

# GENERAL INFORMATION

**Who must file?** All pass-through entities required to withhold Maine income tax from the Maine-source distributive income of each nonresident member (partner, shareholder, LLC member, etc.) must file Form 941P-ME. **Note: This withholding requirement is separate from and in addition to employee income tax withholding requirement.**

**When to file.** Returns must be completed and filed with Maine Revenue Services each quarter according to the following schedule:

<u>Quarter</u>	<u>Period Covered</u>	<u>Due Date</u>
Quarter 1 .....	01-01-10 to 03-31-10 .....	04-30-10
Quarter 2 .....	04-01-10 to 06-30-10 .....	07-31-10
Quarter 3 .....	07-01-10 to 09-30-10 .....	10-31-10
Quarter 4 .....	10-01-10 to 12-31-10 .....	01-31-11

**Payment:** Payment of withholding amounts must be remitted quarterly at the time of filing the return to avoid interest and penalty. Prepayments may also be made by paper voucher (Form 900ME) or electronically (EFT or EZ Pay) during the quarter.

**Interest and Penalty.** Beginning January 1, 2010, the interest rate is 7% per annum, compounded monthly. The penalty for failure to pay the withholding tax on time is 1% per month up to a maximum of 25%. The penalty for failure to file a return on time is 10% of the tax liability or \$25, whichever is greater. If a return is filed more than 30 days after demand, the penalty is 100% of the tax due.

**Where to file.** Mail returns, with payments, to Maine Revenue Services, P.O. Box 9118, Augusta, Maine 04332-9118.

**How much should I withhold?** You must withhold 8.5% of any Maine-source distributable income for each nonresident member (8.93% for C corporation members). This percentage represents Maine's top income tax rate. If you do not know the exact amount of income allocated to a member, you must estimate. To avoid penalties and interest, the withholding tax must be based on either of the following:

- (a) the prior year's Maine-source member income, or
- (b) 90 percent of the current year's Maine-source member income.

**Maine-source Member Income.** Maine-source member income is the member's share of the net income of the entity apportioned to Maine in accordance with 36 MRSA, Chapter 821.

**Are there any exceptions?** If Maine-source entity income allocated to a single member for an entire calendar year or prior year is less than \$1,000, this withholding requirement is waived for that member. However, this does not mean the nonresident member will not owe income tax to Maine. It is possible, especially if there is other Maine-source income, for the nonresident member to owe income taxes to Maine even if the withholding requirement does not apply.

If a nonresident member agrees to comply with all Maine income tax laws, no withholding is necessary for that member. The member who has made this agreement must provide the entity with an Affidavit and Agreement to Comply with Maine Income Tax (Form 941AF-ME). The entity must keep the document on record for at least three years. Further, the entity must annually submit a Pass-through Entity Withholding Exemption Form (941E-ME) and a List of Participating Members in the Compliant Taxpayer Exemption (941LM-ME).

If a nonresident member wishes to be included in a composite

filing, the withholding requirement is waived for that member. Each participating member must provide the entity with an Agreement to Participate in a Composite Filing of Maine Income Tax (Form 941CF-ME). The entity must also file a Pass-through Entity Withholding Exemption Form 941E-ME with MRS, although a list of participating members is not required. Visit the MRS web site at [www.maine.gov/revenue](http://www.maine.gov/revenue) for more information about composite filing.

If a pass-through entity believes, for reasons other than those already mentioned, that it should be exempt from the withholding requirement, or the entity would like to propose an alternate application of the withholding requirement, the entity may apply for an exemption. In order to apply, Form 941E-ME and a letter of explanation must be submitted to MRS as soon as possible prior to the filing deadline for the quarterly return. If the exemption request involves a complicated pass-through entity structure (i.e., tiered entities), more time may be required for MRS to issue a decision. If the entity requesting an exemption does not receive a decision prior to the withholding deadline, the entity will need to submit the required withholding. The entity must reapply for the exemptions annually.

Copies of Form 941E-ME, affidavits and more information on pass-through entity withholding and exemptions are available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms).

**Composite filing.** A composite filing is a simplified group return for two or more nonresident individual members of a pass-through entity. Only natural persons and certain trusts may participate in the composite filing. For a full description of the composite filing return and process, see Schedule 1040C-ME at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms).

The advantages to the entity of composite filing are that participating individual nonresident members need not be listed separately on the quarterly return (as is required by the pass-through entity withholding requirement), and no Form 1099ME needs to be issued to the participating member. The advantage to the individual nonresident member is that the entity files the member's Maine income tax return (Form 1040ME) and pays the tax due.

Do not withhold from members who have agreed to participate in the annual composite filing for 2010 (i.e., those included in the number of composite filing participants in the "Exemption Breakdown" area of Form 941E-ME). The steps below must be followed in order to be exempt from the withholding requirement. Note that entities filing a composite return must make estimated payments in lieu of withholding from the participating members.

- 1) The entity must collect a Composite Filing Participation Statement (Form 941CF-ME) from each nonresident member who wants to participate in the group filing. This statement must be obtained prior to the mailing of the Pass-through Entity Withholding Exemption form (Form 941E-ME).
- 2) The entity must then submit to MRS a Pass-through Entity Withholding Exemption form (Form 941E-ME).
- 3) The entity must make estimated payments (Form 1040ES-ME) on behalf of the composite filing group as long as the aggregate Maine income tax liability is greater than \$1,000. All members of the composite return are grouped together and treated as one filer for estimated tax purposes. If the tax liability of the composite group is anticipated to exceed \$1,000, the entity must make four equal estimated payments in order to avoid the penalty for the underpayment of estimated tax. Estimated payments for the composite group are due based on 8.5% of Maine-source entity income. As with any estimated payments,

they may be based either on 90% of the current year's Maine-source member income or 100% of the previous year's Maine-source member income. For more information about estimated tax payments, see the instructions and worksheets for Forms 1040ES-ME and 2210ME.

- 4) The final requirement for the composite filing exemption is the filing of the composite return. Instructions for the composite filing can be found with Schedule 1040C-ME. Along with the composite return (filed on Form 1040ME), the entity must complete and include Schedule 1040C-ME and Schedule NRC, which asks for the name, ownership percentage, ID number (SSN, EIN, etc.) and share of Maine-source income for each participating member.

**Form 1099ME.** After the calendar year and by January 31, the pass-through entity must supply each member with a copy of Form 1099ME (available in this booklet or at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) or by calling (207) 624-7894), showing the total amount withheld for the year for that member. The member must present this with his/her individual income tax return in order to prove the amount withheld for the year. A person who furnishes a false or fraudulent Form 1099 or fails to furnish a Form 1099 commits a civil violation for which a fine of \$50 for each failure must be imposed.

**Form W-3ME.** Pass-Through Entities that withhold Maine Income Tax must file an annual reconciliation (Form W-3ME) by February 28 of the following year. See Form W-3ME for more information.

**Note:** Forms in this book are designed to comply with optical scanning requirements. The spaces underlined in red must be completed carefully in black or blue ink. Letters and numbers must be entered legibly within the underlined area. Letters must appear in upper case only and start on the left. Numbers must start from the right.

For example:

Name:	C O M P A N Y I N C
Address:	1 2 3 F I R S T S T
Maine Income Tax Withheld:	1 2 3 4 5 . 0 0

**Do not mail photocopies of the forms in this book to Maine Revenue Services. Photocopied forms cannot be processed by the scanning system. Additional forms may be downloaded at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) or call 207-626-8475.**

## SPECIFIC INSTRUCTIONS

Each quarterly return in this booklet is preprinted with the quarter being reported, your Pass-through Withholding Account Number, your business name(s) and the calendar period covered. Your Pass-through Withholding Account Number consists of your federal Employer Identification Number plus a two-digit state suffix. Returns must be completed and filed with Maine Revenue Services on or before the required due date.

**Line A. Number of payees.** Enter the total number of non-resident members subject to Maine pass-through entity withholding this quarter.

**Line 1.** Enter the amount of Maine pass-through entity withholding reported for this quarter from Schedule 2P, line 10. Reduce the amount of this line by any amount of real estate withholding payments.

**Line 2.** If you elected to make prepayments during the quarter, complete Schedule 1P. Enter the total amount remitted (either with Forms 900ME or by Electronic Payments) from Schedule 1P, line 5. Enter zero if you did not make any prepayments. Include only pass-through entity withholding payments made by the filing entity. Do not include Real Estate Withholding (REW) payments which are reported on Form REW-1.

**Line 3a.** Enter the amount of Maine income tax withholding due with this return if line 1 is greater than line 2. Enclose your remittance with the return.

**Line 3b.** Enter the amount of Maine income tax withholding overpaid if line 2 is greater than line 1. A refund will be sent to you.

### Business Change Notification

When the business terminates or the requirement to withhold permanently ceases, or there has been a change in the business name, address or telephone number, complete Form 941BN-ME on page 3.

### Schedule 1P Reconciliation of 900ME Voucher or Electronic Prepayments of Pass-through Entity Withholding

Schedule 1P reports prepayments of pass-through entity withholding.

Complete Schedule 1P only if you made prepayments during the quarter. Complete one row of the schedule for each prepayment made. If you did not make any prepayments, do not complete Schedule 1P.

**Line 5.** Enter the total amount of pass-through entity withholding prepayments for this quarter. Include amounts remitted with Forms 900ME as well as amounts remitted by EFT or EZ Pay. Enter this amount on Form 941P-ME, line 2.

### Schedule 2P Pass-through Entity Withholding Listing

**All filers must complete Schedule 2P, columns 6, 7 and 8 and lines 9 and 10.** See further instructions below. Complete all information for each Schedule 2P page submitted, including the check boxes at the top of the page. If any nonresident member is other than an individual, a separate Schedule 2P must be submitted and the appropriate space at the top of the form must be checked.

**Column 6.** Enter each member's last name, first name and middle initial. If a nonresident member is other than an individual, enter the business name.

**Column 7.** Enter each member's social security number or, if the nonresident member is other than an individual, the federal employer identification number.

**Column 8.** Enter the total Maine income tax withheld for each member during the quarter. If a member's withholding is greater than \$999,999.99, enter the withholding on two or more lines to add up to the total withholding for the member. If no income tax was withheld, enter zero.

**Line 9.** Enter the total Maine income tax withheld for members listed on this page. If no income tax was withheld, enter zero.

**Line 10.** On the last Schedule 2P page only, enter the total Maine income tax withheld for all Schedule 2P pages. If no income tax was withheld, enter zero. Enter this amount on Form 941P-ME, line 1.

## AMENDED RETURNS

If you made an error on a previously filed return, you must file an amended return to correct the error. Amended returns (one for income tax withholding and one for unemployment contributions) are located in this booklet immediately following Form W-3ME. Instructions for completing these forms are on the back of each form. Additional forms are available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) or by calling (207) 624-7894.