

# Maine Composite Income Tax For Nonresident Owners and Partnership Audit Return 2023 Form 1040C-ME General Instructions

## Are nonresident individuals who are owners of a partnership/S corporation subject to Maine income tax?

Yes, if the partnership/S corporation operates in Maine. A nonresident individual is subject to Maine income tax based on Maine-source income. All income derived from or effectively connected with the carrying on of a trade or business within Maine is Maine-source income and that income is subject to Maine tax if the business is either domiciled in Maine or has nexus with Maine. An entity has nexus with Maine if, for example, it, directly or through agents, maintains an office or other place of business, executes a contract, exercises or enforces contract rights, buys or sells property or employs labor in Maine. See Maine Revenue Services (“MRS”) Rule 808 (Corporate Income Tax Nexus). Nonresident individual owners of a partnership or S corporation do not have to be physically present in Maine to be subject to Maine tax.

Owners of a partnership/S corporation who are not Maine residents are subject to Maine income tax on that portion of their distributive share of partnership/S corporation income apportionable to Maine, based on sales of the partnership/S corporation. The minimum taxability threshold under 36 M.R.S. § 5142(8-B) does not apply to the Maine income earned by the partnership/S corporation or to the distributive share of that income to nonresident partners/shareholders. Partners/shareholders who are Maine residents are liable for Maine income tax on their entire distributive share of partnership/S corporation income.

## Who may file a composite return?

A partnership/S corporation may elect to report and pay Maine income taxes on behalf of participating eligible persons on a composite (block-filing) basis. This method relieves participating eligible persons of the obligation to each file Maine income tax returns based solely on the entity income of the partnership/S corporation, but does not relieve the participating eligible persons of the responsibility for accurate and timely reporting and payment of taxes.

## Who may be included in a composite return?

A partnership/S corporation may file a composite return on behalf of its partners or shareholders who are eligible persons that have obtained a Nonresident Member Affidavit and Agreement to Participate in a Composite Filing of Maine Income Tax (Form 941CF-ME.)

An “eligible person” is:

- 1) a nonresident individual for the entire taxable year who has no Maine-source income other than entity income that is included in a composite filing by each entity;
  - Married nonresident individuals filing jointly for federal tax purposes may not participate in a composite filing to the extent either spouse has Maine-source income unrelated to the entity.
- 2) a nonresident electing small business trust (“ESBT”) or Qualified subchapter S trust (limited to the portion of the trust that consists of stock in one or more S corporations; or
- 3) a nonresident estate or trust that has no Maine-source income other than entity income that is included in a composite filing

filed by each entity, that would have included such income as Maine taxable income if it were to file an income tax return for that year, and that has not distributed any of its Maine-source income for the taxable year to its beneficiaries as distributable net income.

**Note:** Resident partners/shareholders and entities taxable as C corporations may not participate in a composite filing.

See MRS Rule 805 at [www.maine.gov/revenue/publications/rules](http://www.maine.gov/revenue/publications/rules).

**Does a pass-through entity filing a composite return have to withhold or pay estimated tax?** Pass-through entities doing business in Maine are generally required to withhold income taxes from nonresident owners’ distributable income that is apportionable to Maine. However, the withholding is not required for owners participating in a composite filing, provided that the entity does the following:

- Collects a Nonresident Member Affidavit and Agreement to Participate in a Composite Filing of Maine Income Tax (Form 941CF-ME) from each nonresident eligible person who wants to participate in the group filing. This statement must be obtained prior to the withholding due date otherwise applicable to the member;
- Makes estimated payments (Form 1040C-ES-ME) on behalf of the composite filing group as long as the aggregate Maine income tax liability is greater than \$1,000. All participants in 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 estimate payments in order to avoid the penalty for the underpayment of estimated tax;
- Files Form 941P-ME with Schedule 3P completed; and
- Files a composite return. (Form 1040C-ME).

An entity that has met all of the requirements above, should not have withheld from the members participating in the composite filing. However, if the entity inadvertently withheld amounts from the participating members, it may claim a withholding credit for the amount withheld. To do so, the entity must attach member copies of Form 1099ME to the composite return.

For more information, see the instructions to Form 941P-ME, available on the MRS website at [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms).

**Centralized federal audit regime for partnerships.** Maine law requires a partnership that has not elected out of the federal centralized audit regime under Internal Revenue Code, Section 6221(b) and that is subject to an IRS audit to report information affecting the Maine tax liability of its partners to MRS. The report must be filed within 180 days of the final determination date of the federal audit. A pass-through entity that is a partner in an audited partnership is also subject to the reporting requirement. In some cases, the partnership will be subject to Maine income tax, or eligible for a refund, on some or all of the federal audit adjustments at the partnership level. For more information and Maine reporting requirements due to federal audit adjustments, see Schedule 1040PA-ME and related instructions.

## Form 1040C-ME Specific Instructions

**For Tax Period.** If other than the calendar year, enter begin and end dates for tax year.

**Federal Employer ID Number.** Enter the entity EIN.

**Phone Number.** Enter the phone number for the contact person.

**Mailing Address.** Enter the complete mailing address of the business entity.

**Amended return.** If filing an amended return, check the amended return box and complete all lines on pages 1 and 2.

### Line Instructions

**Line 1.** Enter the amount from Schedule 1040C-ME-1, line 7. See the specific instructions for Schedule 1040C-ME-1 for more information on calculating the share of the entity's net income subject to tax on the composite return.

**Line 2.** Multiply the income reported on line 1 by 7.15% (0.0715). For further guidance, see MRS Rule 805.

**Line 3.** Enter the amount from Form 1040C-ME, Schedule A, line 3.

**Line 4.** Enter the amount of allowable nonrefundable credits from Form 1040C-ME, Schedule A, line 20.

**Lines 6a-e.** If participating eligible persons have Forms 1099 with Maine withholding, then enter the withheld amount(s) on line 6a (copies of the Forms 1099ME must be attached to the return). On line 6b, enter the total amount of estimated tax payments, credit carried forward from the prior tax year, payment made with extension and any Real Estate Withholding tax payments allocated to participating eligible persons. On line 6c, enter the amount of allowable refundable credits from Form 1040C-ME, Schedule A, line 8. If filing an amended return, include any carryforward or refund amount allowed on the original, or previously adjusted return on line 6d. On line 6e, enter the sum of lines 6a through 6c minus the amount on line 6d.

**Line 7a. Overpayment.** If total payments are more than net tax, enter the amount of overpayment on this line. Skip to line 8.

**Line 7b. Underpayment.** If net tax is greater than total payments, enter the amount of underpayment on this line. Skip to line 9.

**Lines 8a-b.** Enter the amount to be carried forward on line 8a. Enter the amount to be refunded on line 8b. Refunds of \$1.00 or more will be issued to you.

**Lines 8c-8e.** A refund may be directly deposited into a bank account. To comply with banking rules, the box to the left of line 8d must be checked if the refund is going to an account outside the United States. If the box is checked, MRS will mail a paper check to the address listed on Form 1040C-ME, page 1. On line 8c, enter the 9 digit Routing Transit Number ("RTN"). On line 8d, enter the bank account number. The bank account number can be up to 17 characters (both numbers and letters). Omit hyphens, spaces, and special symbols. Enter the number from left to right. On line 8e, check whether the bank account is a checking or savings account, whichever applies.

**Line 9.** Enter the amount of any underpayment penalty (attach Form 2210ME). Be sure to check the box if you used the annualized income installment method of calculating the underpayment of estimated tax penalty.

**Line 10. Total amount due.** Enter the sum of lines 7b and 9. Do not send cash. If you owe less than \$1.00, do not pay it. MRS Rule 102 requires taxpayers with a combined annual tax liability for all taxes that is \$10,000 or more to pay electronically.

Remit the payment using the Maine Tax Portal at [www.revenue.maine.gov](http://www.revenue.maine.gov) or enclose (do not staple or tape) a check or money order payable to Treasurer, State of Maine with your return. Include your complete name, address and telephone number on your check or money order.

**Enclose with the composite return** a copy of federal Form 1120-S, pages 1 through 5 or federal Form 1065, pages 1 through 5.

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## Schedule 1040C-ME-1 Specific Instructions

Pass-through entities filing Form 1040C-ME must complete Schedule 1040C-ME-1 to identify each owner participating in the composite return. On Schedule 1040C-ME-1, report the name, taxpayer identification number, distributive share percentage, and distributive share of the entity's net income for each participating owner.

You may list up to 16 participating owners on one page of Schedule 1040C-ME-1. Complete additional pages of Schedule 1040C-ME-1, if necessary, to include all owners participating in the composite filing.

### Lines 1a through 1p

**Column 1.** Enter each participating owner's last name, first name and middle initial. If the owner is other than an individual, enter the name of the estate or trust.

**Column 2.** Enter each participating owner's social security number or, if the owner is other than an individual, the federal employer identification number.

**Column 3.** Check this box if the ID number entered in Column 2 is a federal employer identification number.

**Column 4.** Enter each participating owner's distributive share percentage in the pass-through entity. If the entity's tax year is other than the calendar year, enter each owner's distributive share percentage in the entity with respect to the entity's tax year that ends during the calendar year. For example, if the entity's tax year ends June 30, 2023, enter each owner's distributive share percentage with respect to the entity's tax year that ends June 30, 2023. If, for example, the distributive share percentage for an owner is 25%, enter the amount as 25.00.

**Column 5.** Enter each participating owner's distributive share of the entity's net income for the taxable year (the net amount of items of income, including guaranteed payments, loss and deduction reported to the owner) apportioned to Maine in accordance with 36 M.R.S. Chapter 821. If an owner's share of the entity's net income is greater than \$999,999.99, use two or more lines to add up to the owner's total share. If the owner's share of the entity's net income is a negative amount (loss), enter \$0.

**Line 6.** Enter the sum of lines 5a through 5p shown on this page.

**Line 7.** Enter the sum of the line 6 amounts shown on each Schedule 1040C-ME-1. Also enter this amount on Form 1040C-ME, line 1.

## Form 1040C-ME, Schedule A Specific Instructions

Use Form 1040C-ME, Schedule A to calculate qualifying business credits that participating members may be eligible to claim. The credit amounts allocated to participating members may be claimed in their entirety, subject to limitations and carryover provisions. Attach a copy of Schedule A to the return. See MRS Rule 805.05 for more information.

**Tax Credit Worksheets Required.** For more information on all tax credits and related worksheets, visit [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) (select Worksheets for Tax Credits). **You must complete and attach the applicable tax credit worksheet for each tax credit claimed.**

### Tax Additions.

**Line 1. Tax Credit Recapture Amounts.** Enter the amount from the Credit for Rehabilitation of Historic Properties Worksheet, Part B, line 5.

**Line 2. Centralized Partnership Audit Adjustment - net positive tax adjustment only.** This tax addition applies to a partnership subject to a federal partnership audit or federal administrative adjustment request and by certain tiered partners of a partnership subject to a federal audit. Enter the net positive tax adjustment from Schedule 1040PA-ME, line 7. Enclose Schedule 1040PA-ME and a copy of the federal forms supporting the audit adjustment. See the instructions to Schedule 1040PA-ME for more information. 36 M.R.S. Chapter 815, Subchapter 2.

### Refundable Tax Credits.

**Line 4. Historical Rehabilitation Credit.** If qualified expenditures related to the rehabilitation of historic property in Maine were incurred, the taxpayer may qualify for this credit. 36 M.R.S. § 5219-BB.

**Line 5. Affordable Housing Tax Credit.** A business certified by the Maine State Housing Authority for construction of an affordable housing project may qualify for this credit. 36 M.R.S. § 5219-WW.

**Line 6. Major Food Processing and Manufacturing Facility Expansion.** If the taxpayer invested in a food processing and manufacturing facility expansion, it may qualify for this credit, certified through the Department of Economic and Community Development. 36 M.R.S. § 5219-VV.

**Line 7. Centralized Partnership Audit Adjustment - net negative tax adjustment only.** This negative tax adjustment applies to a partnership subject to a federal partnership audit or federal administrative adjustment request and by certain tiered partners of a partnership subject to a federal audit. Enter the net negative tax adjustment from Schedule 1040PA-ME, line 8. Enclose Schedule 1040PA-ME and a copy of the federal forms supporting the audit adjustment. See the instructions to Schedule 1040PA-ME for more information. 36 M.R.S. Chapter 815, Subchapter 2.

### Nonrefundable Tax Credits.

**Line 9. Research Expense Tax Credit.** If the business invested in research, it may qualify for this credit. 36 M.R.S. § 5219-K.

**Line 10. Carryforward of Certain Credits.** Enter on this line unused portions of the following credits carried forward from prior years: • Super Credit for Substantially Increased Research and Development • Maine Minimum Tax Credit • Employer credits for payment of employee expenses (long-term care insurance, day care expenses) • “Step 4” Quality Child Care Investment Tax Credit. Enclose worksheet(s) or supporting documentation for each credit claimed.

**Line 11. Pine Tree Development Zone Credits.** A new or expanded business operating in Maine that has been certified through the Department of Economic and Community Development may qualify for this credit. 36 M.R.S. § 5219-W.

**Line 12. Employer Credit for Family and Medical Leave.** An employer that paid wages to employees based in Maine who were on family or medical leave during the taxable year may be eligible to claim this credit. 36 M.R.S. § 5219-UU.

**Line 13. Employer Credit for Volunteer Firefighters and Volunteer Municipal Emergency Medical Services Persons.** An employer that permits employees who are volunteer firefighters or volunteer municipal emergency medical services persons to be absent from work for firefighting or emergency response activities without a reduction in pay may be eligible for this credit. 36 M.R.S. § 5217-F.

**Line 14. Certified visual media production credit.** If the business produced a movie or other type of media production in Maine, it may qualify for the credit, certified through the Department of Economic and Community Development. 36 M.R.S. § 5219-Y.

**Line 15. Biofuel commercial production tax credit.** A taxpayer engaged in the commercial production of biofuels in Maine may be allowed a credit of \$0.05 per gallon of biofuel. When claiming this credit, attach a copy of the certificate issued by the Maine Department of Environmental Protection. 36 M.R.S. § 5219-X.

**Line 16. Renewable chemicals tax credit.** A taxpayer engaged in the production of renewable chemicals in Maine may be eligible for this credit. 36 M.R.S. § 5219-XX.

**Line 17. Credit for disability income protection plans.** If an employing unit sponsors a qualified income protection plan, the employing unit may be eligible for the credit. 36 M.R.S. § 5219-OO.