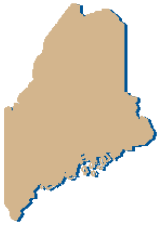


# FORM 1120B-ME

2018

MAINE

## FRANCHISE TAX INSTRUCTIONS



Use Maine EZ Pay for  
Electronic Tax  
Payments

[www.maine.gov/revenue/netfile/gateway2.htm](http://www.maine.gov/revenue/netfile/gateway2.htm)

### QUESTIONS?

Franchise Tax	207-624-9670	Email: <a href="mailto:corporate.tax@maine.gov">corporate.tax@maine.gov</a>
Withholding Tax	207-626-8475	Email: <a href="mailto:withholding.tax@maine.gov">withholding.tax@maine.gov</a>
Sales Tax	207-624-9693	Email: <a href="mailto:sales.tax@maine.gov">sales.tax@maine.gov</a>
To order forms	207-624-7894	

For general information and downloadable forms, visit our web site [www.maine.gov/revenue](http://www.maine.gov/revenue).

**Tax Fraud Hotline:** 207-624-9600 Call this number or send an email to [compliance.tax@maine.gov](mailto:compliance.tax@maine.gov) to report possible tax violations, including failure to file tax returns, failure to report all income and failure to register for tax filing.

### GENERAL INSTRUCTIONS

#### 1. FINANCIAL INSTITUTIONS SUBJECT TO FRANCHISE

**TAX:** Every financial institution that had Maine net income or Maine assets during the taxable year must file Form 1120B-ME and pay Maine franchise tax, even if the institution is established as a partnership, S corporation or entity disregarded as separate from its owner. "Financial institution" means a bank, bank holding company, thrift institution, savings association, insured institution, savings bank holding company, qualified savings bank, insured depository institution, appropriate federal banking agency or qualified family partnership (as defined in the Bank Holding Company Act of 1956, 12 US Code § 1841), or any other financial institution (except a credit union) authorized to do business in Maine as defined in 9-B M.R.S. § 131(17-A). A financial institution includes any corporation or other entity of which more than 50% of the voting stock is owned, directly or indirectly, by a financial institution or by a credit union as defined in 9-B M.R.S. § 131.

**2. DATE FOR FILING RETURN:** Financial institutions reporting for calendar year 2018 are required to file with payment on or before April 17, 2019. Fiscal year taxpayers are required to file, with payment, on or before the 15th day of the fourth month following the close of the taxable year.

**3. EXTENSION FOR FILING:** A Maine extension request form is not required. If you are unable to file your return by the original due date, Maine allows an automatic six-month extension of time to file. **Caution: An Extension to file your Maine return is not an extension for payment of tax.** If you owe tax, you must pay at least 90% of that amount by the original due date for filing your return and the remaining 10% must be paid when the return is filed by the extended due date in order to avoid the failure-to-

pay penalty. However, interest is charged on any tax paid after the original due date of your return.

Remit your estimated tax payment electronically, or with Form 1120B-EXT/ME (Extension Payment Voucher) by the original due date for filing your Maine return. Form 1120B-EXT/ME may be mailed to: Maine Revenue Services, P.O. Box 9101, Augusta, ME 04332-9101. The form is available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) or by calling 207-624-7894.

**4. PAYMENT OF FRANCHISE TAX:** All financial institutions subject to franchise tax must make periodic payments of estimated tax unless the liability for the taxable year reduced by allowable credits is less than \$1,000. Payment may be made electronically or by filing Form 1120B-ES/ME vouchers, available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) or by calling 207-624-7894.

If the financial institution is part of a unitary group and will file a combined return (see instructions on page 5), estimated payments must be made under the corporate name and FEIN of the entity that will be filing Form 1120B-ME.

**Electronic Payment Required.** Any taxpayer with a combined tax liability to the State of \$10,000 or more for all tax types during the most recent lookback periods ending during the prior calendar year is required to remit all Maine tax payments electronically.

**5. INTEREST:** For calendar year 2019, the interest rate is 6%, compounded monthly. The interest will be added to the balance of any tax due from the original due date to the date of payment and should be included with any payment.

## GENERAL INSTRUCTIONS (continued)

### 6. PENALTIES:

a. **Underpayment of estimated tax penalty.** For calendar year 2019, the penalty is 6%, compounded monthly. The penalty is assessed if the sum of the four estimated tax payments is not at least equal to the lesser of the previous year's Maine franchise tax liability or ninety percent (90%) of the tax liability for the current year. Exception: certain large corporations cannot use the previous year's liability in determining the required amount of estimated tax payments. 36 M.R.S. § 5228(5)(C).

b. **Late filing and late payment penalties.** If a past due return is filed before the receipt, or within 60 days of the receipt, of a demand notice, the penalty for failure to file is the greater of \$25 or 10% of the amount of tax due. If the return is filed more than 60 days after the receipt of a demand notice, the failure-to-file penalty increases to the greater of \$25 or 25% of the tax due.

For failure to pay a tax liability, the penalty is 1% of the tax liability for each month the payment is delinquent, up to 25%.

c. **Other penalties.** The law also provides for penalties for substantial understatement of tax, negligence, fraud and for payment of tax by check that is returned for insufficient funds. 36 M.R.S. § 187-B.

7. **ACCOUNTING PERIOD COVERED:** Form 1120B-ME will cover the same period as the equivalent federal income tax return.

8. **ACCOUNTING METHODS:** A taxpayer's method of accounting for Maine franchise tax purposes must be the same as that used for federal income tax purposes.

9. **FEDERAL RETURN MUST ACCOMPANY STATE RETURN:** A Maine franchise tax return, Form 1120B-ME, must be accompanied by a legible copy of pages 1 through 5 of the financial institution's federal income tax return for the same taxable period. You are not required to provide Maine with copies of supporting schedules attached to the federal form filed with the Internal Revenue Service

unless specifically requested.

### 10. FEDERAL AUDIT CHANGES AND AMENDED RETURNS:

Taxpayers must file Maine amended returns for any change or correction by the Internal Revenue Service in federal net income per books or total end-of-year assets. The amended return must be filed within 180 days after final determination of the federal change or correction. Attach a copy of the Internal Revenue Agent's report and closing letter with all supporting schedules to the Maine amended return.

Taxpayers filing amended federal returns must, within 180 days, file amended Maine returns with copies of the federal amended return. When filing returns that reflect federal net operating losses, a copy of federal Form 1139 must be attached.

In addition, an amended Maine franchise tax return is required to correct errors on a previously filed return. The amended return must be filed within 180 days after discovering the error. Use Form 1120B-ME for the year you are amending and check the box marked "Check here if an amended return" in the upper right corner of the form.

### 11. COMBINED REPORT FOR UNITARY MEMBERS:

A financial institution that is a member of an affiliated group and operates in a unitary fashion must file a Maine Franchise Tax Combined Report For Unitary Members (Form CRB). Maine law defines affiliated group to mean a group of two or more financial institutions in which more than 50% of the voting interest of each member financial institution is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member financial institutions. Unitary is defined as a business activity that is characterized by unity of ownership, functional integration, centralization of management and economies of scale.

The State of Maine three factor apportionment formula is used to apportion net income of multi-state financial institutions. The law provides that the apportionment formula is also used to compute Maine assets from the total end-of-year assets of the financial institution.

## SPECIFIC INSTRUCTIONS

**Line 1b. Maine Net Income:** Financial institutions that are not part of an affiliated unitary business group and have income solely from activity within Maine must enter here the same amount as on line 1a. Financial institutions that are members of an affiliated unitary group must file a combined report (Form CRB). A financial institution that is taxable both in and outside Maine must apportion its net income by completing Schedule A on page 2. The instructions for Schedule A are on page 4. For information on how to file Form CRB, see the instructions for Form CRB on page 5.

**Line 2b. Maine Assets:** Financial institutions that are not part of an affiliated unitary business group and have income solely from activity within Maine must enter here the same amount as on line 2a. Financial institutions that are members of an affiliated unitary business group must file a combined report (Form CRB). A financial institution that is taxable both in and outside Maine must apportion its assets by completing Schedule A on page 2. The instructions for Schedule A are on page 4. For information on how to file Form CRB, see the instructions for Form CRB on page 5.

## SPECIFIC INSTRUCTIONS (continued)

**Line 3. Tax:** A financial institution must, each year, elect the tax formula they wish to apply by placing an “x” in the appropriate box. Maine offers two tax formula options:

**Option 1** - The sum of 1% of the financial institution's Maine net income plus .008% of its Maine assets.

**Option 2** - .039% of the financial institution's Maine assets.

**Line 3a. Tax on Maine Net Income:** The tax rate on income is 1% (0.01) of Maine net income as listed on line 1b. **Leave this line blank if option 2 is elected.**

**Line 3b. Tax on Maine Assets:** If **option 1** is selected, the franchise tax rate on Maine assets listed on line 2b is 8 cents (8¢) per \$1,000 (0.008%). If **option 2** is selected, the franchise tax rate on Maine assets listed on line 2b is 39 cents (39¢) per \$1,000 (0.039%). Apply the appropriate factor and enter the result on this line.

**Line 4b. Withholding:** Enter on this line the amount of Maine income tax withholding credit for the year. For example, enter pass-through entity withholding reported to you on 2018 Forms 1099ME. Submit copies of Forms 1099 and/or W-2 with your return to support the amount entered on this line.

**Line 4c. Paid with Original Return:** This line is for taxpayers filing amended returns and claiming credit for tax paid with original return.

**Line 4d. Net Operating Loss Credit:** A credit is allowed against franchise tax on assets for a taxable entity that sustains a book net operating loss. The credit is computed by multiplying the book net operating loss apportioned to Maine by the franchise tax rate on income (0.01). The amount of the credit allowed in the year of the loss is limited to the franchise tax on assets on line 3b. Excess credit amounts may be carried forward to the next five tax years and may be applied against the total tax on line 3c. If you carry forward an excess credit from a previous year, attach a carry forward schedule to support your entry on line 4d.

**Line 4e. Tax Credits:** A list of allowable tax credits follows. You must complete and attach a tax credit worksheet for each tax credit claimed. Tax credit worksheets are available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms). You may also order worksheets by calling (207) 624-7894. Enter on line 4e the total amount of credit used to reduce tax liability. Except for the refundable Historic Rehabilitation and New Markets Credits, the amount of all credits used to reduce tax liability cannot exceed the total tax liability on line 3c.

- Maine Seed Capital Tax Credit, for an investment certified

by FAME in a business you do not own • Research Expense Credit, for business investment in research and development • refundable Historic Rehabilitation Credit, for state-authorized renovations of registered historic structures • refundable Maine New Markets Capital Investment Credit, for investments certified by FAME in a qualified low income community business • Pine Tree Development Zone Credit, for expansion of business in Maine certified by DECD • Employer Credit for Educational Opportunity, for employers paying student loans of qualifying employees • Employer Credit for Family and Medical Leave • Credit for Disability Income Protection Plans • Maine Fishery Infrastructure Investment Tax Credit • Credit for Wellness Programs • Carryforward of unused credit amounts is allowable for the following credits: Jobs and Investment Tax Credit • Employer credit amounts for payment of employee expenses (long-term care insurance, day care expenses, dependent health benefits) • Quality Child Care Investment Tax Credit • Biofuel Production and Use Tax Credit • Super Credit for Research and Development

**Line 4f. Total Prepayments and Credits:** Enter the total payments from lines 4a, 4b and 4c, as well as any tax credits from lines 4d and 4e. The amount entered on line 4f may exceed the total tax liability on line 3c. However, except for the refundable Historic Rehabilitation and New Markets Credits, the amount of tax credits from lines 4d and 4e that are used to reduce tax liability this year cannot exceed the total tax liability on line 3c.

**Line 5b. Penalty for Underpayment of Estimated Tax:** If the financial institution underpaid estimated tax, complete and attach Form 2220ME, available at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms).

**Line 7a. Credited to next year's estimated tax:** Use this line only if you elect to have all or a portion of the overpayment on line 6 credited to next year's estimated Maine franchise tax.

**Line 7b. Refunded:** Enter the difference between lines 6 and 7a. Refunds will be mailed to you.

### IMPORTANT

**IF ALL REQUIRED LINES AND SCHEDULES (INCLUDING FORM CRB) ARE NOT COMPLETED, THE RETURN IS INCOMPLETE AND WILL NOT BE CONSIDERED A FILED RETURN. PAGES 1 - 5 OF THE FEDERAL RETURN MUST BE ATTACHED TO YOUR MAINE FRANCHISE RETURN.**

# SCHEDULE A - INSTRUCTIONS

## APPORTIONMENT OF INCOME (See 36 M.R.S. § 5206-E)

### GENERAL INSTRUCTIONS

Schedule A is for financial institutions that are taxable both in and outside Maine. To the extent that a financial institution derives its income from a unitary business carried on by two or more members of an affiliated group, Maine net income and Maine assets are determined by apportioning that part of the net income and assets of the entire group that is derived from the unitary business.

Maine employs a three-factor formula to determine income and assets apportioned to Maine. However, one or more factors may be excluded from the apportionment formula under certain circumstances. If a factor is excludable from the apportionment formula, the weighting of the remaining factors must be changed.

A factor is excludable only if both the numerator and denominator are zero,\* but is not excludable merely because the numerator is zero. When excluding the receipts factor, change the weight of the payroll and property factors to 50% (0.5) each. When excluding either the payroll or property factor, change the weight of the receipts factor to 66.67% (0.6667) and the weight of the remaining factor (payroll or property) to 33.33% (0.3333). If two factors are excludable from the apportionment formula, change the weight of the remaining factor to 100%. If you are excluding any factors, attach a schedule detailing the factors used and the apportionment computation. If the total of 8(C), 9(C) and 10(C) does not equal the amount you enter on line 11, your tax liability will not compute accurately.

### SPECIFIC INSTRUCTIONS

**Line 8. Receipts Factor:** The receipts factor is a fraction. The numerator is the Maine receipts of the taxpayer during the tax period. The denominator is the receipts of the taxpayer everywhere in the U.S. during the tax period. See 36 M.R.S. § 5206-E(2) for a complete description of Maine and everywhere receipts.

**Line 9. Payroll Factor:** The payroll factor is a fraction. The numerator is the total amount of compensation paid in Maine or paid to Maine-based and Maine resident employees during the tax period, and the denominator is the total compensation paid everywhere in the U.S. by the taxpayer during the tax period to all employees working in the U.S. See 36 M.R.S. § 5206-E(4) for a complete description of Maine and everywhere payroll.

**Line 10. Property Factor:** The property factor is a fraction. The numerator is the average value of the taxpayer's owned or rented real and tangible personal property located in Maine plus loans and credit card receivables located in Maine during the tax period, and the denominator is the average value of such property everywhere in the U.S. during the tax period.

Property rented by the taxpayer is valued at eight times the net annual rental rate. Loans and credit card receivables are valued at outstanding principal, without regard to any reserve for bad debt. See 36 M.R.S. § 5206-E(3) for a complete description of Maine and everywhere property.

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\* For example, if the business does not own or lease property anywhere in the United States, the property factor may be eliminated.

# FORM CRB - INSTRUCTIONS

## MAINE FRANCHISE TAX

### COMBINED REPORT FOR UNITARY MEMBERS

The combined reporting form, when applicable, must be filed with Form 1120B-ME. This report **must** be accompanied by an affiliation schedule (federal Form 851 for consolidated filers is acceptable) listing name, federal ID number and corporate activity of all members of the affiliated group.

#### PURPOSE OF FORM

**NOTE: Only unitary business group members are to be included on this form. Affiliated non-unitary members are not to be included.**

Form CRB is used to calculate Maine net income of a unitary business. Maine net income is a financial institution's net income or loss per books required to be reported pursuant to the laws of the United States and apportioned to this state. 36 M.R.S. § 5206-D(13).

#### COMBINED REPORTING

Financial institutions with Maine net income that are members of an affiliated group engaged in a unitary business must file a combined report. Financial institutions that conduct a unitary business but are not required to file a federal income tax return must be excluded from the combined report. This includes those financial institutions not required, but electing, to file a federal tax return.

"Affiliated group" means a group of two or more financial institutions of which more than 50% of the voting stock of each member is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, or by one or more of the member financial institutions. 36 M.R.S. § 5206-D(1). "Unitary business" is a business activity that is characterized by unity of ownership, functional integration, centralization of management and economies of scale. 36 M.R.S. § 5206-D(22).

All financial institutions required to file federal income tax returns that are engaged in a unitary business are required to be included in the combined report of any taxable financial institution with Maine nexus, even if the affiliated financial institution has no nexus with Maine.

#### COLUMN INSTRUCTIONS

**Column 1.** Put a check in this column for those corporations listed in column 2 that have nexus with Maine.

**Column 2.** Enter the name and federal identification number of each member engaged in a unitary business.

**NOTE:** Each member participating in the unitary business should have an amount entered in either column 3 or column 4, but not both.

**Column 3.** Enter the separate net income per books of each member in column 2 that was part of a federal consolidated return (member's share of Form 1120, Schedule M-1, line 1 or Schedule M-3, line 11). This information can be obtained from the supporting statement filed with federal Form 1120

for consolidated returns. Attach the supporting statement from the federal Form 1120 consolidated return.

**Column 4.** Enter the net income per books of each member in column 2 that filed a separate federal return (member's net income from federal Form 1120, line 28 or equivalent net income from other federally filed returns such as Forms 1065 or 1120S). Entries in column 4 relate to members engaged in a unitary business that were not included in a federal consolidated return.

**Column 5.** Enter adjustments for eliminations, deferrals and other modifications provided for under federal law and regulations, but not included in column 3. Include any intercompany transactions between members on this report if those transactions resulted in gains or losses. Similar adjustments are required for business members that are not part of the same consolidated filing. These adjustments include, but are not limited to, (a) dividends paid out of income subject to apportionment under 36 M.R.S., chapter 819 by one member to another member; (b) deferrals of gains/losses from intercompany sales of inventory; and (c) deferrals of gains/losses from intercompany sales of fixed assets. Attach a worksheet detailing adjustments claimed in column 5.

**Column 6(A).** Combine columns 3, 4 and 5. This is the adjusted separate income of each member engaged in the unitary business.

**Column 6(B).** Enter the total end-of-year assets from the federal return or pro forma federal return.

**Columns 7-9.** Enter each financial institution's share of receipts, payroll and property of the unitary business. 36 M.R.S. §§ 5206-E(2), (3) and (4). Carry over totals from line 18 to Schedule A. The amounts on the total line of columns 7, 8 and 9 (line 18) of the Combined Report must agree with those entered on lines 8, 9 and 10, columns (A) and (B) of Schedule A, Form 1120B-ME if a single return is filed for the entire group.

#### LINE INSTRUCTIONS

**Line 17.** To the extent not already eliminated, remove all intercompany transactions resulting in gains or losses. These eliminations are for columns 6(B)-9 only. Attach a worksheet that details adjustments claimed on this line.

**Line 18.** Enter the total for each of columns 3 through 9. Enter column 6(A), line 18 on Form 1120B-ME, line 1a. Enter column 6(B), line 18 on Form 1120B-ME, line 2a.

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