

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 193
Chapter number/title: Ch. 102, Electronic Funds Transfer (EFT)
Filing number: 2021-140
Effective date: 7/4/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

MRS amends Rule 102 (“Electronic Funds Transfer (EFT)”) to make various clarification and formatting changes; to update certain processes related to mandatory EFT participation and the filing of payment-related forms; to update the EFT waiver provision of the rule to reflect modern banking practices; and to update the interest and penalties provision of the rule to better reflect how the waiver/abatement provisions in Title 36 apply to payment-related penalties.

Basis statement:

Rule 102 (“Electronic Funds Transfer (EFT)”) has been amended to make various clarification and formatting changes as well as the following substantive changes.

Section .02 (“Mandatory EFT Participation”) has been amended to provide that, effective January 1, 2022, the requirement to remit all Maine tax payments electronically for which an electronic processing method is provided by the State Tax Assessor applies automatically once a person has met the conditions to become subject to the requirement. Previously, the requirement only applied once the person had met the conditions and had been specifically notified by Maine Revenue Services (MRS) that they have met the conditions. The adopted changes also provide that a person who has not previously been required to make tax payments electronically pursuant to Rule 102 will be allowed until March 1st of the calendar year they first become subject to the requirement to come into compliance.

Section .05 (“Tax Returns”) has been amended to provide that payment of taxes by electronic funds transfer automatically eliminates the necessity of filing estimate, coupon, voucher, or other similar forms otherwise required by the State Tax Assessor. Previously, Rule 102 required MRS to specifically notify a taxpayer of which forms no longer need to be filed, and the taxpayer remained responsible for timely filing any forms not identified by MRS in such a notification.

In addition, the provision in section .06 (“Request for Waiver from Mandatory EFT Participation”) that previously provided that a waiver from mandatory EFT participation will generally be allowed if the taxpayer’s bank does not participate in ACH in any form has been removed. This change reflects modernization that has occurred in the banking industry since the provision was introduced.

Finally, section .11 (“Interest and Penalties”), subsection D (“Waiver or Abatement of Penalties”) has been amended to better reflect how the waiver/abatement provisions in Title 36 apply to payment-related penalties. Notably, these changes clarify that the insufficient funds penalty under 36 MRS §187-B(5) is not subject to waiver or abatement under 36 MRS §187-B(7).

Fiscal impact of rule:

None.

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 135
Chapter number/title: Ch. 103, Recordkeeping and Retention
Filing number: 2021-141
Effective date: 7/4/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Rule 103 (“Recordkeeping and Retention”) has been amended to make various clarification and formatting changes. In addition, section 9 of the rule (“Records retention—time period”) has been amended to reflect that, in addition to Title 36, Chapter 575, which was already referenced in that section, Maine’s law on the estate tax now also includes Title 36, Chapter 577, which was enacted after Rule 103 was last updated.

Fiscal impact of rule:
None.

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 193, 5220(7)
Chapter number/title: Ch. 104, Filing of Maine Tax Returns
Filing number: 2021-142
Effective date: 7/4/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Rule 104 (“Filing of Maine Tax Returns”) has been amended to make various clarification and formatting changes. In addition, section .01 (“Definitions”) and section .05 (“Mandatory participation – income tax withholding, competitive skills scholarship fund, and unemployment compensation insurance returns”) have been amended to reflect changes in Maine Revenue Services and Maine Department of Labor processes that have occurred since Rule 104 was last updated.

Fiscal impact of rule:
None.

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 201, 208, 305
Chapter number/title: Ch. 201, Rules of Procedure Used to Develop State Valuation
Filing number: 2021-127
Effective date: 6/17/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Amended Rule 201 clarifies current policy, adjusts for consistency, and incorporates technical changes.

The State Tax Assessor must annually perform state valuation for each municipality and for each county containing unorganized territory, to determine market value of all taxable property in the state. Municipal market values are used to calculate the distribution of municipal revenue sharing and State aid for education. Rule 201, authorized under 36 MRS §305, establishes the guidelines for the state valuation process.

Fiscal impact of rule:
(No response)

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §576
Chapter number/title: Ch. 202, Tree Growth Tax Law Valuations - 2021
Filing number: 2021-081
Effective date: 4/20/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

There is a statutory requirement that each year the State Tax Assessor determine the 100% valuation for an acre of forestland, according to forest type (softwood, mixed wood, or hardwood) by economic region for parcels classified under the *Tree Growth Law*. The State Tax Assessor must certify his determination and transmit rules to the municipal assessors of each municipality with forestland therein on or before April 1, of each year.

Basis statement:

Amended Rule 202 provides updated valuation rates for each forest type by region.

36 MRS §576 requires the State Tax Assessor to establish annually by rule current use valuations for classified forestlands after considering area timber stumpage sales during previous calendar years. Taxpayers with land classified under *Tree Growth Tax Law* and municipal assessors require guidance in appropriate valuation of forestland based on representative proportions of forest growth and products generated.

Fiscal impact of rule:

Annual establishment of values produces no additional cost to the State. The anticipated FY 2021-22 amount appropriated to reimburse anticipated municipal claims for “taxes lost” due to the use of Tree Growth Tax Law values on classified forestland is \$7,600,000.

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 310-314, 318
Chapter number/title: Ch. 205, Certification of Assessors (*Repeal and replace*)
Filing number: 2021-073
Effective date: 4/13/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Certification and the continuing education of property tax assessors in the State of Maine are the responsibility of the Bureau. Rule 205 (*Certification of Assessors*) governs the nature and timing of the certification examinations as well as the enforcement of the continuing education requirements established under 36 MRS §311. The Bureau has amended the rule to clarify and consistently use the terms “continuing education,” “advanced continuing education,” and “advanced assessor training.” The Bureau also removed the limitation on continuing education credit carryovers, which is rarely used and unnecessary. Other changes were made for clarification.

Fiscal impact of rule:
Minimal.

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 301, Sales for Resale and Sales of Packaging Materials
Filing number: 2021-061
Effective date: 3/15/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Rule 301 is being amended to reflect that MRS no longer issues a “provisional” resale certificate. Additionally, the language in the rule is clarified throughout to reflect that a sale for resale is not an “exemption,” but rather an exclusion from retail sale, and therefore sales tax need not be collected on such sales, provided the selling retailer receives the appropriate documentation from the purchaser.

Rule 301 establishes procedures for making sales for resale, certain sales to lessors and service providers, and sales of packaging materials without collecting sales tax, and sets forth requirements for certification of such sales.

Fiscal impact of rule:
None.

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 302, Sales to Governmental Agencies and Exempt Organizations
Filing number: 2021-062
Effective date: 3/15/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Rule 302 is being amended to specifically address the bureau's authority to periodically review exemption certificates and revoke certificates if needed.

Rule 302 establishes administrative rules regarding tax-exempt sales and explains the circumstances under which a retailer or service provider will be relieved of its burden of proving that sales to an entity described in Title 36 sections 1760 or 2557, including an agency or instrumentality of the federal government or of the State of Maine, are exempt from Maine sales, use, or service provider tax.

Fiscal impact of rule:
None.

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §112
Chapter number/title: Ch. 803, Income Tax Withholding Reports and Payments
Filing number: 2021-193
Effective date: 10/3/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule must be amended to clarify certain provisions, update definitions, and add new sections to account for various changes in law and processes.

Basis statement:

Maine Revenue Services (MRS) is amending Rule 803 “Income Tax Withholding Reports and Payments” (formerly, “Withholding Tax Reports and Payments”) to make various clarification and formatting changes. Specifically, MRS is making the following changes:

- MRS is changing the title of Rule 803 from "Withholding Tax Reports and Payments" to "Income Tax Withholding Reports and Payments."
- MRS is adding a definition of “foreclosure sale."
- MRS is adding a new subsection to section .03, "Persons required to withhold Maine income tax."
- MRS is updating subsection .07(E) of the rule to require a payer to electronically file annual Wage and Tax Statements and federal information statements with the Assessor when that payer is required to electronically file those forms with the Social Security Administration (for Form W-2) or with the IRS (for any type of Form 1099).
- MRS is updating section .08, "Form W-4ME," to reflect changes to the federal Form W-4, which no longer uses allowances to determine the amount of withholding. Due to this federal change, section .08 must be updated to no longer use the number of federal allowances as a starting point for calculating the number of Maine allowances an individual may claim.
- Finally, MRS is removing subsections .09(F) and .09(G) of the rule to reflect changes in MRS and Maine Department of Labor processes that have occurred since Rule 803 was last updated.

Fiscal impact of rule:

(No response)

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Agency name: Bureau of Revenue Services (Maine Revenue Services – MRS)
Umbrella-Unit: 18-125
Statutory authority: 36 MRS §§ 112, 5217-D
Chapter number/title: Ch. 812, Credit for Educational Opportunity
Filing number: 2021-027
Effective date: 1/28/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

MRS is updating its current criteria in Rule 812, *Credit for Educational Opportunity* (the “Credit”) for determining which degrees will be considered Science, Technology, Engineering, and Mathematics (“STEM”) for refundability of the Credit. In addition, for Bachelor’s and graduate degrees that are awarded simultaneously, MRS is proposing to amend the existing language in Rule 812 to clarify how qualifying taxpayers should apportion tuition and fees to each degree when calculating the Credit.

MRS is making permanent certain changes that have already been adopted by emergency Rule 812, effective October 21, 2020, relating to calculating the Credit when the loan is in forbearance or deferment.

Lastly, MRS is adding a new definition of “regional accrediting association” to help determine if degrees from accredited non-Maine educational institutions (including non-U.S. educational institutions) are eligible for the Credit.

Basis statement:

The following changes to Rule 812 are being adopted:

The criteria for determining which degrees will be considered Science, Technology, Engineering, and Mathematics (“STEM”) for refundability of the Credit for Educational Opportunity (“Credit”) have been updated. This change is being made to provide greater clarity and transparency to taxpayers with regard to which degrees are classified as STEM.

For Bachelor’s and graduate degrees that are awarded simultaneously, Rule 812 has been updated to clarify how qualifying taxpayers should apportion tuition and fees to each degree when calculating the Credit. This change is being made to reduce taxpayer confusion and improve the accuracy of credit calculations completed by taxpayers claiming the Credit.

The changes previously adopted by emergency Rule 812, effective October 21, 2020, have been made permanent. These changes reconcile two provisions in 36 MRS §5217-D(2)(B), allowing Maine Revenue Services to consider the payment amount that would be due but for forbearance or deferment when calculating the Credit. These changes further provide that, if the payment amount due but for forbearance or deferment cannot be established, the benchmark loan payment as determined under 36 MRS §5217-D(1)(A) will be used instead.

These changes are being made to ensure that taxpayers are able to receive the Credit for payments made while in forbearance or deferment, provided that the other qualifications for the Credit are also satisfied.

Lastly, a new definition of “regional accrediting association” has been added to Rule 812 for purposes of defining “accredited non-Maine community college, college or university” in 36 MRS §5217-D(A-1). This new definition is being added to help determine when degrees from accredited non-Maine educational institutions (including non-U.S. educational institutions) are eligible for the Credit.

Fiscal impact of rule:

Minimal fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Bureau of Alcoholic Beverage and Lottery Operations (BABLO) /
Maine State Liquor and Lottery Commission
Umbrella-Unit: 18-553
Statutory authority: 8 MRS §§ 372 sub-§2, 374
Chapter number/title: Ch. 20, Powerball Rules
Filing number: 2021-125
Effective date: 8/23/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To conform to the procedures for the operation of the multi-jurisdictional lottery game Powerball in Maine as required by the Multi-State Lottery Association. These rules will allow Maine to continue to sell the Powerball game with one additional drawing per week.

Basis statement:

This amendment updates the existing rules governing the jackpot draw game Powerball. This amendment makes necessary changes to add one additional drawing per week. Technical changes to clarify language, and fix typographical errors.

Fiscal impact of rule:

There is no known fiscal impact.

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Agency name: Bureau of Alcoholic Beverage and Lottery Operations (BABLO) /
Maine State Liquor and Lottery Commission
Umbrella-Unit: 18-553
Statutory authority: 8 MRS §§ 372 sub-§2, 374
Chapter number/title: Ch. 50, Lucky for Life
Filing number: 2021-126
Effective date: 7/18/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This amendment updates the existing rules governing the draw game Lucky for Life. This amendment makes necessary changes to update the number of drawings, technical changes to clarify language and fix typographical errors. This amendment will allow Maine to continue selling the multi-state lottery game Lucky for Life.

Basis statement:

This amendment updates the existing rules governing the draw game Lucky for Life. This amendment makes necessary changes to update the number of drawings, technical changes to clarify language and fix typographical errors.

Fiscal impact of rule:

There is no known fiscal impact.