

# MAINE TAX ALERT

A Publication of Maine Revenue Services for Tax Professionals

Volume 7, No. 8

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Public Communications Tel: (207) 626-8475

## NEW QUALITY INITIATIVE

At Maine Revenue Services, the word "Services" is more than just part of our new name. To better emphasize our commitment to quality, value added service, Executive Director Brian Mahany announced a major quality initiative. Later this month, the agency will begin issuing cash awards to employees and our vendor partners who make suggestions to improve customer service, efficiency or quality. In explaining the new program, Mahany stated: "Our employees are our greatest assets. As part of quality initiative, I thought it only fair to reward employees who help improve the level of service we provide. The award program is not seeking home run hits but represents an on-going plan to recognize line workers who devise a plan to improve a specific notice, issue a refund faster or reduce the amount of overflow telephone calls."

Mahany will be asking the agency's Quality Council to select winners and ensure suggestions are implemented.

## NEW WEB SITE ADDRESS

In order to reflect the name change to Maine Revenue Services, our web site address has been changed to <http://www.state.me.us/revenue>. This address went into effect Monday, October 6, 1997; however, anyone accessing the site through the old address will come to a page announcing the change with a link to the new address. This page will remain on the Internet for the next several months.

## ELECTRONIC FUNDS TRANSFER

Two items of interest concerning electronic funds transfer are available on Revenue Services' web site. First is the Electronic Funds Transfer Application--ACH Credit Method. This is a

downloadable PDF document available for use by you and your clients. The second item is the ACH Debit Program--Sign-up for Mailing List. This is an on-line form which can be completed by you or clients and transmitted electronically to Maine Revenue Services. If you have any questions concerning electronic funds transfer, telephone Paula Cole at (207) 287-8276.

## POLICY CHANGE FOR NONRESIDENTS

Nonresident individuals will now be given the full benefit of their business related tax credits against the Maine tax liability. Previously, the nonresident credit was calculated by multiplying the Maine tax less credits by the percentage of non-Maine source income. The term "applicable credits" in 36 M.R.S.A. e511(4) is interpreted to mean the credits identified under e5218, e5219(A), and e5219(J); respectively, the child care credit, credit for the elderly, and the catastrophic health care credit for tax years 1994 through 1996. Amended returns will be accepted provided they are filed within the statute of limitations. Rule 806 will be modified to reflect this change; however, it is too late in the printing process to include the change in the 1997 tax booklets. The Income Tax Division will make every effort to ensure that nonresident taxpayers are given the full benefit of any credits for which they qualify.

## 1998 INTEREST RATE

The Executive Director of Maine Revenue Services has established the interest rate for 1998 at 10% per annum compounded monthly, the same rate as 1997.

## TAX RELIEF FOR LOW-INCOME INDIVIDUALS

The last session of the legislature passed the low-income credit for individuals with taxable income of \$2,000 or less for tax years beginning on or after January 1, 1997. Individuals who qualify for the credit are not required to file a Maine income tax return. Individuals claimed on another person's

return or liable for the Maine minimum tax are not eligible to claim this credit.

The credit is equal to the tax otherwise imposed by 36 M.R.S.A. Part 8. That includes not only the income tax calculated on the return, but also the additional taxes on Schedule A for early and lump-sum retirement distributions. This is not clear in the 1040 instructions, because we do not anticipate many taxpayers falling into this category. At the end of the filing season, we will identify the number of taxpayers with additional tax who qualify for the low-income credit and change the instructions the following year if warranted.

### APPELLATE DECISIONS

One recent reconsideration decision dealt with the exemption from sales and use tax when certain vehicles are purchased by nonresidents of Maine and immediately removed from Maine (36 M.R.S.A. e1760(23)). In that case, Anne Richmond ruled the "good faith" standard that applies to the acceptance of sale for resale certificates also applies to immediate removal certificates. Under Sales Tax Section Rule No. 301(08-CMR 301).01(C), a sale for resale certificate must be taken in good faith from a person engaged in selling tangible personal property who, at the time of purchase, intends to sell the property in the regular course of business or cannot then ascertain whether it will be sold or not. The good faith of the seller will be questioned if the seller has knowledge of facts which give rise to a reasonable inference that the purchaser does not intend to resell the property, as, for example, when the seller has knowledge that a purchaser of particular merchandise is not engaged in the business of selling that kind of merchandise. Immediate removal certificates cannot be accepted if the seller has knowledge of facts that give rise to a reasonable inference the purchasers are not residents of a state other than Maine or that the purchaser does not intend to immediately drive or transport the vehicle outside of Maine.

In that same decision, it was also determined that 36 M.R.S.A. e1760(23) did not apply to corporations since corporations do not have residence. In other

words, the vehicles listed in 36 M.R.S.A. e1760(23) are subject to sales tax when purchased by corporations even if the corporation is located in another state and the vehicle is intended to be immediately removed from Maine.

In another Appellate Division case, a corporate retailer filed sales and use tax returns under two sales tax numbers. One belonged to the corporation and one to a division of the corporation. The corporation purchased merchandise, treated the transfer of the merchandise to the division as sales, and the lease of the merchandise after the transfer as leasing by the division. As a result of this arrangement, the corporation purchased the merchandise tax-free since it considered the merchandise to be purchased for resale. The division did not pay use tax on most of its "purchase" of the merchandise since it "traded in" other "purchased" merchandise after it was done leasing the merchandise. On reconsideration, Anne Richmond found that the corporation purchased the merchandise and then leased the merchandise, making the purchase of the merchandise subject to use tax under 36 M.R.S.A. e1752(21). Both the corporation and its subdivision, the entity assessed, were subject to the use tax; therefore, the assessment was upheld.

This case had an interesting twist. Based on what the division had reported under its sales tax number, the auditor determined the division had reported less than half of the tax liability determined by the Executive Director to be due and applied the six-year statute of limitations under 36 M.R.S.A. e141(2)(A). The division argued that since it was the same legal entity as the corporation, the taxes reported by both the corporation and the division should be included when determining whether the amount reported was less than ½ of the tax liability by the Executive Director. If the taxes reported by both the corporation and the division are combined and compared to the division's tax liability, the six-year statute of limitations would not apply. However, Anne Richmond determined that under 36 M.R.S.A. e141, each return must be looked at separately and upheld the application of the six-year statute of limitations.

**SCORE OFFERS THE MAINE TAX PRACTITIONER INSTITUTE**

Both Federal and State tax laws have undergone dramatic changes in 1997. Again this year, the SCORE Association, in conjunction with the Internal Revenue Service and Maine Revenue Services are offering their annual TAX PRACTITIONER INSTITUTE.

This year's Institute will include presentations by the IRS District Director and senior managers on

- b Changes in tax law and forms that affect 1997 individual return preparation and key updates to business, corporate and partnership law;
- b Specific tests which must be met to take a deduction for business use of the home, and the limits of the deduction;
- b Treatment of Net Operating Losses, computation of the loss year return, the decision to carry forward or carry back and the effect of carry-forward or carry-back years;
- b Penalties commonly assessed during examinations with a basic overview of other penalties.

Senior Managers of Maine Revenue Services will discuss State tax law and administration changes, form simplification, automation and many other progressive innovations which have been instituted in the past year.

The \$75 fee for this one-day seminar entitles attendees to a copy of the 1997 University of Illinois Tax Book. Attendees will receive eight continuing professional education credits.

The 1997 INSTITUTE will be offered at four locations:

- b November 6 in Caribou at Husson College;
- b November 14 in Bangor at Jeff's Catering and Convention Center; Exit 5 off I-395, Brewer Industrial Park;
- b November 19 in Augusta at the Augusta Civic Center;
- b November 21 in Portland at Verillo's Restaurant & Conference Center, Exit 8 off I-95.

To reserve a seat at the Institute, complete, cut off and mail the accompanying Registration Form today.

**1997 TAX PRACTITIONER INSTITUTE REGISTRATION FORM**

Registration fee is \$75 per person. Registration must be received one week prior to the scheduled event. Cancellations must be at least one week prior to the scheduled event.

Name \_\_\_\_\_ Telephone No. \_\_\_\_\_

Address \_\_\_\_\_

(Street)

(City)

(State)

(ZIP)

Check your desired location

Augusta

Bangor

Caribou

Portland

**For questions, contact Roberta Getchell - Phone: (207) 772-1147 FAX: 772-5581;  
e-mail: [score53@score.maine.com](mailto:score53@score.maine.com)**

**Maine registration and check to:      TAX PRACTITIONER INSTITUTE  
c/o SCORE, Chapter 53  
66 Pearl Street, Suite 211  
Portland, Maine 04101**

**MAINE REVENUE SERVICES** <http://www.state.me.us/revenue>

**...Order tax forms through the WebPage?...YES!**

**SUGGESTIONS FOR TAX ALERT?**

**Please contact:**           **Maine Revenue Services**  
                                  **Public Communications Director**  
                                  **24 State House Station**  
                                  **Augusta, ME 04333-0024**

**STATE OF MAINE**

**Angus S. King, Governor**

**Janet E. Waldron, Commissioner**  
**Administrative and Financial Services**

**Brian H. Mahany, Executive Director**

**TAX QUESTIONS? PLEASE CONTACT US:**

<b>Maine Revenue Services</b>	<b>(207)287-2076</b>	<b>FAX (207) 287-4028</b>
<b>Central Registration</b>	<b>(207)287-2338</b>	<b>FAX (207) 287-3733</b>
<b>Collections &amp; Compliance</b>	<b>(207)287-3301</b>	<b>FAX (207) 287-6627</b>
<b>Corporate Tax</b>	<b>(207)624-7876</b>	<b>FAX (207) 287-4028</b>
<b>Electronic Funds Transfer</b>	<b>(207)287-8276</b>	<b>FAX (207) 287-6396</b>
<b>Estate Tax</b>	<b>(207)626-8480</b>	<b>FAX (207) 287-4028</b>
<b>Excise Tax</b>	<b>(207)287-3851</b>	<b>FAX (207) 287-6628</b>
<b>Forms Request Line</b>	<b>(207)624-7894</b>	<b>FAX (207) 626-3517</b>
<b>Income Tax Assistance</b>	<b>(207)626-8475</b>	<b>FAX (207) 287-4028</b>
<b>Paym't Plans/Income Tax</b>	<b>(207)621-4300</b>	<b>FAX (207) 621-4328</b>
<b>Payment Plans/ Other</b>	<b>(207)287-3301</b>	<b>FAX (207) 287-4028</b>
<b>Practitioners' Hotline</b>	<b>(207)626-8458</b>	<b>FAX (207) 287-4028</b>
<b>Property Tax</b>	<b>(207)287-2011</b>	<b>FAX (207) 287-6396</b>
<b>Public Communications</b>	<b>(207)287-6362</b>	<b>FAX (207) 287-4028</b>
<b>Sales Tax</b>	<b>(207)287-2336</b>	<b>FAX (207) 287-6628</b>
<b>Taxpayer Advocate</b>	<b>(207)287-4562</b>	<b>FAX (207) 287-6627</b>
<b>TTY Service</b>	<b>(207)287-4477</b>	<b>-----</b>
<b>Withholding Tax</b>	<b>(207)626-8475</b>	<b>FAX (207) 287-4028</b>

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