

**PROVISIONS ENACTED BY THE AMERICAN TAXPAYER RELIEF ACT OF 2012
THAT CREATE CONFORMITY ISSUES
WITH A SIGNIFICANT IMPACT ON MAINE INCOME TAXES**

INTRODUCTION

Maine income and estate taxes are substantially based on provisions in the Internal Revenue Code (the “Code”). Current Maine law conforms to the Code of 1986 as amended through December 31, 2011.

The Maine Legislature must annually review amendments to the Code since the last conformity date to determine whether it wants to conform to some or all of the federal changes that impact Maine’s tax laws. For Maine’s income taxes, non-conformity to the Code is generally reflected in the income modification provisions contained in 36 M.R.S.A. §§ 5122 and 5200-A. Additional non-conformity provisions are contained in other sections of law, such as § 5125 (itemized deductions), § 5126 (personal exemptions), and in certain tax credits, such as the Maine Earned Income Tax Credit. For the Maine estate tax, non-conformity to the Code is generally reflected in the Maine definitions to the terms contained in § 4102. Because of changes made to the Maine estate tax by the 125th Legislature, the estate tax changes contained in ATRA have no significant impact on Maine’s estate tax.

As has generally been the case in prior years, the Maine 2012 income tax forms have been designed and distributed assuming Maine conformity to amendments to the Code enacted after December 31, 2011. The only significant changes to the Code since December 31, 2011 occurred as result of the passage of the American Taxpayer Relief Act of 2012 (“ATRA”), which was signed into law on January 2, 2013.

Governor Paul R. LePage has decided to propose legislation which would conform Maine’s income tax law to the federal act to the extent that it impacts tax years that begin in 2012 and from which Maine law has not already deviated. The administration is continuing to carefully study those provisions that have an impact on tax years 2013 and beyond. The Governor will recommend legislation on future tax year conformity for consideration by the Maine Legislature later in the legislative session.

Following is a summary of the ATRA provisions that have a significant impact on Maine taxation.

INDIVIDUAL INCOME TAX

Standard Deduction – Marriage Penalty Relief

ATRA permanently extends to tax years beginning after 2012 the federal standard deduction “marriage penalty relief” for individuals filing married jointly. The relief is contained in the calculation of the married joint standard deduction amount so that it is equal to 200% (rather than 167%) of the basic standard deduction amount for individuals filing single. Under prior federal law, this relief was available only through the 2012 tax year. In 2012, Maine conformed to the federal standard deduction amount.

Personal Exemption Phaseout

Under prior federal law, the previous phaseout of the personal exemption amount for high-income taxpayers was eliminated with respect to tax years beginning after 2009 but before 2013. ATRA permanently reinstates the phaseout provisions for tax years beginning after 2012, but at higher income thresholds.

Itemized Deductions Phaseout

Under prior federal law, the phaseout of itemized deductions for high-income taxpayers was gradually reduced so that the phaseout provisions were fully repealed for tax years beginning after 2009 but before 2013. ATRA permanently reinstates the phaseout of itemized deductions for high-income taxpayers for tax years beginning after 2012.

Child and Dependent Care Tax Credit

Under prior federal law, which was applicable through the 2012 tax year, the child and dependent care tax credit was based on a sliding income scale: the credit was equal to 35% of qualified expenses if AGI was \$15,000 or less and the minimum rate was 20% if AGI was over \$43,000. The maximum expenses allowable were \$3,000 for one qualifying child and \$6,000 for two or more qualifying children.

ATRA permanently extended the credit at these levels for tax years beginning after 2012. The Maine Child and Dependent Care Tax Credit is equal to 25% (50% for quality child care expenses) of the federal credit amount.

Earned Income Tax Credit (“EITC”)

The Maine Earned Income Tax Credit equals 5% of the federal credit, which included certain federal provisions that had temporarily enhanced the value of that credit. ATRA extends those provisions for tax years beginning after 2012.

Teacher Classroom Expense Deduction

ATRA extends the teacher’s classroom expense deduction, up to \$250, to tax years beginning in 2012 and 2013. Under prior federal law, the deduction was available through tax year 2011. Maine has historically conformed to the deduction.

Student Loan Interest Deduction

Federal law allowed an above-the-line deduction of up to \$2,500 of interest paid during the tax year on qualified education loans. Only interest paid during the first 60 months of the loan qualified. The deduction was phased out if modified adjusted gross income exceeded certain limits. In the past, Maine has conformed to this deduction. For tax years beginning after 2012, ATRA permanently suspends the 60-month restriction, expands the modified AGI phaseout thresholds and repeals the restriction that makes voluntary payments of interest nondeductible.

Deduction for Qualified Tuition and related Expenses

ATRA extends the above-the-line deduction for qualified tuition and related expenses to tax years beginning in 2012 and 2013. Under prior federal law, the deduction applied to tax years through 2011. Current Maine law requires that amounts deducted at the federal level for qualified tuition and related expenses are added back to Maine income (see 36 M.R.S.A. § 5122(1)(Q)).

BUSINESS TAXES

Bonus Depreciation

Prior to enactment of ATRA, the bonus depreciation level for 2011 was 100% of costs, 50% for 2012, and there was no bonus depreciation beyond 2012. ATRA extended the 50% federal bonus depreciation to qualifying property placed in service prior to January 1, 2014 (January 1, 2015 for certain longer period production and noncommercial aircraft property).

In 2011 and 2012, Maine did not conform to the bonus depreciation provisions, but instead required taxpayers to take depreciation as required under prior federal law. Taxpayers, however, were allowed to take the Maine Investment Credit equal to 10% of the bonus depreciation amounts related to property placed in service in Maine. Taxpayers who chose to take this credit could not use the depreciation amounts that formed the basis of the credit.

Code Section 179 Expensing of Certain Depreciable Assets

Code section 179 allows a business to write off as an expense in the first year certain assets that must ordinarily be depreciated over several years. The dollar limitation for expensing under section 179 was scheduled to be \$125,000 for 2012 and \$25,000 for 2013, each subject to an adjusted for inflation. ATRA increased the expense limitation to \$500,000 for 2012 and 2013. Increased phase-out provisions also apply.

TABLE I

Conformity Item	Maine Law in 2013 without conformity (Current Maine law)	Maine Law in 2013 with conformity (Current federal law, Maine law if Maine conforms to recent federal law changes)
I. Individual Taxes		
Standard Deduction for married taxpayers	Married Joint: \$10,150 Married Separate: \$5,075	Married Joint: \$12,200 Married Separate: \$6,100
Personal Exemption Phaseout	Begins at \$178,150(S)/ \$267,200(MJ) /\$133,600(MS)/\$222,700(HH)	Begins at \$250,000(S)/ \$300,000(MJ)/ \$150,000(MS)/\$275,000(HH)
Itemized Deduction Phaseout	Begins at \$178,150(S,MJ,HH)/ \$89,075(MS)	Begins at \$250,000(S)/ \$300,000(MJ)/ \$150,000(MS)/\$275,000(HH)
Child and Dependent Care Tax Credit	Maine credit is based on the federal credit calculated with the following rules: <ol style="list-style-type: none"> 1) Maximum eligible expenses are \$2,400 for one child and \$4,800 for two or more children; 2) The maximum credit percentage is 30% and is reduced by one percentage point for every \$2,000 of income above \$10,000 (but not below 20%) 	Maine credit is based on the federal credit calculated with the following rules: <ol style="list-style-type: none"> 1) Maximum eligible expenses are \$3,000 for one child and \$6,000 for two or more children; 2) The maximum credit percentage is 35% and is reduced by one percentage point for every \$2,000 of income above \$15,000 (but not below 20%)
Earned Income Tax Credit	Maine credit is based on the federal credit calculated with the following rules: <ol style="list-style-type: none"> 1) The credit phaseout for married taxpayers begins at \$17,530 2) The credit percentage for families with three or more children is 40% 	Maine credit is based on the federal credit calculated with the following rules: <ol style="list-style-type: none"> 1) The credit phaseout for married taxpayers begins at \$22,870 2) The credit percentage for families with three or more children is 45%
Teach Classroom Expense Deduction	No deduction allowed	\$250 deduction per educator for qualified classroom expenditures
Student Loan Interest Deduction	Only interest paid during the first 60 months is eligible for the deduction; Phaseout begins at \$40,000/\$60,000(MJ); voluntary payments of interest are not deductible	No time limitations; Phaseout begins at \$60,000/\$125,000(MJ); voluntary payments of interest are deductible
Qualified tuition deduction	No deduction allowed	Deduction allowed

TABLE I - Continued

Conformity Item	Maine Law in 2013 without conformity (Current Maine law)	Maine Law in 2013 with conformity (Current federal law, Maine law <i>if</i> Maine conforms to recent federal law changes)
II. Business Taxes		
Bonus Depreciation	No bonus depreciation	"Conform" by continuing a 10% credit on the bonus depreciation claimed on investments made in Maine
Section 179 Expensing	Maximum deduction: \$25,000. Investment limitation above which maximum deduction is reduced: \$200,000.	Maximum deduction: \$500,000. Investment limitation above which maximum deduction is reduced: \$2,000,000.
Note: MJ=Married Joint, MS=Married Separate, S=Single, and HH=head of household		