

Form REW-1-1041 Real Estate Withholding Payment Voucher
2023 Transfer of Maine Real Property
by Sellers that are Estates or Trusts



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To be completed by the buyer or other transferee required to withhold

IMPORTANT - Multiple Sellers: A separate Form REW-1 must be completed for each seller receiving proceeds (see instructions).

1. Type of entity (check one): Note: If the seller is a revocable living trust or grantor trust in which an individual is treated as the owner of the trust, file Form REW-1-1040 using the owner's name and social security number (SSN).
Decedent's estate, Simple Trust, Qualified Funeral Trust, ESBT, Qualified Disability Trust, Pooled Income, Bankruptcy estate

2. Name and federal employer identification number (EIN) of seller subject to withholding. (See instructions).
a) Name of estate or trust, Estate or trust EIN
b) Name and title of fiduciary or trustee, Fiduciary SSN or EIN

For pass-through entity seller only. See instructions before completing these lines.

c) Entity name, Entity EIN, Entity type (LLC, S corporation, trust, etc.)

Note: A Form REW-1-1040, REW-1-1041, or REW-1-1120, whichever applies, must be completed for each member/owner of the entity shown on line 2c.

3. Address of fiduciary or trustee shown on line 2b
Current mailing address, City, State, ZIP code

4. Physical location and use of property
Street address, Municipality/Township, Use of property

5. Date Property Acquired, 6. Date of transfer, 7. Total consideration (sales price), 8. Seller's percentage of ownership

9. Rate of withholding - attach certificate if less than 2.5%
a. 2.5% of sales price, b. Less than 2.5% (Enter certificate number)
10. Amount withheld for this seller

11. Name of buyer (withholding agent or other transferee), 12. Address of buyer/withholding agent
Current mailing address, City, State, ZIP code
13. Social security number/federal ID number of withholding agent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge belief, they are true, correct and complete.

Signature of buyer, Date, Signature of buyer's spouse if property held jointly, Date
Signature of fiduciary or trustee, Date, Fiduciary's daytime phone number

Buyer(s) and seller(s) must retain a copy of this form. See instructions.

NOTE: Payments received by Maine Revenue Services will not be refunded prior to filing of the taxpayer's Maine income tax return.



Mail this form and check to: Maine Revenue Services, Income/Estate Tax Division - REW, P.O. Box 9101, Augusta, ME 04332-9101.
Overnight delivery address: Maine Revenue Services, Income/Estate Tax Division - REW, 51 Commerce Drive, Augusta, ME 04330.

Telephone: (207) 626-8473 realestate.withholding@maine.gov

Revised: December 2022

General Instructions

Purpose of Form: An estimated Maine income tax payment is required to be withheld and paid at the time that real property located in Maine is purchased or otherwise acquired from a nonresident of Maine. The buyer of the property must withhold and remit to the state tax assessor 2.5% of the consideration received by the transferor (seller) on the transfer. To report and pay the estimated income tax withheld, a completed Form REW-1-1041 (for sellers that are estates or trusts), Form REW-1-1040 (for sellers who are individuals or sole proprietors), and/or Form REW-1-1120 (for sellers that are corporations) must accompany the remittance. 36 M.R.S. § 5250-A.

Also see *Seller's Maine Income Tax Filing Requirement* below.

Who Must File: A buyer (individual, firm, partnership, association, society, club, corporation, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit) of a Maine real property interest who is required to withhold must file the appropriate REW-1 forms. If two or more persons are joint transferees, each must withhold the required amount. However, the obligation of each will be met if one of the joint transferees withholds and remits to Maine Revenue Services the total amount required.

Be sure to complete the appropriate REW-1 form for each seller:

- REW-1-1040 - For sellers who will report this sale on the Maine individual income tax return, Form 1040ME. (Individuals, sole proprietors, grantor or revocable trusts, individual members of pass-through entities);
- REW-1-1041- For sellers who will report this sale on the Maine fiduciary income tax return, Form 1041ME. (estates, trusts); or
- REW-1-1120 - For sellers who will report this sale on the Maine corporate income tax return, Form 1120ME. (C corporations, other entities taxable at the corporate level).

Important note (multiple sellers): If there are multiple sellers, you **must** complete a separate REW-1 form for each seller receiving proceeds from the sale. For example, if the seller is a partnership, complete a separate REW-1 form for each partner receiving proceeds from the disposition.

Exceptions: The buyer is not required to withhold or file this return if any of the following applies:

- a. The seller furnishes to the buyer written certification stating, under penalty of perjury, that as of the date of transfer the seller is a resident of Maine, as defined in 36 M.R.S. § 5250-A;
- b. The seller or the buyer has received from the state tax assessor a certificate of waiver stating that no tax is due on the gain from the transfer or that the seller has provided adequate security to cover the liability;

- c. The consideration for the property is less than \$100,000;
- d. Written notification of the withholding requirements has not been provided to the buyer. The real estate escrow person is liable for the withholding tax unless it is shown that the failure to notify is due to reasonable cause;
- e. The seller is the State or an agency or a political subdivision of the State, the federal government or an agency of the federal government, an organization exempt from income taxes pursuant to the Internal Revenue Code, § 501(a), an insurance company exempt from Maine income taxes or a subsidiary of an insurance company described in 24-A M.R.S., § 1157 (5)(B)(1) that is exempt from Maine income taxes; or
- f. The property is being transferred via a foreclosure sale. Foreclosure sale means a sale of real property incident to a foreclosure and includes a mortgagee's sale of real estate owned property of which the mortgagee, or third-party entity, retained or took ownership as the result of an unsuccessful attempt to sell the property at the time of a previous foreclosure auction.

Withholding Certificate Issued by the State Tax Assessor: A withholding certificate may be issued by the State Tax Assessor to reduce or eliminate withholding on transfers of Maine real property interests by nonresidents. The certificate may be issued if:

1. No tax is due on the gain from the transfer; or
2. Reduced withholding is appropriate because the 2.5% amount exceeds the seller's maximum tax liability.

If applicable, complete Form REW-5 to apply for the certificate no later than five business days prior to closing.

When to File: A buyer must report and remit the tax withheld to Maine Revenue Services with this form within 30 days of the date of transfer of the property. Any claim for refund of an overpayment of this withholding must be filed within three years from the time the return was filed or three years from the time the tax was paid, whichever expires later.

Where to File: Send Form REW-1-1041 with payment directly to: Maine Revenue Services, Income/Estate Tax Division - REW, P.O. Box 9101, Augusta, ME 04332-9101 (do not send payment or Form REW-1-1041 with the real estate transfer tax declaration). The Form REW-1-1041 filed with MRS must be complete; do not redact or remove and taxpayer identification numbers (SSNs or EINs).

Provide one copy of Form REW-1-1041 to the real estate escrow person, one copy to the buyer, and two copies to the seller. Copies retained by the seller(s), buyer(s), and real estate escrow person should have the taxpayer identification numbers redacted or removed.

Seller's Maine Income Tax Filing Requirement. Generally, a seller that is a nonresident estate or trust **must** file a Maine income tax return for the tax year during which the sale of the Maine property occurred to calculate any tax due or overpaid. A return is not required if the capital gain from the sale, combined with other Maine-source taxable income, does not result in Maine taxable income greater than zero for the taxable year. However, a Maine income tax return must be filed to get a refund of any estimated real estate withholding amount in excess of the Maine income tax liability. The seller must attach a copy of the REW-1 form to the Maine income tax return to ensure proper credit for real estate withholding paid. Any claim for refund of an overpayment of withholding must be filed within three years from the due date of the return or three years from the time the tax was paid, whichever expires later. For more information on the Maine filing requirements, see the instructions for Form 1041ME at www.maine.gov/revenue.

Specific Instructions

Important note: If there are multiple sellers, you **must** complete a separate Form REW-1 for each seller receiving proceeds from the sale.

- Line 1.** Check the appropriate box to indicate the type of estate or trust. This is identical to the box the seller must check on the Maine fiduciary income tax return, Form 1041ME.
- Line 2.** Enter the name and federal employer identification number (EIN) of the estate or trust. Also enter the name and Social Security Number (SSN) or EIN of the fiduciary or trustee.
- Note:** Do not enter a SSN on line 2a. For grantor or revocable trusts that use an owner's SSN, you must use Form REW-1-1040 to remit the payment.
- For pass-through entity seller only.** If the seller of the property is a pass-through entity (LLC, S corporation, partnership, grantor or revocable trust, etc.), a separate Form REW-1-1040, REW-1-1041, or REW-1-1120, whichever applies, must be filed for each individual, fiduciary, or corporate member/owner. In no case may a pass-through entity claim real estate withholding as a payment of Maine pass-through entity withholding or other entity-level tax.
- On each Form REW-1-1041, lines 2a and 2b, enter the applicable name and EIN of the estate or trust and the name and SSN or EIN of the fiduciary or trustee in the spaces provided. Also enter on line 2c the pass-through entity's name, EIN, and pass-through entity type.
- Line 3.** Enter the current mailing address of the fiduciary or trustee shown on line 2b. Do not list the address of the transferred property.
- Line 4.** Enter the physical address and municipality/township of the property. If there is no street address, enter the map, block, lot, and sub-lot numbers. Also enter what the property was used for before the transfer. For example, principal residence, vacation home, rental property, commercial, or vacant land.
- Line 5.** Enter the date the property was acquired by the seller.
- Line 6.** Enter the date of this transfer.
- Line 7.** Enter the total consideration (sales price). Consideration means the total price paid, or required to be paid, for real property valued in money, whether received in money or otherwise, and includes the amount of any mortgage, lien or encumbrance on the real property. 36 M.R.S. § 5250-A.
- Line 8.** Enter the percentage of total proceeds received by the seller shown on line 2a. See specific instructions below.
- One seller.** If the estate or trust on line 2a is the only seller receiving proceeds in the transaction, enter 100%.
- For pass-through entity seller only.** Enter the distributive share percentage of the estate or trust shown on line 2a.
- Line 9.** Check the appropriate space to indicate the rate of withholding. If the parties obtained a withholding certificate from the State Tax Assessor authorizing a reduced rate of withholding, enter the certificate number and attach a copy of the certificate to this return.
- Line 10.** Enter the dollar amount withheld for the seller shown on line 2a.
- If line 9, box a is checked:**
Multiply the total consideration (line 7) by the seller's percentage of ownership (line 8), then multiply the result by 2.5% (0.025).
- If line 9, box b is checked:**
Enter the reduced amount of withholding shown on the withholding certificate issued by the State Tax Assessor to the seller.
- Line 11.** Enter the name of the withholding agent (buyer).
- Line 12.** Enter the address of the withholding agent (buyer).
- Line 13.** Enter the social security number or federal ID number of the withholding agent (buyer).