

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-1-1040 (for sellers who are individuals or sole proprietors), Form REW-1-1041 (for sellers that are estates or trusts), 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* on page 3.

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 applicable REW-1 form(s). 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.

Maine 
TAX PORTAL

Where to File: Use the Maine Tax Portal (MTP) at revenue.maine.gov to file Form REW-1-1120 and make your real estate withholding payment online. The MTP allows Maine taxpayers to file tax returns and make payments online quickly, easily, and eliminates the need to file a paper form.

If mailing, send Form REW-1-1120 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-1-1120 with the real estate transfer tax declaration). For overnight deliveries, send to: Maine Revenue Services, Income/Estate Tax Division - REW, 51 Commerce Drive, Augusta, ME 04330. The Form REW-1-1120 filed with MRS must be complete; do not redact or remove any taxpayer identification numbers (SSNs or EINs).

Provide one copy of Form REW-1-1120 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 taxable corporation under Maine law that sells Maine property **must** file a Maine income tax return for the taxable year during which the sale of the Maine property occurred to calculate any Maine income tax due or overpaid. A return is not required if the capital gain from the sale, combined with the corporation's other business activity in Maine, does not exceed the thresholds set forth in 36 M.R.S. § 5200-B. However, a Maine 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 tax was paid, whichever expires later. For more information on the Maine filing requirements for corporations, see Maine Rule 808 and the instructions for Form 1120ME 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. Enter the name and federal employer identification number (EIN) of the seller.

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-1-1120, line 1a, enter the applicable name and EIN of the corporation in the spaces provided. Also enter on line 1b the pass-through entity's name, EIN, and pass-through entity type.

Line 2. Enter the current mailing address of the selling entity. Do not list the address of the transferred property.

Line 3. 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, as well as town and street address. Also enter what the property was used for before the transfer. For example, principal residence, vacation home, rental property, commercial, or vacant land.

Line 4. Enter the date the property was acquired by the seller.

Line 5. Enter the date of this transfer.

Line 6. 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 7. Enter the percentage of total proceeds received by the seller shown on line 1a. See specific instructions below.

One seller. If the corporation on line 1a is the only seller receiving proceeds in the transaction, enter 100%.

For pass-through entity seller only. Enter the distributive share percentage of the corporation shown on line 1a.

Line 8. 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 9. Enter the dollar amount withheld for the seller shown on line 1a.

If line 8, box a is checked:

Multiply the total consideration (line 6) by the seller's percentage of ownership (line 7), then multiply the result by 2.5% (0.025).

If line 8, 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 10. Enter the name of the withholding agent (buyer).

Line 11. Enter the address of the withholding agent (buyer).

Line 12. Enter the social security number or federal ID number of the withholding agent (buyer).