholding Allowance Certificate, Form W-4ME.

**D. Other methods.** If neither the percentage method nor the wage-bracket method of withholding properly reflects an amount substantially equivalent to the tax reasonably estimated to be due from an employee’s wages, either the person responsible for withholding or the employee or other payee may request permission from the State Tax Assessor (the “assessor”) to use an alternate method acceptable to both the payee and payer. Claiming a larger number of withholding allowances for Maine purposes than for federal purposes is not allowed unless expressly authorized in writing by the assessor (see Paragraph G below).

**E. Maine withholding allowance certificate (Form W-4ME).** An employee or other payee must furnish the payer with a signed Maine Withholding Allowance Certificate (Form W-4ME) on the same date as the required federal Withholding Allowance Certificate (Form W-4 or W-4P). The employee or payee must indicate on the Maine certificate the same marital status claimed on the federal certificate, except that married employees and payees may elect withholding at the higher single rate by indicating the “married but withhold at single rate” option. The Maine certificate must also list the number of withholding allowances the employee or other payee claims for Maine withholding, which may not exceed the number to which the employee or other payee is entitled. The number of withholding allowances claimed on the federal Form W-4 or W-4P is the base for the number claimed on the Form W-4ME. However, the number of allowances claimed for federal withholding must be adjusted for Maine withholding in accordance with the instructions on the Maine Withholding Allowance Certificate to reflect differences between federal and Maine income tax laws. The number of withholding allowances claimed on the Maine Withholding Allowance Certificate may not exceed the number of allowances used to calculate the employee’s federal income withholding unless that employee has provided an approved withholding variance certificate to the employer as provided in Paragraph G below.

If the employee or other payee is required to provide the employer or other payer with a revised federal Form W-4 or W-4P because of a change in status or decrease in the number of

withholding allowances, the employee or other payee must also complete a new Maine Withholding Allowance Certificate (Form W-4ME) on the same date to reflect the same change. The revised Form W-4ME takes effect on the same date as the revised federal Form W-4 or W-4P.

**F. Electronic Form W-4ME.** An employer or other payer may establish a system for its employees or other payees to file withholding exemption certificates electronically.

(1) The electronic system must ensure that the information received by the employer or other payer reflects the information furnished by the employee or other payee, and must document all occasions of employee or other payee access that result in the filing of a Form W-4ME. In addition, the design and operation of the electronic system, including access procedures, must ensure with reasonable certainty that the person accessing the system and filing the Form W-4ME is the employee or other payee identified in the form.

(2) The electronic system must provide the employer or other payer with exactly the same information as the paper Form W-4ME.

(3) The electronic filing must be signed by the employee or other payee under penalties of perjury (see 36 MRSA §193).

(a) The jurat (perjury statement) must contain the language that appears on the paper Form W-4ME. The electronic program must inform the employee or other payee that he or she must make the declaration contained in the jurat and that the declaration is made by signing the Form W-4ME. The instructions and the language of the jurat must immediately follow the employee's or other payee's income tax withholding selections and immediately precede the employee's or other payee's electronic signature.

(b) The electronic signature must identify the employee or other payee filing the electronic Form W-4ME and authenticate and verify the filing. For this purpose, the terms "authenticate" and "verify" have the same meaning that they do when applied to a written signature on a paper Form W-4ME. An electronic signature can be in any form that satisfies the foregoing requirements. The electronic signature must be the final entry in the employee's or other payee's Form W-4ME submission.

(4) Upon request by the assessor, the employer or other payer must supply to Maine Revenue Services a paper copy of the electronic Form W-4ME and a statement that, to the best of the employer's or other payer's knowledge, the named employee or other payee filed the electronic Form W-4ME. The paper copy of the electronic Form W-4ME must provide exactly the same information as (but need not be a facsimile of) the paper Form W-4ME.

**G. Personal withholding exemption variance certificate.** A payee may not claim a number of Maine withholding allowances that exceeds the number of allowances claimed for federal withholding purposes without furnishing to the payer a Maine Personal Withholding Exemption Variance Certificate approved by the assessor. The employee or other payee may obtain a blank variance certificate from Maine Revenue Services, complete it according to the instructions thereon, and return it to the assessor for approval. If approved, the employee or other payee may then submit the approved variance certificate to the employer or other payer along with an otherwise properly completed Form W-4ME to support the number of allowances claimed.

An approved variance certificate is valid only until December 31st of the year issued. Upon expiration of a variance certificate, the employer or other payer must begin withholding pursuant to Paragraph H below, unless the employee or other payee provides the payer a new variance certificate for the next succeeding calendar year approved by the assessor, or submits a valid Form W-4ME. If the employee or other payee fails to provide the approved variance certificate, the employer or other payer must withhold pursuant to Paragraph H below until the employee or other payee provides either an approved variance certificate or a valid Form W-4ME.

**H. Missing or invalid Forms W-4 or W-4P.** In any of the circumstances below, an employer or other payer must withhold as if the employee or other payee were single and claiming no allowances. Maine income tax must be withheld at this rate until such time that the employee or other payee provides a valid Form W-4ME.

- (1) The employee has not provided a valid, signed Form W-4ME;
- (2) The employee's Form W-4 or W-4P is determined to be invalid for the purpose of federal withholding;
- (3) The assessor notifies the employer that the employee's Form W-4ME is invalid; or
- (4) The employee's Personal Withholding Exemption Variance Certificate has expired, a new variance certificate has not been approved and submitted to the payee, and the employee has not provided the payee with a valid Form W-4ME.

If at any time the assessor determines that the amount being withheld is inadequate, the assessor may notify the employer of that determination and inform the employer of the appropriate withholding rate. The withholding rate specified by the assessor will then remain in effect until the employer is notified that the rate is no longer fixed. At that time the employee may submit a new Form W-4ME and submit it to the employer.

#### **I. Exemptions from withholding**

(1) **Withholding from payments to nonresidents.** Generally, employers who are required to withhold federal income tax from wages to a nonresident must also withhold Maine income tax from those wages if the wages constitute Maine-source income that is not excluded from taxation under Maine law. An employee who is exempt from Maine income tax due to the 10-day nontaxable threshold applicable to nonresidents is exempt from Maine income tax withholding. See 36 MRSA §5142(8-A) and Maine Revenue Services Rule 806 (Nonresident Individual Income Tax).

An employee initially treated as exempt from Maine income tax withholding due to the nonresident taxability threshold becomes subject to Maine income tax withholding immediately upon exceeding the 10-day threshold at any time during the year. Because income earned during the first 10 days worked in Maine is taxable by Maine once the threshold is exceeded, employers should work with employees in this situation to ensure that Maine withholding is adequate to cover Maine income tax liability for the tax year; this may involve the employee signing a new Maine Withholding Allowance Certificate (Form W-4ME) pursuant to Paragraph E above.

(2) **Federal exemption from withholding.** An employee who is exempt from federal income tax withholding is also exempt from Maine income tax withholding.

**(3) Election to be exempt from withholding.** A resident employee who is subject to federal income tax withholding may elect to be exempt from Maine income tax withholding if the employee had no Maine tax liability for the prior calendar year and expects to have no Maine tax liability for the current year. The election must be made on Form W-4ME and expires at the end of the year in which it is made. If an employee who elected to be exempt from withholding fails to submit a Form W-4ME for the next calendar year, the employer must begin withholding pursuant to Paragraph H above.

## **2. Withholding From Non-wage Payments**

**A. Flat rate withholding.** For non-wage payments that are subject to flat-rate federal withholding, withholding at 5 percent of the total payment is required for Maine income tax purposes. See 36 MRSA §5255-B.

**B. Withholding from periodic retirement payments.** Maine income tax withholding from periodic retirement payments that are treated as wages for federal income tax withholding purposes pursuant to IRC §3405(a) is calculated in the same manner as Maine income tax withholding from wages. Recipients of periodic retirement payments who elect to be exempt from federal income tax withholding are exempt from Maine income tax withholding unless voluntary Maine withholding is requested. Even if the periodic payments are subject to federal income tax withholding, recipients may elect to be exempt from Maine income tax withholding, provided the recipient certifies that he or she had no Maine income tax liability for the prior calendar year and expects to have no Maine income tax liability for the current calendar year. The election must be made on Form W-4ME and remains in effect until the recipient generates a Maine income tax liability.

## **3. Withholding from Pass-Through Entity Income Sourced to Maine**

**A. Maine-source member income.** Maine-source member income is the owner's (hereafter the "member's") share of the net income of the pass-through entity apportioned to Maine in accordance with 36 MRSA Chapter 821. For purposes of this subsection, "pass-through entity" means a partnership, limited liability company or similar entity, and S corporation. The term does not include financial institutions regardless of organization, and also does not include trusts and estates. For purposes of this paragraph, "net income of the entity" means:

(1) for a partnership or limited liability company or similar entity, the items of income, loss, and deduction used for reporting on federal Form 1065, page 4, Analysis of Net Income (Loss), line 1, or the comparable line number that incorporates all income, loss and deduction items; or

(2) for an S corporation, the items of income, loss, and deduction used for reporting on federal Form 1120S, Schedule K, line 17e, or the comparable line number that incorporates all income, loss and deduction items.

### **B. Withholding Amount**

(1) **Rate.** Unless otherwise exempted herein or otherwise exempted by the assessor either by ruling or in published instructions, the pass-through entity must withhold 8.5% of Maine-source member income for each nonresident member, except that for nonresident members that are C corporations, the withholding rate is 8.93%.

**(2) Quarterly Amounts.** Withholding is calculated on a quarterly basis. The amount to be withheld each quarter is based upon the Maine-source member income of the nonresident members for the entity year that includes the quarter for which the entity is reporting. The quarterly amount that must be paid by the entity is equal to the sum of the quarterly withholding amounts for each of its nonresident members. The annual amount to be withheld from each nonresident member must equal no less than the amount calculated by multiplying the applicable tax rate in (a) by the lesser of the following:

(a) 90% of the current year Maine-source member income of the nonresident member;  
or

(b) if the prior taxable year of the entity consisted of 12 months, the prior year's Maine-source member income of the nonresident member.

**(3) Meaning of "income."** For purposes of calculating quarterly withholding amounts under this paragraph, income for a particular quarter means either actual income for the particular quarter or 25% of annual income.

**C. Definition of "nonresident."** For purposes of this section, "nonresident" means:

(1) For individuals, a person who is not a Maine resident as that term is defined by 36 MRSA §5102(5);

(2) For business entities, including C corporations and pass-through entities, an entity whose commercial domicile is not in Maine. Commercial domicile means the principal place from which the business activities of a taxpayer are directed or managed. If it is not possible to determine the principal place from which the business activities of a taxpayer are directed or managed, the state of the taxpayer's incorporation (or similar registration if not a corporation) is considered its state of domicile; and

(3) For trusts and estates, a trust or estate that is not a Maine resident trust or estate as those terms are defined by 36 MRSA §5102(4).

**D. Tiered Pass-through Entities.**

(1) A tiered pass-through entity arrangement is one in which some or all of the ownership interest in one pass-through entity (lower-tier entity) is held by a second pass-through entity (upper-tier entity). A tiered pass-through entity arrangement may have two or more tiers; in such cases, a single entity can be both a lower-tier and an upper-tier entity.

(2) Unless exempted, each pass-through entity must withhold for its nonresident members, including members who are pass-through entities. To prevent multiple withholding on the same income, an upper-tier pass-through entity that recognizes distributive income is not required to withhold from nonresident member income generated by a lower-tier entity if the lower-tier entity has already withheld from that income. The upper-tier entity, however, must separately report to its members (on Form 1099ME) their proportionate distributive share of amounts withheld by the lower-tier entity.

(3) Upon written application and with the approval of the assessor, a lower-tier entity may meet its withholding obligation for an upper-tier entity by directly withholding from the distributive income of the nonresident members of the upper-tier entity. If approval is granted, the lower-tier entity is required to report (on Form 1099ME) directly to the nonresident members the amounts withheld.

**E. Exceptions.** A pass-through entity is not required to withhold tax for a nonresident member if one of the following applies:

- (1) The nonresident member's Maine-source member income from the entity for the previous year was less than \$1,000, or will be less than \$1,000 for the current year;
- (2) The nonresident member is a tax-exempt entity under either Maine law or federal law (including IRAs, Keoghs, pension and profit-sharing plans and other such organizations), unless the Maine-source member income of the tax-exempt entity is unrelated business income;
- (3) The assessor has determined, upon written approval and subject to any conditions that may be imposed, that the nonresident member's Maine-source member income is exempt from withholding; or
- (4) The nonresident member clearly falls within a category of entities or individuals whose Maine-source member income is exempt from withholding pursuant to advice published by the assessor either in form instruction booklets or otherwise.

## **SECTION 4. REPORTING**

**1. Generally.** Every person required to deduct and withhold Maine income tax under Title 36 Part 8 must, for each calendar quarter, on or before the last day of the month following the close of the calendar quarter or such other reporting period as the assessor may require, file a withholding return and remit payment as prescribed by the assessor. The assessor shall prescribe the voucher required to be filed with the payments. Maine Revenue Services maintains separate withholding accounts for pass-through entity withholding and for employee wage withholding. Separate reporting is required using different returns and forms for each withholding type. A withholding agent for a person required to remit withholding may remit and report withholding on behalf of the person if authorized in writing to do so by the person.

**2. Quarterly Return.** In general, every person required to make a return of income tax withheld pursuant to 36 MRSA §5253 (employers with Maine employees and pass-through entities with Maine income and nonresident members) must make a return for the first calendar quarter in which the person is required to deduct and withhold such tax and for each subsequent calendar quarter, whether or not income subject to withholding is earned or payments subject to withholding are made therein, until the person is no longer required to make such returns and has so notified the assessor (see Section 8, Cancellation of Withholding Registration). The quarterly return must include the name, identification number and amount withheld from each employee or other payee subject to withholding during the calendar quarter.

**3. Annual Reconciliation.** Employers and other payers who withhold Maine income tax during the calendar year must file an annual reconciliation (Form W-3ME) on or before February 28 of the following year. The annual reconciliation must list the total withheld as shown on the employee or other payee statements and the total amount of withholding reported on the quarterly returns filed for the year. In addition to following all federal legal requirements for filing all Wage and Income Information Statements (W-2s, 1099s, etc.), the information filed with federal government entities must include state income and withholding information. Employers must maintain records sufficient to identify the Maine-source wages paid to each of its employees during the year and to document the number of days worked by each employee in Maine, even if the employee is exempt from Maine income tax or Maine withholding.

**4. Employee or Other Payee or Member Information Statement.** The information statement that the withholder is required to furnish to the employee or other payee pursuant to 36 MRSA §5251 is a copy of

the federal Wage and Tax Statement (Form W-2) in the case of an employee, or the appropriate federal information statement (Form 1099 series, etc.) for payments other than wages. The statement must meet the information requirements in subsection 3 above. In the case of a member of a pass-through entity, the information statement is Maine Form 1099ME.

**5. More Frequent Reporting.** Quarterly filing of withholding tax returns is the minimum required reporting frequency. The assessor may require more frequent reporting if the assessor believes that the collection of withheld taxes is in jeopardy, or if the assessor determines that any person required to deduct and withhold Maine income tax has failed to collect, truthfully account for, or pay over such tax, or to file returns in a timely manner.

**6. Submission by Employer of Certain Maine Forms W-4ME.** An employer is required to submit a copy of Form W-4ME, along with a copy of any supporting information provided by the employee, to Maine Revenue Services if either of the circumstances below apply. The copies of Form W-4ME required by this paragraph must be submitted directly to the Withholding Unit separately from any other tax filings.

**A.** The employer is required to submit a copy of federal Form W-4 to the Internal Revenue Service either by written notice or by published guidance as required by federal regulation 26 CFR 31.3402(f)(2)-1(g); or

**B.** An employee performing personal services in Maine furnishes a Form W-4ME to the employer containing a non-Maine address and for any reason claims no Maine income tax is to be withheld. This submission is not required if the employer reasonably expects that the employee will earn annual Maine-source income of less than \$5,000.

## **7. Adjustment of Overpayments.**

**A. Within a Reporting Period:** If an employer or other payer deducts and withholds more than the correct amount of tax required by Chapter 827 from an employee or other payee and repays the amount of the overcollection to the employee or other payee before the return for the period is filed with the assessor and obtains a written receipt from the employee or other payee, the employer or other payer need not report on the return, or pay to the assessor, the amount of the overcollection. Any overcollection not repaid to and receipted by the employee or other payee must be reported and paid to the assessor with the return for the return period in which the overcollection was made.

**B. Within a Calendar Year:** If, in any return period in a calendar year, an employer or other payer deducts and withholds more than the correct amount of tax required by Chapter 827 from an employee or other payee and the amount of such overcollection is paid to the assessor, the employer or other payer may reimburse the employee or other payee in any subsequent return period within the calendar year. If the amount of the overcollection is repaid to the employee or other payee, the employer or payer must retain a written receipt showing the date and amount of the repayment. The employer or payer may then file an amended return with the assessor for the period in which the overcollection was made reporting the correct amount of withholding for the period. The amended return must contain such information as is required by the instructions relating to the form. If the employer or other payer does not repay the amount of the overcollection, the employer or other payer may, within the same calendar year of the overcollection, reduce the Maine withholding amount otherwise required for that calendar year by the amount of the overcollection. In this case, no amended return is required.

**8. Electronic Filing of Returns.** Employers and payroll processors that meet any one of the following thresholds must electronically file original quarterly returns for Maine income tax withholding (Forms 941ME and 941/C1ME) and annual reconciliation of Maine income tax withheld (Form W-3ME):

- A. Employers with 100 or more employees subject to Maine income tax withholding;
- B. A third party filer of quarterly Maine withholding returns for an employer with 100 or more employees subject to Maine income tax withholding; or
- C. Payroll processors, as defined in 10 MRSA Chapter 222, with 100 or more client employers required to file Maine income tax withholding returns under 36 MRSA Chapter 827, or make unemployment compensation insurance payments under 26 MRSA Chapter 13, subchapter 7.

## SECTION 5. PAYMENT

**1. Payment Schedule.** A person required to deduct and withhold tax for employees or for non-wage payments must remit the withheld tax in accordance with one of two possible schedules based on an annual determination pursuant to subsection 3 below. The two remittance schedules are semi-weekly and quarterly. Pass-through entities are subject to quarterly payments only for withholding for nonresident members.

**2. Lookback Period Defined.** The lookback period for each calendar year is the 12-month period ending on the preceding June 30. For example, the lookback period for calendar year 2007 is the period July 1, 2005 through June 30, 2006.

**3. Determination of Status.** Except in the case of pass-through entity withholding for nonresident members, the determination of a withholder's remittance schedule for a calendar year is based on the aggregate amount of withheld taxes reported by the withholder for the lookback period defined in subsection 2 above. New withholders are treated as having withholding tax liability of zero for any calendar quarter within the lookback period during which the withholder did not exist.

**A. Semi-weekly Remitters.** A withholder must remit on a semi-weekly basis for the entire calendar year if the aggregate amount of withholding reported for the lookback period was \$18,000 or more. A semi-weekly remitter must remit according to the following schedule:

Day Wages Paid:	Remittance Due:
Wednesday, Thursday, Friday	On or before the following Wednesday
Saturday, Sunday, Monday, Tuesday	On or before the following Friday

If payment is made by check, the check must be accompanied by the payment voucher, Form 900ME. If a quarterly reporting period ends within a semi-weekly period, and if wages are paid on payment dates that fall in each of the two quarters, separate remittances must be made for each quarter. For example, if one quarterly return period ends on Thursday and a new quarterly return period begins on Friday, tax withheld from payments made on Wednesday and Thursday are subject to one remittance requirement and tax withheld from payments made on Friday are subject to a separate remittance requirement. If payment is made by check, separate payment vouchers (Form 900ME) should be used that refer to the correct quarterly reporting period for each of the remittances. If payment is made by EFT, separate remittances should be made that identify the correct quarterly reporting period, and Form 900ME vouchers should **not** be filed.

**B. Quarterly Remitters.** A withholder is a quarterly remitter for the entire calendar year if the aggregate amount of withholding reported for the lookback period was less than \$18,000. The

quarterly remitter must remit the amount withheld from payments made during a calendar quarter on or before the last day of the month following the close of the calendar quarter. If paying by check, the payment must accompany the quarterly return.

**4. Interest and Penalty.** If a required return is filed late or a required payment is paid late, interest and penalties as provided for in 36 MRSA §§186 and 187-B may apply.

**5. Electronic Funds Transfer.** Maine Revenue Services accepts payments by electronic funds transfer. EFT accounts must be set up with Maine Revenue Services prior to making the first EFT payment. Generally, persons with an annual Maine income tax withholding liability of \$200,000 or more must remit the required amounts electronically (see MRS Rule 102 and 36 MRSA §193). All payroll processors must also remit Maine income tax withholding payments electronically, regardless of annual liability (see 36 MRSA §193(3)(B)). Others may participate in EFT voluntarily. The payment voucher, Form 900ME, should **not** be used when remitting by EFT. Withholders that remit by EFT must still file the quarterly return to report withholding information.

**6. Refund of Income Tax Withheld.** Any withholder who pays to the assessor more than the correct amount of income tax withheld may file a claim for refund of the overpayment by filing an amended return for the period for which the overpayment is made. The amended return must contain the information required by the instructions relating to the form. The amended return must be filed within the open period for refund. See 36 MRSA §5278. Overpayments of withheld income tax remitted for periods occurring in a prior calendar year will be refunded only to the extent that the amount of the overpayment was not deducted and withheld by the employer or other payer. Any amount actually withheld from an employee or other payee during a prior calendar year, even if in error, must be claimed as a credit by the employee or other payee on his or her personal income tax return.

**7. Payment Application--Combined Quarterly Return.** A payment received with a combined quarterly return on which the employer is reporting both Maine income tax withheld for employees and Maine unemployment contributions will be allocated between the two taxes in the following manner:

- A. If the remittance equals the entire amount due, both taxes will be paid in full.
- B. If the remittance is less than the total amount due on the quarterly return, it will be prorated between the two taxes using the correct amounts due for each tax. However, if the underpayment was caused by an incorrect calculation of one of the taxes and the employer paid the amount calculated as due for both taxes, the remittance will be used first to pay the correctly computed tax and the balance will be applied to the tax that was incorrectly calculated.
- C. If the amount remitted is more than the total amount due on the quarterly return, the payment will be allocated in the following manner:
  - (1) Both taxes due for that quarter will be paid in full.
  - (2) The remainder of the payment will be prorated using all amounts outstanding for the two taxes and applied to those arrears.
  - (3) Any balance remaining after all arrears for the two taxes are satisfied will be applied to any other tax debt owed to Maine Revenue Services.
  - (4) Any balance remaining thereafter will be refunded to the employer.

**8. Payment Application--Combined Bill.** A payment received as the result of a billing notice on which the employer is billed for both Maine income tax withheld for employees and Maine unemployment contributions will be prorated between the two taxes using the tax amounts due as recorded on the bill.

## **SECTION 6. REGISTRATION BY PERSONS REQUIRED TO WITHHOLD INCOME TAX**

Persons required by Maine law to withhold income tax must register with the Maine Department of Labor's Central Registration Unit as a withholder. Registration is accomplished by completing the application form provided by Maine Revenue Services and submitting it according to the instructions on the form. Upon receipt of the completed application, the Central Registration Unit will set up the necessary withholder account and forward the appropriate forms to the withholder.

## **SECTION 7. RETURNS**

Forms prescribed by the assessor must be used. These forms are available from Maine Revenue Services. Once a person who is required to withhold is registered with the Maine Department of Labor's Central Registration Unit, the forms are mailed directly to the withholder prior to the filing date. However, failure to receive the forms does not excuse the requirement for timely filing. A person required to file electronically must use a filing method approved by the assessor.

## **SECTION 8. CANCELLATION OF WITHHOLDING REGISTRATION**

A person who is registered to withhold Maine income tax but who no longer has a withholding obligation must notify the assessor that withholding is no longer required and that the withholder account is to be canceled. The notification must be on the cancellation form provided by the assessor and must include the reason that Maine income tax withholding is no longer required and the date the withholding obligation ceased. The notification must include the address at which the required records will be kept and the name of the person keeping such records. If the business has been sold or otherwise transferred to another person, the name and address of that person and the date of the sale or transfer must be included. If no such sale or transfer occurred, or the employer or other payer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the notification.

**STATUTORY AUTHORITY:** 36 MRSA §112

**ORIGINAL EFFECTIVE DATE:** January 1, 1982

**AMENDED:**

February 3, 1987  
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January 1, 1999  
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