

# MAINE CORPORATE INCOME TAX 2021 FORM 1120ME INSTRUCTIONS

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## QUESTIONS?

C Corporation Income Tax	(207) 624-9670 - <i>Weekdays 9:00 am to 12:00 pm</i>	Email: <a href="mailto:corporate.tax@maine.gov">corporate.tax@maine.gov</a>
S Corporations, Partnerships	(207) 624-9670 - <i>Weekdays 9:00 am to 12:00 pm</i>	Email: <a href="mailto:partner-scorp.tax@maine.gov">partner-scorp.tax@maine.gov</a>
Individual Income Tax	(207) 626-8475 - <i>Weekdays 9:00 am to 12:00 pm</i>	Email: <a href="mailto:income.tax@maine.gov">income.tax@maine.gov</a>
Withholding Tax	(207) 626-8475 - <i>Weekdays 9:00 am to 12:00 pm</i>	Email: <a href="mailto:withholding.tax@maine.gov">withholding.tax@maine.gov</a>
Sales Tax	(207) 624-9693 - <i>Weekdays 9:00 am to 12:00 pm</i>	Email: <a href="mailto:sales.tax@maine.gov">sales.tax@maine.gov</a>
To order forms	(207) 624-7894 - Every day, 24 Hours	

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

**Tax violations hot line:** (207) 624-9600 Call this number or send an email to [MRS.TAXTIP@maine.gov](mailto:MRS.TAXTIP@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.

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## MAINE REVENUE SERVICES MISSION STATEMENT

The mission of Maine Revenue Services is to fairly and efficiently administer the tax laws of the State of Maine, while maintaining the highest degree of integrity and professionalism.

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## MAINE REVENUE SERVICES PRIVACY POLICY

Maine Revenue Services (“MRS”) maintains the highest standards in handling personally identifiable taxpayer information. Taxpayers have the right to know what information is kept on file about them, to have reasonable access to it, and to receive a copy of their file. Under penalty of law, employees and agents of MRS are prohibited from willfully inspecting information contained on any tax return for any purpose other than the conduct of official duties. In addition, MRS employees and agents are prohibited from disclosing tax information to anyone other than the taxpayer except in a limited number of very specific circumstances. No unassociated third parties may receive information pertaining to tax returns without written permission from the affected taxpayer except as allowed under 36 M.R.S. § 191. Communications that do not meet the definition of tax information are subject to the general confidentiality and public inspection provisions of Maine’s “Freedom of Access” laws. When confidential taxpayer information is stored by MRS, it is kept in a secure location where it is accessible only to authorized employees and agents of MRS. If you have any questions regarding the Privacy Policy, please contact MRS at (207) 626-8475.

## Corporations Required to File

**Corporations subject to income tax:** Every entity subject to tax as a corporation (including exempt organizations with unrelated business income and captive insurance companies) must file Form 1120ME and pay the applicable Maine corporate income tax if it meets the following criteria:

1. The entity is required to file a federal corporate or unrelated business income tax return; and
2. The entity realizes Maine net income.

**Maine net income.** Maine net income is the taxpayer's federal taxable income (see Specific Instructions, Line 1) modified by Maine law and apportionable to Maine. A corporation is subject to tax if the business has nexus with Maine.

**Nexus:** Nexus refers to a sufficient connection with a jurisdiction to subject the corporation to taxation. Nexus is generally created by conducting business, or by owning or using property, within the taxing jurisdiction. For additional information, see MRS Rule 808 at [www.maine.gov/revenue/publications/rules](http://www.maine.gov/revenue/publications/rules).

**Note:** For tax years beginning after 2021, certain safe-harbor nexus thresholds apply. For more information, see 36 M.R.S. § 5200-B and MRS Rule 808.

**Conducting business in Maine.** Without limitation, a corporation conducts business in Maine if it engages in any of the following activities in this state:

1. Maintains an office or other place of business;
2. Executes a contract;
3. Exercises or enforces contract rights;
4. Buys, sells or procures services or property; or
5. Employs labor.

**Owning or using property.** Without limitation, a corporation owns or uses property in Maine if it:

1. Owns property that is held by another person in this state under a lease, consignment or other arrangement;
2. Uses in this state property that it holds under a lease, license or other arrangement; or
3. Maintains a stock of goods in this state.

**Exception for certain activities under U.S. Public Law 86-272.** A foreign corporation that does business in Maine or owns or uses property in Maine is not subject to Maine income tax if its only activities in Maine are exempt under U.S. P.L. 86-272 (15 U.S.C. §§ 381-384).

**a. Solicitation activities.** P.L. 86-272 precludes Maine from imposing a tax on the income of a foreign corporation if the sole activity of the corporation in this state is the solicitation by the corporation's representatives (in the name of the corporation or in the name of a prospective customer) of orders for the sale of tangible personal property, provided that the orders are sent outside of Maine for approval or rejection, and provided that the orders are filled by shipment or delivery outside of Maine.

**Limitations.** P.L. 86-272 restricts a state's tax jurisdiction with respect to sales solicitation activities only if the taxpayer's activity is limited to solicitation of orders for the sale of tangible personal property. P.L. 86-272 does not afford protection in any of the

following circumstances:

1. A combination of solicitation activities and non-solicitation activities in Maine;
2. The solicitation of orders for the sale or provision of services, either alone or in combination with the solicitation of orders for tangible property. Some examples of the combined sale of services and tangible personal property are photographic development and the provision of architectural or engineering services; and
3. The solicitation of orders for the sale, lease, rental, license or other disposition of real property or intangibles.

**b. De minimis activities.** Non-solicitation business activities conducted by a corporation in Maine will not subject the corporation to taxation if the activities, taken together, are de minimis.

For additional information, see MRS Rule 808 at: [www.maine.gov/revenue/publications/rules](http://www.maine.gov/revenue/publications/rules).

**Corporations not subject to Maine corporate income tax:** The following corporations are not subject to Maine corporate income tax:

1. S corporations (except those with federal taxable income at the corporate level, see instructions below);
2. Insurance companies that are subject to, or would be subject to, tax under 36 M.R.S. §§ 2512 - 2536 (insurance premiums tax, and fire investigation and prevention tax), except insurance companies that operate HMOs and captive insurance companies (see 36 M.R.S. §§ 5102(6) and 5202-C);
3. Banking institutions subject to the Maine franchise tax (see b below); and
4. Corporate **small business investment companies**, licensed under the United States Small Business Investment Act of 1958 that are commercially domiciled in Maine and do business primarily in Maine.

**a. Limited liability companies.** Maine law allows for the formation of limited liability companies ("LLCs"). A domestic LLC or foreign LLC doing business in Maine is classified as a partnership for Maine income tax purposes, unless classified otherwise for federal income tax purposes, in which case the LLC is classified in the same manner for Maine income tax as for federal income tax purposes.

**b. Banking institutions subject to the Maine franchise tax.** Every corporation that is a financial institution (except a credit union), any service corporation or subsidiary as defined in 9-B M.R.S. § 131 and any financial institution holding company that is doing business in this state must file Form 1120B-ME and pay Maine franchise tax. This requirement also applies to any financial institution organized as an S corporation, partnership or entity disregarded as separate from its owner. **Do not use Form 1120ME.** Franchise tax Form 1120B-ME and instructions are available at: [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms).

**Filing requirements for S corporations:** S corporations that incur federal taxable income (such as certain capital gains and certain built-in gains) at the corporate level are required to file Form 1120ME and report only the income that is taxed at the corporate level for federal purposes.

## General Instructions

MRS uses optical scanners to process Form 1120ME and applicable schedules. Forms and schedules cannot be altered in any way; changes cannot be detected when scanned. Any box left blank will be read as zero. Do not use the null sign (Ø).


**1. Date for filing return:** Corporations reporting for calendar year 2021 are required to file, with payment, on or before April 19, 2022. Generally, fiscal year taxpayers are required to file, with payment, on or before the 15th day of the fourth month following the close of the entity's taxable year. However, taxpayers with a fiscal year ending June 30th are required to file by September 15th. Tax exempt entities with unrelated business income filing federal Form 990-T, home owners associations filing Form 1120-H, or certain cooperative associations filing Form 1120-C are required to file Maine Form 1120ME and pay the related tax by the 15th day of the fifth month following the close of the taxable year.

**2. Extensions for filing:** A Maine extension request form is not required. If a taxpayer is unable to file by the original due date of the return, Maine allows an automatic extension equal to any federal extension or 6 months, whichever expires later.

**Caution: An extension to file a Maine return is not an extension to pay any tax due. The automatic extension is only effective if the return is filed within the extension period.**

If tax is due, the taxpayer must pay at least 90% of that amount by the original due date for filing the return. The remaining amount due must be remitted with the return by the extended due date to avoid the failure-to-pay penalty. Interest will be charged on any tax paid after the original due date of the return. Remit any estimated tax with the Maine Extension Tax Payment Voucher for Corporations (Form 1120EXT-ME) by the original due date for filing the Maine return to: Maine Revenue Services, P.O. Box 9101, Augusta, ME 04332-9101.

**3. Payment of corporate income tax:** All corporations subject to income taxes must make payments of estimated tax unless the liability for the current taxable year or for the prior tax year reduced by allowable credits is less than \$1,000. A unitary business that will be filing a single return must make payments, including estimated payments under the corporate name and FEIN of the corporation that will be filing Form 1120ME for the year. Equal installments of estimated tax are due throughout the tax year. Payments can be made electronically or download Form 1120ES-ME at [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) or call (207) 624-7894.

 **4. Electronic payments:** Any person with a combined tax liability to Maine of \$10,000 or more **for all tax types** during the most recent lookback period ending during the prior calendar year is required to remit all Maine tax payments electronically using the Maine Tax Portal at <https://revenue.maine.gov/> (Maine EZ Pay, ACH debit or ACH credit method). Maine EZ Pay is a web-based payment system available on the Maine Revenue Services website. ACH debit payments may be made by including the taxpayer's banking information with an electronically filed return. The ACH credit system allows taxpayers to contact their bank and initiate a payment to MRS. ACH credit payments require pre-registration with MRS. To obtain an ACH credit application, a copy of Rule 102 - Electronic Funds Transfer, or for more information, go to [www.maine.gov/revenue](http://www.maine.gov/revenue), call (207) 624-5625 or write: EFT Unit, Maine Revenue Services, P.O. Box 1060, Augusta, ME 04332-1060.

**Penalty for failure to pay by electronic funds transfer.** Any person required to pay by electronic funds transfer who fails to do so is liable for a penalty equal to the lesser of 5% of the tax due or \$5,000.

**Penalty for insufficient funds.** The penalty for insufficient funds also applies to electronic funds transfers. The penalty is \$20 or 1% of the payment amount, whichever is greater.

**5. Interest:** Interest will be added each month on overdue tax until the entire amount is paid. For calendar year 2022, the interest rate is 5%, compounded monthly.

### 6. Penalties:

**a. Underpayment of estimated tax penalty.** For calendar year 2021, the penalty is 5%, compounded monthly. The penalty rate for calendar year 2022 is 5%, compounded monthly. The penalty will be assessed if the required quarterly installment payments are not made. The sum of quarterly estimated tax payments must be at least equal to the lesser of the previous year's Maine income tax liability or 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. See instructions for Form 1120ES-ME.

**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 amount of 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 a maximum of 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.

**7. Accounting period covered by return:** The taxpayer's Maine return covers the same accounting period as the federal corporate return. If the taxable years of the members of a unitary business group differ, see the instructions for Form CR titled "Differing year-end dates."

**8. Accounting methods:** A taxpayer's accounting method for Maine income tax purposes must be the same as that used for federal income tax purposes.

### 9. Additional information and forms to accompany state return:

**Note:** Due to scanner requirements, supporting documents must be submitted on paper - electronic media will be destroyed.

**a.** The Maine corporate income tax return must be accompanied by a legible copy of the corporation's federal return, Form 1120, pages 1 through 6, for the same taxable period. If the corporation is a member of a federal consolidation, the federal return, Consolidated Form 1120, pages 1 through 6, must be provided.

**b.** Corporations subject to Maine corporate income tax that are members of an affiliated group as defined under 36 M.R.S. § 5102(1-B), and operating in a unitary business, must complete and attach Form CR, along with an affiliation schedule. Exempt organizations, homeowners associations, and cooperative associations filing the Maine corporate income tax return, Form 1120ME, must attach a legible copy of the corporation's federal return, Form 990-T, Form 1120-H, or Form 1120-C.

## General Instructions - continued

c. Corporations that own interests in pass-through entities should check the appropriate box on page 1 of Form 1120ME and provide the FEIN of the related pass-through entity. If more than one pass-through entity is owned by the corporation, attach an additional sheet listing each pass-through entity and FEIN.

**10. Federal audit changes and amended returns:** A taxpayer must file a Maine amended return within 180 days after final determination of any change or correction by the Internal Revenue Service to federal taxable income. Attach a copy of the Internal Revenue Agent's report with all supporting schedules to amended Form 1120ME and complete Schedule X.

A taxpayer filing an amended federal income tax return including a return or similar report filed pursuant to IRC § 6225(c) (2) must, within 180 days, file an amended Maine income tax return with a copy of federal Form 1120X and other supporting documentation. When filing a return that reflects a federal net operating loss carryback, a copy of federal Form 1139 must be attached.

In addition, an amended Maine income tax return is required to correct errors on a previously filed return. The amended return

must be filed within 180 days of the discovery of the error.

When filing an amended Maine corporate income tax return, Schedule X must be completed to report any change on Form 1120ME or associated schedules.

**11. Maine sales and use tax information:** Taxable items bought from out-of-state sellers that do not collect Maine sales tax of at least 5.5% are subject to a use tax. The use tax equals 5.5% of the purchase price where no sales tax has been paid. If another state's sales or use tax has been paid on any purchase, that amount may be credited against the Maine use tax due on that purchase.

There is no use tax liability if the purchase would have been exempt if purchased in Maine. If registered for sales/use tax purposes, report the purchases on the applicable "Other Taxable Purchases" line of that return. Call (207) 624-9693 for more information about Maine use tax law.

**12. Overpayment offsets:** Maine Revenue Services will offset tax overpayments, including those designated to be carried forward, in order to satisfy an existing debt with MRS or any other state agency.

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## Specific Instructions

**Note:** Use whole dollar amounts. Round down to the next lower dollar any amount less than 50 cents. Round up to the next higher dollar any amount 50 cents or more.

**Entity information:** Print or type the entity's name and current mailing address in the spaces provided. Provide current contact information in case MRS must contact you with questions regarding this filing.

**Federal Business Code:** Enter the entity's 6-digit principal business activity code from federal Form 1120, Schedule K, Line 2a.

**Amended return:** Check Box 2 if this is an amended return. Complete each line on Form 1120ME and all applicable schedules, even if the information has not changed from the original return or as most recently adjusted. Complete Schedule X to provide information about what you are amending. Instructions for Schedule X are on page 12.

**Line A. Federal consolidated income:** If the federal filing was part of a federal consolidated return, enter on this line the amount from federal Form 1120, line 30.

**Line 1. Federal taxable income:** Corporations: enter federal taxable income from federal Form 1120, line 30. Real Estate Investment Trusts ("REITs"): enter the taxable income amount from federal Form 1120-REIT, line 22. Homeowners associations: enter the taxable income from federal Form 1120-H, line 19. Tax Exempt Organizations: if entity reports an amount on federal Form 990-T, Part II, line 1, enter the unrelated business taxable income from federal Form 990-T, line 11. Cooperative associations: enter the taxable income amount from federal Form 1120-C, line 27. Check the box in the upper right corner of Form 1120ME.

For amended returns, federal net operating losses, including carrybacks and carryforwards, are reflected in the federal taxable income reported on line 1. If the Maine amended return being filed is due to federal NOL carrybacks or carryforwards, a copy of federal Form 1139 or Form 1120X and a schedule that reflects, from year

to year, the use of the federal NOL carryback or carryforward and related income modifications described below must be attached to the return. A corporation included in a federal consolidated return filing a separate Maine return that carries back a loss for Maine purposes that differs from the federal NOL carryback must complete and attach to the Maine amended return a pro forma federal Form 1139 (or similar schedule containing all of the information required by federal Form 1139) to support the amount of NOL deduction being claimed for Maine purposes. Clearly mark the form "Maine pro forma."

For more information on Maine's treatment of NOLs, see [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) (select Income Tax Guidance Documents).

For S corporations, enter the corporate level federal taxable income. Corporations that are members of an affiliated unitary business group should refer to the combined reporting instructions pages 13 and 14. A corporation that has nexus with Maine and is an affiliate in a federal consolidated filing, but not a member of a unitary business group, must enter federal taxable income that is solely attributable to the corporation.

### Subtractions from federal taxable income

**Line 2a. Nontaxable interest:** Enter interest on U.S. bonds, U.S. Treasury notes or other obligations of the U.S. government which, by law, are exempt from state taxes, but taxable by the federal government. Include interest from bonds issued by the State of Maine or Maine municipalities: interest from bonds issued by an airport authority chartered in accordance with Maine Title 6, Chapter 10; and interest income and capital gains from the sale of bonds issued by the Maine Waste Management Agency to the extent included in federal taxable income. The amount entered on this line must be reduced by the amount of expenses attributable to the nontaxable interest income and capital gains.

**Line 2b. Foreign dividend gross-up:** Enter the amount from federal Form 1120, Schedule C, line 18, column (a).

## Specific Instructions - continued

**Line 2c. Work Opportunity Credit and Empowerment Zone Credit deductions:** Enter on this line the amount of salaries and wages expense deduction directly related to claiming the Work Opportunity Credit or Empowerment Zone Credit. These amounts are reported on federal Form 5884, line 2 or Form 8844, line 2, if applicable. The amount from Form 8844 will also include wages related to the Renewal Community credit.

**Line 2d. Income not taxable under the Constitution of Maine or the U.S.:** Enter income this state is prohibited from taxing under the Constitution or laws of the United States or the Constitution of the State of Maine, to the extent included in federal taxable income. The amount must not have otherwise been removed from federal taxable income and must be decreased by expenses incurred in the production of that income to the extent that the expenses are deductible in determining federal taxable income. Attach a worksheet detailing the amount claimed on this line. If these activities result in a net loss, that amount must be reported on this line. Put a minus sign (-) to the left of the amount to show a loss. Through this subtraction modification, any loss generated from activities Maine is prohibited from taxing will be added back to federal taxable income.

**Line 2e. Dividends from certain affiliated corporations:** Enter 50% of all apportionable dividends from affiliated corporations that are not included by the taxpayer in a Maine combined report, net of related expenses and deductions deducted in calculating federal taxable income. Dividends must be included in federal taxable income, line 1. In order to be affiliated, a corporation must be more than 50% owned. Although this may include domestic entities, most affiliated corporations not included in a combined report are foreign entities.

**Note:** This deduction may not be claimed with respect to deferred foreign income (Internal Revenue Code, Section 965), subpart F income (Internal Revenue Code, Section 952) or global intangible low-taxed income (Internal Revenue Code, Section 951A). See instructions for lines 2k, 2l and 2m below for deductions related to this income.

**Line 2f. Net operating loss recapture:** If the entity has a net operating loss for a tax year ending in 2001 or later that was carried back for federal purposes, but added back to income under 36 M.R.S. §§ 5200-A(1)(H) or 5200-A(1)(M), a deduction is allowed on this line equal to the amount of the income addition required for Maine income tax purposes. The deduction must be within the allowable NOL carryforward period plus the number of years the carryforward was denied under 36 M.R.S. §§ 5200-A(2)(H)(5) or 5200-A(2)(L)(5). The deduction cannot reduce Maine taxable income to less than zero and must not have been previously used as a subtraction modification. You must include Schedule NOL with your return.

If the entity has a net operating loss carryforward that was limited under 36 M.R.S. § 5200-A(1)(U) for the tax year beginning in 2008 or denied under 36 M.R.S. § 5200-A(1)(V) for tax years beginning in 2009 through 2011, a deduction is allowed on this line equal to the amount of the income addition required for Maine income tax purposes. The deduction must be within the allowable NOL carryforward period plus the number of years the carryforward was limited or denied under 36 M.R.S. §§ 5200-A(1)(U) or 5200-A(1)(V) and 5200-A(2)(T). The deduction cannot reduce Maine taxable income to less than zero and must not have been previously used as a subtraction modification.

For more information on Maine's treatment of NOLs, see [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) (select Income Tax Guidance Documents).

**Line 2g. Income from ownership in pass-through entity financial institutions:** Financial institutions are subject to Maine's franchise tax, regardless of organizational structure. If federal taxable income includes income from ownership of a financial institution that is a pass-through entity (partnership, LLC, S corporation, or an entity disregarded as separate from its owner), enter the income from that financial institution on this line. Attach federal Schedule K-1 reporting this amount.

**Line 2h. State income tax refunds:** Enter the amount of state income tax refunds included in federal taxable income, provided the amount has already been taxed by Maine. This modification may not reduce federal taxable income to less than zero, and the amount refunded from this state or another state must not have been previously used as a modification. Any unused portion of the modification may be carried forward 20 years.

**Line 2i. Bonus depreciation/Section 179 expense recapture:** Addition modifications under 36 M.R.S. §§ 5200-A(1)(N), 5200-A(1)(T), 5200-A(1)(Y)(2), 5200-A(1)(AA)(2), 5200-A(1)(BB)(2) and 5200-A(1)(CC)(2) relating to federal bonus depreciation and Internal Revenue Code, Section 179 expenses are allowed to be recaptured as follows:

**a. 2020 – 2021 Property.** Property placed in service in 2020 through 2021 is not subject to a section 179 expense addition modification. For property placed in service during a tax year beginning on or after January 1, 2020, the bonus depreciation addition modification under 36 M.R.S. § 5200-A(1)(CC) may be recaptured in future tax years over the life of the asset, including the addition modification amount related to property for which the Maine capital investment credit was claimed.

**b. 2011 – 2019 Property.** Property placed in service in 2011 through 2019 is not subject to a section 179 expense addition modification. Property placed in service in Maine in 2011 through 2019 for which the Maine capital investment credit was claimed is not eligible for a recapture of the addition modification under 36 M.R.S. §§ 5200-A(1)(Y)(1), 5200-A(1)(AA)(1), 5200-A(1)(BB)(1) and 5200-A(1)(CC)(1). Addition modifications under 36 M.R.S. §§ 5200-A(1)(Y)(2), 5200-A(1)(AA)(2), 5200-A(1)(BB)(2) and 5200-A(1)(CC)(2) for property placed in service in 2011-2019 are recaptured beginning in the year after the property is placed in service. The recapture amounts are equal to the difference between the depreciation that would have been claimed for that year if no first-year bonus depreciation had been claimed and the actual federal depreciation claimed for that property. A full recapture of any remaining bonus depreciation addition modification is allowed in the year of disposition of the asset.

**c. 2008 – 2010 Property.** Section 179 expense addition modifications under 36 M.R.S. § 5200-A(1)(N) for property placed in service in 2008 through 2010 are recaptured over the asset life of the property. In the year after the property was placed in service, 5% of the related addition modification may be recaptured. The remaining 95% of the addition modification is recaptured in equal installments over the remaining asset life, beginning two years after the property was placed in service. Bonus depreciation addition modifications under 36 M.R.S. § 5200-A(1)(T) for property placed in service in 2008 through 2010 are recaptured in the same manner as for property placed in service in 2011 and 2012.

## Specific Instructions - continued

**d. 2007 Property.** Section 179 expense addition modifications under 36 M.R.S. § 5200-A(1)(N) for property placed in service in 2007 are recaptured over the asset life of the property. In the year after the property was placed in service, 5% of the related addition modification may be recaptured. The remaining 95% of the addition modification is recaptured in equal installments over the remaining asset life, beginning two years after the property was placed in service. Property placed in service in 2007 is not subject to a bonus depreciation addition modification and, therefore, there is no related recapture.

**e. 2003 – 2006 Property.** Section 179 expense and/or bonus depreciation addition modifications under 36 M.R.S. § 5200-A(1)(N) for property placed in service in 2003 through 2006 are recaptured in the same manner as for property placed in service in 2008 through 2010.

**f. 2002 Property.** Bonus depreciation addition modifications under 36 M.R.S. § 5200-A(1)(N) for property placed in service in 2002 are recaptured in equal installments over the asset life of the property, beginning two years after the property was placed in service.

For more information and examples, see [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) (select Income Tax Guidance Documents).

**Line 2j. Medical marijuana business expenses:** Eligible registered caregivers and registered dispensaries may claim a deduction for expenses related to carrying on a trade or business, in an amount equal to the deduction that would otherwise be allowable for Maine purposes to the extent the deduction was disallowed under Internal Revenue Code, Section 280E. Include the federal return, Form 1125-A, and the profit and loss statement showing the computation of cost of goods sold and the allocation of expenses between marijuana and non-marijuana income.

**Line 2k. 50% of apportionable subpart F income:** To the extent included in federal taxable income, enter an amount equal to 50% of the apportionable subpart F income (as defined by Internal Revenue Code, Section 952), net of related expenses and deductions.

**Line 2l. 80% of apportionable deferred foreign income:** If applicable, enter an amount equal to 80% of the apportionable deferred foreign income (also known as deemed repatriated income or Internal Revenue Code, Section 965 income), to the extent included in federal gross income under Internal Revenue Code, Section 965(a) and as reduced by the federal earnings and profits deficit deduction under Internal Revenue Code, Section 965(b). Generally, this will be 80% of federal Form 1120, Schedule C, line 15, column (a).

**Line 2m. 50% of Global Intangible Low-Taxed Income (GILTI):** Enter the amount equal to 50% of the apportionable global intangible low-taxed income that the taxpayer included in federal gross income during the taxable year in accordance with Internal Revenue Code, Section 951A, net of related expenses and other related deductions deducted in computing federal taxable income. Generally, this will be 50% of federal Form 1120, Schedule C, line 17, column (a).

**Line 2n. Northern Maine Transmission Corporation adjustment:** Bonds, notes, other evidences of indebtedness; interest and profits

from bonds, notes, other evidences of indebtedness; and any other income or money of the Northern Maine Transmission Corporation are exempt from state income tax.

**Line 2o. Gain on sale of multifamily affordable housing:** This modification equals the total of capital gains and ordinary income resulting from depreciation recapture pursuant to Internal Revenue Code, Sections 1245 and 1250 realized on the sale of multifamily affordable housing property. Qualified property must be certified by the Maine State Housing Authority (“MSHA”). A copy of the MSHA certificate must be attached to the return.

**Line 2p. Seed capital investment tax credit:** Enter on this line, to the extent included in federal taxable income the corporation’s share of any refundable portion of the Seed Capital Investment Tax Credit under 36 M.R.S. § 5216-B received by, or from, a private venture capital fund.

**Line 2q. Gains from sale of timberlands:** This modification is equal to a portion of the gain realized on the sale of eligible timberlands held by the taxpayer for at least a ten-year period beginning on or after January 1, 2005. The modification is limited to the amount included in federal taxable income and may not reduce Maine taxable income to less than zero; however, unused portions may be carried forward for up to ten years. For deduction rates, see 36 M.R.S. § 5200-A(2)(P).

**Line 2r. New markets capital investment credit:** Enter on this line any income recognized from the new markets capital investment credit under 36 M.R.S. § 5219-HH included in federal taxable income.

**Line 2s. Charitable contributions recapture:** Addition modifications previously required on Form 1120ME for cash contributions greater than 10% of federal taxable income and for qualified food contributions greater than 15% of federal taxable income may be recaptured in taxable years beginning after January 1, 2020 and before January 1, 2025. The amount subtracted may not reduce Maine taxable income below zero and may not have been previously used to reduce Maine income.

**Line 2t. Business interest deduction recapture:** For tax years beginning on or after January 1, 2021, the amount of business interest deduction previously disallowed for Maine tax purposes and required to be added-back under 36 M.R.S. § 5200-A(1)(GG) may be recaptured up to 25% per taxable year, to the extent that Maine taxable income is not reduced below zero and the amount has not been previously used to reduce Maine taxable income.

**Line 2u. Other.** This line is reserved for future use, if needed. Do not enter an amount on this line, unless specifically instructed to do so.

### Additions to federal taxable income

**Line 3a. Income taxes imposed by Maine or any other state:** Maine does not permit a deduction for income taxes imposed by Maine or any other state. Enter income taxes taken as a deduction on federal Form 1120. However, to the extent claimed federally, Maine does not require the addition of the Ohio Commercial Activity Tax, the Texas Franchise Tax, or the portions of the Michigan Business Tax that are not based on income.

## Specific Instructions - continued

**Line 3b. Deferred foreign income:** To the extent not included in the federal taxable income amount reported on Form 1120ME, line 1, enter the corporation's share of the amount of federal deferred foreign income determined for the taxable year in accordance with Internal Revenue Code, Section 965(a), less the applicable amount of the earnings and profits deficit deduction under Internal Revenue Code, Section 965(b). Generally, this is the amount reported on federal Form 1120, Schedule C, line 15, column (a).

**Note:** Unlike federal law, Maine law does not allow an election to pay the Maine tax liability associated with deferred foreign income in annual installments.

**Line 3c. Participation exemption deduction add-back:** Enter the amount of the federal participation exemption deduction determined under Internal Revenue Code, Section 965(c) to the extent the amount was deducted in calculating the federal taxable income amount reported on Form 1120ME, line 1. Generally, this is the amount reported on federal Form 1120, Schedule C, line 15, column (c).

**Line 3d. Foreign-Derived Intangible Income (FDII) deduction add-back:** Enter the amount equal to the taxpayer's foreign-derived intangible income deduction claimed in accordance with Internal Revenue Code, Section 250(a)(1)(A), to calculate the federal taxable income amount reported on Form 1120ME, line 1. Generally, this is the amount reported on federal Form 8993, Part III, Line 28.

**Line 3e. Global Intangible Low-Taxed Income (GILTI) deduction add-back:** Enter the amount equal to the taxpayer's global intangible low-taxed income deduction claimed in accordance with Internal Revenue Code, Section 250(a)(1)(B), to calculate the federal taxable income amount reported on Form 1120ME, line 1. Generally, this is the amount reported on federal Form 8993, Part III, Line 29.

**Line 3f. Interest from state and municipal bonds other than Maine:** Corporations must increase federal taxable income by interest or dividends on obligations or securities of any state other than Maine, or of a political subdivision or authority of any state other than Maine, to the extent that interest or those dividends are not included in the taxpayer's federal taxable income.

**Line 3g. Net operating loss adjustment:** Enter on this line an amount equal to any net operating loss ("NOL") carryforward deduction claimed in this taxable year which has previously been used to offset Maine modifications to federal taxable income in accordance with 36 M.R.S. § 5200-A(1). For more information on Maine's treatment of NOLs, see [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) (select Income Tax Guidance Documents). For information regarding federal NOL carryback on Maine amended returns, see the instructions for line 1 on page 4.

**Bonus depreciation add-back:** Lines 3h and 3i relate to Maine's decoupling from the federal special depreciation deduction through Internal Revenue Code, Section 168(k), commonly known as bonus depreciation. To calculate the amount to enter on these lines, complete a pro forma federal Form 4562 as if no bonus depreciation had been claimed on the property placed in service in tax year 2021. The total addition modification is the difference between the federal depreciation claimed on Form 4562 and the depreciation calculated on the pro forma Form 4562. If any of the

property placed in service in tax year 2021 is located in Maine and the Maine capital investment credit is claimed, the total addition modification must be divided between lines 3h and 3i. Otherwise, the entire addition must be entered on line 3i. Enclose copies of the original and pro forma federal Forms 4562, along with the add-back calculation, with the return.

**Line 3h. Maine capital investment credit bonus depreciation add-back:** The Maine capital investment credit is available to businesses that place depreciable property in service in Maine during the taxable year. Enter on this line the portion of the bonus depreciation add-back calculated above relating to property for which the Maine capital investment credit is claimed, based on original basis of property placed in service in tax year 2021. For example, if the entity purchased \$400,000 of eligible property and \$100,000 of that property is located in Maine and included in the credit base, the portion of the add-back to include on this line is \$100,000/\$400,000 or 25% of the total bonus depreciation add-back calculated above.

Property that was transferred out-of-state or disposed of within 12 months after being placed in service in Maine is not eligible for the Maine capital investment credit. For property placed into service on or after January 1, 2020, amounts claimed on this line are eligible for the recapture subtraction modification on line 2i in future years.

**Line 3i. Bonus depreciation add-back:** Enter on this line the total bonus depreciation add-back calculated above less the amount of Maine capital investment credit add-back from line 3h. Amounts entered on this line are eligible for the recapture subtraction modification on line 2i in future years.

**Line 3j. Losses, expenses, or deductions from ownership interest in financial institutions:** All financial institutions are subject to Maine's franchise tax, regardless of the entity's organizational structure. If federal taxable income includes a loss, expense or deduction from ownership of a financial institution that is a pass-through entity (partnership, LLC, S corporation, or an entity disregarded as separate from its owner), enter the amount on this line. Attach federal Schedule K-1 to verify this amount.

**Line 3k. Wellness programs credit add-back:** Federal taxable income must be increased by the amount of qualified wellness program expenditures used as a basis for calculating the credit under 36 M.R.S. § 5219-FF that are also claimed as a business expense in calculating federal taxable income.

**Line 3l. Business meals deduction add-back:** The federal Consolidated Appropriations Act, 2021, temporarily removed the 50% limitation on business meals expenses incurred after December 31, 2020. For Maine income tax purposes, business meals expenses over the 50% limitation may not be used to reduce Maine taxable income. Enter the difference between the allowable business meals deduction entered on federal Form 1120, line 26 and the business meals deduction calculated using the 50% limitation.

**Line 3m. Other:** This line is reserved for future use, if needed. Do not enter an amount on this line, unless specifically instructed to do so.

## Specific Instructions - continued

**Line 5. Gross tax:** For tax years beginning in 2021, the Maine corporate tax is computed as follows.

If adjusted federal taxable income is:

Greater than	But not over	The gross tax is:
\$0	\$350,000	3.5% of adjusted federal taxable income
350,000	1,050,000	\$12,250 plus 7.93% of the excess over \$350,000
1,050,000	3,500,000	\$67,760 plus 8.33% of the excess over \$1,050,000
3,500,000	or more	\$271,845 plus 8.93% of the excess over \$3,500,000

**Line 6a. Maine corporate income tax:** A corporation that is not part of an affiliated unitary business group and has income solely from business activity within Maine must enter the amount from line 5 on line 6a. A corporation having income from within and outside the state must apportion tax on Schedule A and enter on this line the amount shown on line 5 of Schedule A. All corporations that are members of a unitary business group must also complete Form CR. See instructions for combined reporting on page 13.

**Line 6b. Credit recapture:** Enter the sum of recapture amounts from the Seed Capital Investment Tax Credit Worksheet line 12c plus Credit for Rehabilitation of Historic Properties Worksheet, Part B, line 5.

**Lines 7a and 7b. Estimated and extension payments:** Enter estimated tax payments and extension payments made for the tax year. If claiming real estate withholding payments on line 7a, Form REW-1-1120 must be attached. Include on line 7a any overpayment carried over from previous years and applied to this year.

**Line 7d. Income tax withheld:** Enter the amount of withholding credited to the corporation through the Maine pass-through entity withholding requirement, and/or the amount withheld from certain gambling winnings. The amount claimed on this line must be substantiated by the attachment of a year-end Form 1099ME issued by the pass-through entity, and/or a copy of Form W-2G.

**Lines 7e and 7f.** Complete these lines only if this is an amended return:

**7e. Payments:** enter payment made with the original return and any payments made after the return was filed.

**7f. Overpayments:** enter any overpayment on the original return or as previously adjusted.

**Line 9. Penalty for underpayment of estimated tax:** If the estimated tax was underpaid, complete and attach Form 2220ME to this return. A copy of Form 2220ME is available at: [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms).

**Line 12a. Amount of Line 11 to be credited:** Use this line only if all or part of the overpayment on line 11 will be applied as a payment to the next year's estimated Maine corporate income tax. The payment will be applied to the next year as of the date a complete return listing the request was filed with Maine Revenue Services. This line may not be used when filing a return after the statute of limitations date for credits and refunds.

**Line 12b. Amount of Line 11 to be refunded:** Enter here the difference between lines 11 and 12a. Refunds of \$1.00 or more will be issued.

A refund may be directly deposited into a checking account (if it is \$20,000 or less). To comply with banking rules, the box to the left of line 12c must be checked if the refund is going to an account outside the United States. If the box is checked, we will mail a paper check to the address on file.

On line 12c, enter the 9-digit routing transit number (RTN). The RTN must begin with 01 through 12 or 21 through 32. If it does not, the direct deposit will be rejected and a refund check will be sent instead. If unsure what the RTN is, contact the taxpayer's financial institution.

On line 12d, enter the taxpayer's checking account number. The checking account number can be up to 17 digits long (both numbers and letters). Omit hyphens, spaces and special symbols.

**Paid Preparer Authorization:** Check the "Yes" box and complete this section if you would like to allow Maine Revenue Services to call or accept information from the paid preparer. This authorization only applies to the individual whose signature appears on the "Signature and Address of Preparer" line of the return. It does not apply to the firm, if any, shown on that line.

For the personal identification number (PIN), choose any 5-digit number which will be used to ensure MRS employees speak with only the individual you have designated. This authorization will automatically end on April 18, 2023.

**Important:** A return is incomplete and will not be considered a filed return unless all required attachments are included and all required lines and schedules (including Form CR) are completed. Pages 1 through 6 of the federal return must be attached to the Maine corporate return.



## Schedule A - Apportionment of Tax

**Note:** For tax years beginning after 2021, certain safe-harbor nexus thresholds apply. For more information, see 36 M.R.S. § 5200-B and MRS Rule 808.

Schedule A is for corporations engaged in interstate business. Maine employs a sales-factor formula to determine the percentage of corporate income tax that is apportioned to Maine. Generally, this percentage is derived from a fraction, the numerator of which includes the sales in Maine, and the denominator of which includes sales everywhere in the U.S. (36 M.R.S. §§ 5210-5211 and MRS Rule 801). To be included in the sales factor, gross receipts must give rise to adjusted federal taxable income included in the tax base. For unitary businesses filing a combined report, the sales factor must include all sales of the taxpayer and members of the affiliated group. Both the numerator and the denominator must exclude certain sales of tangible personal property to a state where the taxpayer is not taxable. Sales are not excluded if any affiliate with which the taxpayer conducts a unitary business is taxable in that state. Sales to the federal government are assigned to Maine and are included in the denominator. If the apportionment provisions do not fairly represent the extent of the taxpayer's business activity in Maine, the taxpayer may petition for, or the state tax assessor may require, another method for apportionment of the taxpayer's income tax.

"Tax period," referred to in the instructions for lines 1, 2 and 3, means the period represented by adjusted federal taxable income on Form 1120ME, line 4.

"Sales" means all gross receipts including trade sales, dividends, interest, rents and royalties. See MRS Rule 801.06. Sale of a partnership interest by a corporation engaged in multistate business activity is attributed to Maine to the extent of the ratio of the partnership's tangible property located in Maine to tangible property located everywhere, determined based on original cost. Receipts from sales, other than sales of tangible personal property, are generally sourced to the state of destination. See details under specific instructions below.

Corporations that are members of a unitary business group, see instructions for combined reporting on page 13.

A corporation that has an ownership interest in a pass-through entity must include its share of income and apportionment factor from that entity in the apportionment formula.

For amended returns, schedule A must be completed, even if the figures are not changing from the original, or as previously adjusted, return.

**Line 1. Total Sales:** The apportionment factor is a fraction, the numerator of which includes the total sales of the taxpayer in Maine during the tax period, and the denominator of which includes the total sales of the taxpayer everywhere in the U.S. during the tax period. For unitary businesses filing a combined report, the sales factor must include all sales of the taxpayer and members of the affiliated group. Both the numerator and the denominator must exclude certain sales of tangible personal property into a state where the taxpayer is not taxable, unless the sales are to the federal government. Sales into a state where the taxpayer is not taxable, however, are included if an affiliate with which the taxpayer conducts a unitary business is taxable within that state.

**Note:** Total sales must exclude income claimed as a deduction on Form 1120ME, line 2e (deduction for dividends from certain affiliates), income claimed as a deduction on Form 1120ME, line 2k for 50% of apportionable subpart F income and income claimed as a deduction on Form 1120ME, line 2l for 80% of apportionable deferred foreign income. Total sales must also exclude the deduction of 50% of the apportionable global intangible low-taxed income claimed on Form 1120ME, line 2m. However, 50% of the apportionable global intangible low-taxed income must, to the extent included in federal gross income, be used to calculate the Maine apportionment factor.

**Sales, other than sales of tangible personal property.** Receipts from sales, other than sales of tangible personal property, are generally attributed to the state where the services are received or where the property is located. Thus, sales, other than sales of tangible personal property, are attributed as follows:

**Services.** Generally, receipts from the performance of services are attributed to the state where the services are received. If the state where the services are received cannot be readily determined, the services are deemed to be received at the home of the customer or, in the case of a business, the office of the customer from which the services are ordered. If the office from which the services are ordered cannot be determined, the services are deemed to be received at the office to which the services are billed. Receipts from services rendered to the federal government are attributed to Maine if a greater proportion of the related income-producing activity is performed in Maine than in any other state, based on costs of performance. 36 M.R.S. § 5211(16-A)(A).

**Patents, copyrights, trademarks.** Receipts from the license, sale or other disposition of patents, copyrights, trademarks and other similar property are attributed to the state in which the property is used. Receipts are attributed to Maine if the taxpayer's commercial domicile is in Maine and is not taxable in the state in which the property is used. If the property is used in more than one state, the receipts associated with the property must be allocated to Maine based on the ratio of the property that was used in Maine. Receipts from the federal government and receipts attributable to a state in which the taxpayer is not taxable are attributed to Maine if a greater proportion of the related income-producing activity is performed in Maine than in any other state, based on costs of performance. 36 M.R.S. § 5211(16-A)(B).

**Real property.** Receipts from the sale, lease, rental or other use of real property are attributed to the state in which the property is located. 36 M.R.S. § 5211(16-A)(C).

**Tangible personal property.** Receipts from the sale of tangible personal property are attributed to Maine if the property is delivered or shipped to a purchaser, other than the U.S. government, in Maine regardless of F.O.B. point or other conditions of the sale. If the purchaser is the U.S. government, receipts from the sale of tangible personal property are attributed to Maine if the property is shipped from a location in Maine. 36 M.R.S. § 5211(16-A)(D). Both the numerator and the denominator must exclude certain sales of tangible personal property to a state where the taxpayer is not taxable. However, sales are not excluded if any affiliate with which the taxpayer conducts a unitary business is taxable in that state.

**Financial services.** Receipts from financial services are attributed to Maine as follows. 36 M.R.S. §§ 5211(16-A)(E) & 5206-E(2)(C-I).

## Schedule A - Apportionment of Tax Instructions - continued

**Loans:** Loan interest, including fees and penalties in the nature of interest from loans located in Maine, determined at the time of original agreement. Net gains from the sale of loans and loan servicing fees, based on the ratio of interest, fees and penalties from loans located in Maine to interest, fees and penalties from all loans.

**Credit cards:** Interest (including fees and penalties in the nature of interest) from credit card receivables and receipts from fees (such as annual fees) charged to credit card holders with billing addresses in Maine. Net gains from the sale of credit card receivables and credit card reimbursement fees, including related payment processing fees, based on the ratio of credit card interest, fees and penalties associated with Maine credit card holders to all credit card interest, fees and penalties. Receipts from merchant discount, including related payment processing fees, if the commercial domicile of the merchant is in Maine.

**Loan servicing fees attributed to Maine:** Loan servicing fees attributed to Maine are determined based on the ratio of interest, fees and penalties from loans located in Maine to interest, fees and penalties from all loans.

**Sale of partnership interest.** Gross receipts from the sale of a partnership interest is sourced to Maine by multiplying the gross receipts by the ratio of the original cost of the partnership's tangible property located in Maine to the original cost of the partnership's tangible property everywhere, determined at the time of the sale. A different ratio must be calculated if more than 50% of the value of the partnership's assets consists of intangible property. The foregoing allocation calculations do not apply to certain sales of interests in investment partnerships. 36 M.R.S. §§ 5211(16-A)(F) & 5142(3-A).

**Disaster assistance.** The numerator of the sales factor excludes the receipts of an entity if that entity's business activity in Maine is limited to services provided during a declared disaster at the request of state or local officials. 36 M.R.S. § 5211(16-B).

**Note:** Although payroll and property are no longer included in the Maine apportionment factor, this information is still being collected for a variety of purposes, including for statistical, audit and tax credit purposes.

**Line 2. Total Payroll:** Enter in column A total compensation paid in Maine during the tax period by the taxpayer, and enter in column B total compensation paid everywhere during the tax period. "Compensation" means wages, salaries, commissions, and any other form of remuneration to employees for personal services,

including deferred compensation. Compensation is paid in Maine if:

- (1) The individual's service is performed entirely within this state;
- (2) The individual's service is performed both within and outside Maine, but the service performed outside the state is incidental to the individual's service within Maine; or
- (3) Some of the service is performed in this state, the base of operations (or, if there is no base of operations, the place from where the service is directed or controlled) is not in any state in which some part of the service is performed and the individual's residence is in Maine.

**Payroll for leased and temporary employees.** The payroll totals must include 85% of amounts paid to an employee-leasing company for leased employees and 100% of amounts paid for temporary employees. Employee-leasing companies and temporary services companies will exclude from payroll compensation paid to leased or temporary employees who are providing personal services to client companies. However, amounts received from clients for leased or temporary employees must still be included in the line 1 apportionment factor calculation of the leasing or temporary services company.

**"Leased employee"** means an individual who performs services for a client company pursuant to a contract between the client company and an employee-leasing company.

**"Temporary services"** means employee services provided to client companies for a contractual period of less than 12 months. 36 M.R.S. § 5211(12).

**Line 3. Total Property:** Enter in column A the average value of the taxpayer's real and tangible personal property (including inventory) owned or rented and used in Maine during the tax period. Enter in column B the average value of all the taxpayer's real and tangible personal property (including inventory) owned or rented and used during the tax period.

Property owned by the taxpayer is valued at original cost. The average value of the property is determined by averaging the values at the beginning and end of the tax period, but the state tax assessor may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property. Property rented by the taxpayer is valued at eight times the net annual rental rate. 36 M.R.S. § 5211(9).

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## Schedule C - Tax Credits

**Tax Credit Worksheets.** Except for the minimum tax credit, which is calculated on Schedule D, a completed tax credit worksheet must be attached for each credit claimed. Tax credit worksheets may be downloaded from the MRS website. Go to [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) and select Worksheets for Tax Credits. Worksheets may also be ordered by calling (207) 624-7894.

**Amount Used.** For each credit, enter in the appropriate space the amount of credit claimed for this year. **The total amount of non-refundable credits on line 1s that may be used this year cannot exceed the tax liability on Form 1120ME, line 6c. Any amount of refundable credits on line 2e that exceeds the tax liability on Form 1120ME, line 6c, less other applicable credits will be refunded to the taxpayer.**

**Amended Returns.** This schedule must be completed even if the numbers have not changed from the original return, or as previously adjusted.

### Nonrefundable Credits.

**Line 1a. Seed capital investment tax credit:** If the taxpayer invested in a business that it does not own, a credit may be available through the Finance Authority of Maine. 36 M.R.S. § 5216-B.

**Line 1b. Jobs and investment tax credit:** For tax years beginning on or after January 1, 2016, this credit is available only for unused credit amounts carried forward from prior years. Unused credit amounts may be carried forward for up to six years from the tax year a credit was claimed. The total credit carryforward applied in any one tax year may not exceed \$500,000. 36 M.R.S. § 5215.

## Schedule C - Tax Credits - continued

**Line 1c. Employer-assisted day care credit:** For tax years beginning on or after January 1, 2016, this credit is available only for unused credit amounts carried forward from prior years. Unused credit amounts may be carried forward for up to 15 years from the tax year the credit was claimed. The credit carryforward is limited to the taxpayer's Maine tax liability excluding the alternative minimum tax. 36 M.R.S. § 5217.

**Quality child care investment credit:** For tax years beginning on or after January 1, 2016, this credit is available only for unused credit amounts carried forward from prior years. The credit carryforward is limited to the taxpayer's Maine tax liability. 36 M.R.S. § 5219-Q.

**Line 1d. Employer-provided long-term care benefits credit:** For tax years beginning on or after January 1, 2016, this credit is available only for unused credit amounts carried forward from prior years. Unused credit amounts may be carried forward for up to 15 years from the tax year the credit was claimed. The credit carryforward is limited to the taxpayer's Maine tax liability excluding the alternative minimum tax. 36 M.R.S. § 5217-C.

**Line 1e. Pine Tree Development Zone regular tax credit:** 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 1f. Maine capital investment credit:** If the taxpayer invested in property in Maine that was eligible for the federal bonus depreciation, the entity may be eligible for this credit. 36 M.R.S. § 5219-NN.

**Line 1g. Research expense tax credit:** If the business invested in research, it may qualify for this credit. 36 M.R.S. § 5219-K.

**Line 1h. Super credit for substantially increased research and development:** For tax years beginning on or after January 1, 2014, this credit is available only for unused credit amounts carried forward from prior years. Unused credit amounts may be carried forward for up to ten years. Use the credit worksheet to calculate the amount for this line. 36 M.R.S. § 5219-L.

**Line 1i. Minimum tax credit:** If the entity paid Maine alternative minimum tax in previous years, a minimum tax credit may be available. See Schedule D, line 1c and 36 M.R.S. § 5203-C(4).

**Line 1j. Employer family and medical leave credit:** 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 1k. Credit for educational opportunity:** An employer that pays student loans for a qualifying employee who received an associate, bachelor's or graduate degree may be eligible for this credit. 36 M.R.S. § 5217-D.

**Line 1l. Wellness program credit:** An employer with 20 or fewer employees that incurred expenses for developing, instituting and maintaining a wellness program may qualify for this credit. 36 M.R.S. § 5219-FF.

**Line 1m. 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 1n. 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 DEP. 36 M.R.S. § 5219-X.

**Line 1o. 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 1p. 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.

**Line 1q. Maine Life and Health Insurance Guaranty Association credit:** Attach supporting documentation. 24-A M.R.S. § 4621(2-A).

**Line 1r. Other nonrefundable credits:** For tax years beginning in 2021, this line is limited to a qualified applicant certified by the Department of Economic and Community Development claiming the tax credit for Maine shipbuilding facility investment. See 36 M.R.S. § 5219-RR.

**Line 1u. Allowable nonrefundable credits:** Total nonrefundable credits cannot exceed the amount of Maine Corporate Income Tax due plus any credit recapture amounts for the tax year. Combine this amount with the amount on line 2e and enter the total on Form 1120ME, line 7c.

### Refundable Credits

**Line 2a. Historic 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 2b. New markets capital investment credit:** The holder of a qualified equity investment certificate issued by the Finance Authority of Maine may be eligible for this credit. 36 M.R.S. § 5219-HH.

**Line 2c. Credit for affordable housing:** 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 2d. Other refundable credits:** For tax years beginning in 2021, this line is limited to a qualified applicant certified by the Department of Economic and Community Development claiming the credit for major business headquarters expansions. See 36 M.R.S. § 5219-QQ.

## Schedule X - Amended Return Information

This schedule may only be used to amend a 2021 Maine tax return

**Purpose of schedule:** A Maine amended return must be filed when there are changes or corrections that affect the taxpayer's liability.

For each credit claimed, a complete tax credit worksheet must be attached showing all calculations. Tax credit worksheets may be downloaded from the MRS website. Go to [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) and select Worksheets for Tax Credits. Worksheets may also be ordered by calling (207) 624-7894.

**Form to use:** Use Form 1120ME and Schedule X to amend Form 1120ME returns for tax years 2016 and later. To correct Form 1120ME or Form 1120A-ME returns for years 1991 through 2015, use a Form 1120X-ME applicable to the appropriate year. For years prior to 1991, use Form 1120ME for the year(s) prior to 1991 that are being amended and print or type "amended" in the upper left corner of the form. To obtain a form for the year being amended, go to [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms) or call (207) 624-7894.

**Attachments:** Attach copies of federal Form 1120X or the Internal Revenue Agent report to support changes shown on Maine Form 1120ME, Schedule X. In the event of a net operating loss, attach a copy of federal Form 1139 for each year being amended. For all amended returns, Schedules A through D must be completed, even if the amounts have not changed from the original return.

**Unitary groups:** For a unitary group filing a combined Maine return, the federal taxable income to be reported on line 1 of the Maine corporate return is the federal taxable income under the laws of the United States for the unitary group (MRS Rule 810). This is the amount shown on Form CR, line 11 as amended. All unitary business groups must complete Form CR.

**Combined reports:** Refer to the instructions for Form CR and combined reporting. A copy of Form CR must be attached to an amended Form 1120ME if the entity is a member of a unitary business group, even if no changes are being made.

**When to file:** Amended Maine income tax returns must be filed within 180 days of the final determination or of a change or correction of a federal filing or of the filing of an amended federal return or of an Internal Revenue Agent report. File an amended Form 1120ME along with Schedule X only after having filed an original return.

Generally, to receive a refund of taxes paid, an amended Maine return and all applicable schedules must be filed within three years after the date the original return was filed, or within three years after the date the tax was paid, whichever is later. This time limit does not apply when the Internal Revenue Service makes an adjustment that affects the taxpayer's liability.

**Line 1. Reason for change:** Check the appropriate box to identify the reason for filing this form:

- a) If an Internal Revenue Service audit change, attach a copy of the federal audit;
- b) If a net operating loss, attach a copy of federal Form 1139;
- c) If an amended federal Form 1120X, attach a copy of the federal amended return;
- d) If an accounting change, attach approval of acceptance from the Internal Revenue Service.

In all cases, attach a detailed written explanation of the requested changes.

**Line 2.** Provide detail to support changes made on amended Form 1120ME and all applicable schedules. Only include information on lines that changed from the original return or the return as most recently amended.

**Column A:** Enter the line number adjusted.

**Column B:** Enter the amounts from the return as originally filed or most recently amended. If the return was adjusted or audited by the State of Maine, enter the amounts as last adjusted.

**Column C:** Enter the net increase or net decrease for each line that is changed. Use a minus sign to the left of the number to indicate a decrease.

**Column D:** Combine the amounts in column b and column c and enter the result in column d.

**Note:** For tax years 2005 and later, the gross tax amount must be apportioned to determine Maine liability. For tax years 2007 and later, the Schedule A apportionment calculation is based completely on sales. Be sure to select the correct amended form for the year being amended. For more information, see instructions for Form 1120ME, lines 6 and 7a.

## Form CR - Unitary Business Combined Reporting

**Who must file a combined report (Form CR)?** Taxable corporations that are members of an affiliated group engaged in a multi-corporate unitary business must file a combined report based on the federal taxable income of the unitary business. See MRS Rule 810 for more information on combined reporting. Captive insurance companies are subject to corporate income tax and, therefore, must be included in the combined report. Corporations that are part of a unitary business, but are not required to file a federal income tax return, are excluded from the combined report.

The combined report must show which corporate members have nexus with Maine and it must include, both in the aggregate and by corporation, the federal taxable income, allowable adjustments, state modifications provided by 36 M.R.S. § 5200-A, and sales, payroll and property values in Maine and everywhere.

Maine defines affiliated group to mean a group of two or more corporations in which more than 50% of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, or by one or more of the member corporations.

Maine corporate income tax of a unitary business is determined by apportioning to Maine the gross tax of the unitary business. Maine utilizes a single sales factor apportionment formula.

**A unitary business** is one that is characterized by unity of ownership, functional integration, centralization of management and economies of scale. The cumulative effect of these characteristics is analyzed to determine if affiliated businesses are unitary.

**Centralized management** is achieved when directors, officers and/or other management personnel jointly participate in management decisions that affect the respective companies. Centralized management still exists when day-to-day management responsibilities are decentralized, as long as the overall strategy of the whole group is affected centrally. Other indicators of centralized management include managing to ensure that the business segments are operated for the benefit of the entire group and not just for their own individual interest, transferring knowledge and expertise among the segments, adhering to common standards of professionalism, profitability and/or ethical practices and transferring or rotating officers or other management employees among the business segments.

**Functional integration** refers to transfers between, or pooling among, business segments that significantly affect the business operations of the segments. There is no specific type of functional integration that must be present. Facts suggesting the presence of functional integration should be analyzed for their cumulative effect and not in isolation. Functional integration can be illustrated by: common marketing; intercompany sales; exchanges or transfers of products, services or intangibles; common distribution systems; and common purchasing.

**Economies of scale** exist when companies interact to achieve, or have the potential to achieve, a decrease in the cost of production or in the cost of administrative functions due to the increase in size of the interaction. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management.

A unitary determination is made by reviewing all the business activities of an affiliated group. A flow of value arising from these activities is indicative of multi-corporate unity.

To help determine whether a business operates in a unitary manner, a unitary business questionnaire is available at [www.maine.gov/revenue/tax-return-forms](http://www.maine.gov/revenue/tax-return-forms).

Select Corporate Income Tax under the Income/Estate Tax category. Also see MRS Rule 810 for additional information.

**Returns and payments:** Corporate members of unitary businesses may file a single combined return or separate corporate returns. A single combined return, if elected, must be filed in the name of the parent corporation if the parent is a member of the unitary business and has nexus with Maine. If there is no parent company or the parent company is not a member of the unitary business or does not have nexus with Maine, the unitary business must choose a Maine taxpayer member to file the return. Once selected, the filing member must remain the same in subsequent years unless changes in that member's ownership or nexus occur. A unitary business that will be filing a single return must make payments, including estimated payments, under the corporate name and FEIN of the corporation that will be filing Form 1120ME for the year. Unitary members who have nexus with Maine may file separate returns based on the combined report of the unitary business. A copy of the combined report (Form CR) must be attached to each of the separate returns. The apportionment factor of the unitary business is then used to compute the Maine income tax of the individual member filing a separate return. A unitary member that will be filing a separate return must make payments, including estimated payments, using its corporate name and FEIN.

Whether filing separately or as a group, the Maine tax liability must be calculated for all unitary members together. If filing separately, each member's tax liability is determined based on that member's share of the total liability.

The lower, preferential tax rates may be applied to a separate filer if agreed to by the entire unitary group. The remaining tax liability is then applied to the rest of the unitary group. A schedule showing the income tax assigned to each filer must be submitted with each return. Any tax credits generated by a taxable corporation engaged in the unitary business must be applied against the Maine income tax liability of that corporation only, unless otherwise permitted by law.

**Differing year-end dates:** Members of a unitary business with differing year-end dates must file using the filing member's taxable year to determine the adjusted federal taxable income of the unitary business. If the precise amount of a unitary member's income can be readily determined from the books for the months involved in the filing member's taxable year, those actual amounts are to be used. In the absence of a precise determination, the income of a unitary member must be converted to conform to the taxable year of the filing member on the basis of the number of months falling within the applicable tax year. For example, if the filing member operates on a calendar year and a unitary member includable in the combined report operates on a fiscal year ending on February 28th, it is necessary to assign 10/12 of that member's income from the current taxable year and 2/12 of the income from the preceding taxable year in order to arrive at a full twelve months' income to be included in the combined report (this method may be used only if the return can be timely filed after the member's taxable year ends). Alternatively, all of the income from the unitary member's taxable year ending during the taxable year of the filing member may be used. Whichever method for calculating adjusted federal taxable income is used, that method must be used for all years that the unitary member must file. Once the combined taxable income of the unitary business is determined on the basis of the filing member's tax year, the apportionment factor must be computed on the basis of the same tax year.

## Form CR - Specific Instructions

The combined report, when applicable, must be filed with Form 1120ME, as originally filed or amended. 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, both unitary and non-unitary.

### A. Purpose of form:

**Note:** Only unitary business group members are to be included on this form. Do not include affiliated non-unitary members on Form CR.

Form CR is used to calculate the taxable income under the laws of the United States (36 M.R.S. § 5102(8)) of a unitary business. Taxable income under the laws of the United States of a unitary business is:

(a) Separate federal taxable income as defined under federal consolidated regulations for each member of a unitary business that is a member of a single federal consolidated filing; plus

(b) Separate federal taxable income as defined under federal consolidated regulations for members of a unitary business that are members of other federal consolidated filings; plus

(c) Federal taxable income from the federal returns of the unitary members that are not members of a federal consolidated group; plus

(d) Adjustments for certain intercompany transactions between members of the unitary business.

### B. Combined reporting:

Corporations with taxable income under the laws of the United States that are members of an affiliated group engaged in a unitary business must file a combined report. Corporations that are members of a unitary business but are not required to file a federal return must be excluded from the combined report. This includes those corporations not required, but electing, to file a federal tax return.

“Affiliated group” means a group of two or more corporations of which more than 50% of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, or by one or more of the member corporations. 36 M.R.S. § 5102(1-B). A “unitary business” is a business engaged in activity that is characterized by unity of ownership, functional integration, centralization of management and economies of scale. 36 M.R.S. § 5102(10-A).

All corporations required to file federal returns that are part of a unitary business are required to be included in the combined report of any taxable corporation with Maine nexus, even if the affiliated corporation has no nexus with Maine.

### C. Column instructions:

**Column 1.** Check this box if the corporation listed in column 3 has nexus with Maine. See MRS Rule 808 for more information on Maine nexus.

**Column 2.** Check this box if the corporation in column 3 files sales tax returns with Maine.

**Column 3.** Enter the name and federal identification number of each member of the unitary business.

**Column 4.** Enter the separate federal taxable income under U.S. Treasury Regulation § 1.1502 of each member listed in column 3 that was part of a federal consolidated return (member's share of federal Form 1120, line 28). This information can be obtained from the supporting statement filed with federal Form 1120 for consolidated returns.

**Attach a copy of the supporting statement from the consolidated return.**

**Column 5.** Enter in column 5 each corporation's share of everywhere and Maine sales of the unitary business. Exclude sales of tangible personal property into a state where the taxpayer is not taxable. Do not, however, exclude sales if any affiliate with which the taxpayer conducts a unitary business, is taxable in that state. Enter the line 13 totals (after applying adjustments and eliminations on line 12) on Schedule A, line 1.

### D. Line instructions:

**Line 7.** Enter the total for column 4.

**Line 8.** Enter any adjustments or eliminations, deferrals and other modifications allowed under federal law and regulations. Include any intercompany transactions between corporations listed on this report if those transactions resulted in gains or losses. For transactions between unitary business members not part of the same consolidated filing, enter adjustments allowed under MRS Rule 810.03(D). Enter the amount on this line as a positive number. Do not include a minus sign or parentheses on this line.

**Attach a worksheet that details adjustments claimed on line 8.**

**Line 9.** Enter allowable special deductions for the unitary business (from federal Form 1120, line 29b). These deductions must be aggregated and adjusted, if necessary, in a manner consistent with federal consolidated filing requirements. Enter the amount on this line as a positive number. Do not include a minus sign or parentheses on this line.

**Line 10.** Enter the allowable NOL deductions for the unitary business. See MRS Rule 810.09 (allocation and uses of net operating losses). Enter the amount on this line as a positive number. Do not include a minus sign or parentheses on this line.

**Line 11.** Enter the total from column 4 minus the deductions on lines 8 through 10. If filing a single return, enter on this line and on Form 1120ME, page 1, line 1. This is the taxable income under the laws of the United States of the unitary business.

**See MRS Rule 810 for more information.**