

Annual List of Rulemaking Activity
Rules Adopted January 1, 2017 to December 31, 2017
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Administrative and Financial Services, **Bureau of Revenue Services (Maine Revenue Services)**

Umbrella-Unit: **18-125**

Statutory authority: 36 MRS §§ 112, 2013

Chapter number/title: **Ch. 323**, Commercial Agricultural Production, Commercial Aquacultural Production, Commercial Fishing and Commercial Wood Harvesting

Filing number: **2017-005**

Effective date: 1/22/2017

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

Maine Revenue Services is adopting minor amendments to Rule 323 in order to update it to reflect recent statutory changes that apply to sales occurring on or after January 1, 2017. The amendments will not result in any substantive change for taxpayers. This is routine annual.

Basis statement:

The statutory authority for amending Rule 323 is found in Title 36 MRS §§ 112 and 2013. This is not major substantive rulemaking. No comments were received from the public.

Fiscal impact of rule:

N/A

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Agency name: Department of Administrative and Financial Services, **Bureau of Revenue Services (Maine Revenue Services)**
Umbrella-Unit: **18-125**
Statutory authority: 36 MRS §112
Chapter number/title: **Ch. 807**, Residency
Filing number: **2017-010**
Effective date: 2/8/2017
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

MRS has amended Rule 807 ("Residency"). Rule 807, last amended in 2012, explains standards for determining Maine residency for income tax purposes. The following changes are being made to the proposed rule. Section .08 is reformatted, clarifies that military pay earned by a Maine resident servicemember for active duty service performed outside Maine under written military orders is not taxed in Maine and makes a technical change to correct an erroneous reference. A copy of the rule can be found on the MRS website at www.maine.gov/revenue/ (select Laws & Rules).

Fiscal impact of rule:
Minimal

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Agency name: Department of Administrative and Financial Services, **Bureau of Revenue Services (Maine Revenue Services)**
Umbrella-Unit: **18-125**
Statutory authority: 36 MRS §112
Chapter number/title: **Ch. 806**, Nonresidential Individual Income Tax
Filing number: **2017-011**
Effective date: 2/11/2017
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Maine Revenue Services has amended Rule 806 ("Nonresident Individual Income Tax"). Rule 806, last amended in 2012, provides comprehensive definitions and explanations of statutory terms and procedures for nonresident individual income tax filers. The rule is edited to include minor formatting changes to be consistent with other Bureau of Revenue Services Rules and to update references to M.R.S.A. and MRSA to M.R.S. New section .03(G) is added to reflect that compensation or income earned by nonresident taxpayers that is directly related to a declared state disaster or emergency is exempt from Maine tax if the taxpayer's only presence in Maine is for the sole purpose of providing disaster relief. The remaining provisions are renumbered accordingly. The application date of the amended rule is changed to accommodate the effective date of the exemption of disaster relief income. A copy of the rule can be found on the MRS website at www.maine.gov/revenue/ (select Laws & Rules).

Fiscal impact of rule:
Minimal

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Agency name: Department of Administrative and Financial Services, **Bureau of Revenue Services (Maine Revenue Services)**
Umbrella-Unit: **18-125**
Statutory authority: 36 MRS §§ 112, 5192(5)
Chapter number/title: **Ch. 805**, Composite Filing
Filing number: **2017-013**
Effective date: 2/12/2017
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Maine Revenue Services has amended Rule 805 ("Composite Filing"). Rule 805 establishes procedures for filing of composite returns of income by partnerships, estates, trusts, and S corporations on behalf of partners, beneficiaries, or shareholders. In addition to technical, nonsubstantive changes, the rule was revised to reflect the decrease in the individual income tax rate as established in 36 MRS §5111(1-E) for tax years beginning in 2016. A copy of the rule can be found on the MRS website at www.maine.gov/revenue/ (select Laws & Rules).

Fiscal impact of rule:
Minimal

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Agency name: Department of Administrative and Financial Services, **Bureau of Revenue Services (Maine Revenue Services)**
Umbrella-Unit: **18-125**
Statutory authority: 36 MRS §576
Chapter number/title: **Ch. 202**, Tree Growth Tax Law Valuations - 2017
Filing number: **2017-077**
Effective date: 5/22/2017
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 valuations produces no additional cost to the State. The anticipated FY 2017-18 amount appropriated to reimburse anticipated municipal claims for "taxes lost" due to the use of Tree Growth Valuations on classified forestland is \$7,600,000.

Property tax burden based on current use value helps reduce the incidence of forestland conversion and is intended to foster improved forest management and harvesting practices designed to better utilize and conserve this important natural resource.

Owners of land classified as forestland as of April 1, 2017, must be assessed according to the values finally adopted for 2017 property tax purposes.

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Agency name: Department of Administrative and Financial Services, **Bureau of Revenue Services (Maine Revenue Services)**
Umbrella-Unit: **18-125**
Statutory authority: 36 MRS §193
Chapter number/title: **Ch. 104**, Filing of Maine Tax Returns
Filing number: **2017-130**
Effective date: 8/28/2017
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

MRS is amending Rule 104 (“Filing of Maine Tax Returns”). The rule is being amended to include electronic filing requirements for preparers of real estate transfer tax declarations.

Basis statement:

The rule is being amended to include electronic filing requirements for preparers of real estate transfer tax declarations. The rule currently includes electronic filing requirements for return preparers of many other tax types administered by the Bureau. The electronic filing system for transfer tax declarations has been operating for several years and the Bureau is confident that the system functions - and will function - properly. Electronic filing of transfer tax declarations will reduce costs to both the Bureau and preparers, will allow faster processing of returns, and will provide sales data to municipalities much sooner than with paper filing.

Fiscal impact of rule:

There is no anticipated fiscal impact as a result of these changes. There will be some administrative savings due to the streamlining of processing returns electronically.

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Agency name: Department of Administrative and Financial Services, **State Claims Commission**
Umbrella-Unit: **18-185**
Statutory authority: 23 MRS §154 (*4th paragraph*)
Chapter number/title: **Ch. 110**, Rules of Practice Governing the Conduct of Adjudicatory Proceedings for Real Property Acquisition Cases
Filing number: **2017-054**
Effective date: 4/3/2017
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment clarifies certain sections of the existing rule in regard to requesting and paying for the record of a hearing before the State Claims Commission, and certain standards regarding discovery and pre-hearing practice. The rule specifies a method for calculating interest on awards to landowners made by the State Claims Commission. The rule removes certain antiquated language in the current rule, such as the reference to "land damage" cases, and changes that language to terms that are more modern in usage. It also makes changes to improve grammar and eliminates what might be certain sexist presumptions in the current rule.

Basis statement:

This rule is being promulgated in order to update and amend the existing rule, which is entitled "Rules of Practice Governing the Conduct of Adjudicatory Proceedings for Land Damage Cases". This rule is a routine technical rule that establishes the procedures for the conduct of cases before the State Claims Commission. The State Claims Commission provides a forum for property owners to challenge the amount of compensation awarded to them by the Maine Department of Transportation when a property interest, usually in the form of real estate, is subjected to the eminent domain powers of the State of Maine. Pursuant to the United States and Maine Constitutions, property owners are entitled to just compensation for the interest that was taken by the governmental entity. These rules establish the procedure by which the State Claims Commission hears cases and decides whether the compensation offered by the Maine Department of Transportation (or other governmental entity, such as the Maine Turnpike Authority) was "just".

The existing rule was originally promulgated in 1978 and was last amended in 1990. The majority of the changes made to the existing regulation are relatively minor, such as the removal of the archaic terminology "land damage" from the title of the rule and replacing it with "real property acquisition." Similarly, certain language in the existing rule which to some sensibilities now seems sexist is being amended to eliminate any potential sexual bias. The new rule recognizes that certain new modes of communication, such e-mail, may be utilized by the parties in official communications with the Commission. A few changes in the existing text were made simply to make the flow of the language within a rule more concise or understandable, or to make the regulation as a whole more readable by reordering and renumbering some of the paragraphs.

The new rule does make certain substantive changes. For instance, state law requires that interest be paid on awards made by the State Claims Commission in eminent domain cases. The current version of the rule does not assign any particular percentage that must be paid, nor does it establish a method for the identification of an interest rate that is "just" to both the governmental entity and to the property owner. The new rule establishes a process of calculating interest which permits the percentage to fluctuate with changing economic conditions over a course of years.

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The new rule gives somewhat more discretion to the Clerk of the State Claims Commission to choose an appropriate site for hearings, for instance to accommodate a litigant's disability; or to enable a party to utilize certain technologies, such as an overhead projector, in the presentation of a case; or to choose a site so that a highway project that crosses a county line can be heard in its entirety on one day, as opposed to having two separate hearings on separate days, one in each respective county. The new rule requires a written report to be prepared for any pre-hearing conference. The new rule clarifies and makes more specific the sec practice in regard to giving property owners notice, and then declaring a default if the property owner does not appear at the hearing, taking into account guidance suggested by a relevant 2006 United States Supreme Court case, Jones v. Flowers, 126 S.Ct. 1708. The new rule also clarifies the procedures for parties to pay for transcripts of hearings before the State Claims Commission, should any party desire such a transcript.

Fiscal impact of rule:

No fiscal impact is anticipated because of this amendment to the existing rule.

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Agency name: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 28-A MRS §§ 83-A, 606 sub-§4-A

Chapter number/title: **Ch. 3**, On Premise Data Collection Cost Mitigation Stipend

Filing number: **2017-020**

Effective date: 2/15/2017

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

This new rule establishes the process for a one-time stipend to be paid by the Bureau to agency liquor stores licensed as reselling agents as of July, 1, 2016, for mitigating the cost of providing on-premise sales data to the Bureau from agency liquor stores which were licensed as reselling agents as of July 1, 2016.

Fiscal impact of rule:

Approximately \$68,000 expended by the Bureau to pay the one-time stipend.

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Agency name: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 8 MRS §§ 374, 372 sub-§2

Chapter number/title: **Ch. 70**, World Poker Tour Game Rules

Filing number: **2017-021**

Effective date: 2/15/2017

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To establish the rules for the operation of the new lotto draw game World Poker Tour.

Basis statement:

This new rule governs the draw lotto game World Poker Tour. The game is only being offered by the Maine State Lottery. This is a draw game with an instant win and add on game components. The cost of a game play is \$2.00 (two dollars). The draw game is based on drawing five (5) cards from a standard deck of playing cards. The instant win component is based on the five (5) cards matching a winning poker hand of Jack or better that have printed on the ticket at the time of purchase. The game offers a \$1.00 (one dollar) add on feature called "All In". The "All In" feature allows players to enter the progressive jackpot that starts at \$10,000 and grows based on sales.

The average odds of winning a prize in the draw game is 1:235.3 and the average odds of winning a prize in the instant win component is 1:4.8. The top prize of the draw game component is \$100,000; \$5,000 for the instant win component and \$5,000 plus 100 percent (one hundred) of the progressive jackpot amount.

Fiscal impact of rule:

There is no known fiscal impact.

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Agency name: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 8 MRS §§ 374, 372 sub-§2 ¶I

Chapter number/title: **Ch. 20**, Powerball Rules

Filing number: **2017-131**

Effective date: 9/30/2017

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.

Basis statement:

This amendment updates the existing rules governing the jackpot draw game Powerball. This amendment makes necessary changes to allow for electronically created play slips, 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: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 8 MRS §§ 374, 372 sub-§2 ¶¶

Chapter number/title: **Ch. 40**, Mega Millions Rules

Filing number: **2017-162**

Effective date: 10/28/2017

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 draw game Mega Millions in Maine as required by the Multi State Lottery Association. These rules will allow Maine to continue to sell the Mega Millions game.

Basis statement:

This amendment updates the existing rules governing the jackpot draw game Mega Millions. This amendment makes the following changes:

1. Price for each Play goes from \$1.00 to \$2.00 for the base game;
2. Players will now pick 5 numbers out of a field of 70 numbers vs. 75 and 1 number out of a field of 25 vs. 15;
3. The starting jackpot goes from \$15 million to \$40 million
4. The 9 tier of prizes in the game will changes as follows:

	Current Prize Level	New
1.	Grand Prize	same
2.	\$1,000,000	same
3.	\$5,000	\$10,000
4.	\$500	same
5.	\$50	\$200
6.	\$5	\$10
7.	\$5	\$10
8.	\$2	\$4
9.	\$2	\$4

5. Overall odds to win a prize in the game go from 1:14 to 1:24 and the odds of winning the Grand Prize go from 1:258,890,850 to 1:302,575,350; and
6. Game will still offer for an additional \$1.00 a multiplier option that will multiply non-jackpot prizes by 2, 3, 4 or 5 times

Fiscal impact of rule:

There is no known fiscal impact.

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Agency name: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 8 MRS §§ 374, 372 sub-§2 ¶I

Chapter number/title: **Ch. 60**, Monopoly Millionaires' Club Rules

Filing number: **2017-163**

Effective date: 10/28/2017

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:
The Monopoly Millionaires' Club draw game ended with the final draw of December 28, 2014.

Fiscal impact of rule:
There is no known fiscal impact.

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Agency name: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 8 MRS §§ 374, 372 sub-§2 ¶I

Chapter number/title: **Ch. 80**, Lotto America Game Rules

Filing number: **2017-164**

Effective date: 11/15/2017

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

This new rule governs the draw lotto game Lotto America. This is a new multi-jurisdictional draw game offered by the Multi-State Lottery Association of which the Maine State Lottery is a member. The Lotto America Game consists of the following:

1. Price for each Play is \$1.00 for the base game;
2. Players will pick 5 numbers from a field of 52 numbers plus 1 number from a field of 10 numbers;
3. The starting jackpot will be \$1,000,000;
4. Overall odds to win a prize in the game are 1:9.6315 and the odds of winning the Grand Prize (jackpot) will be 1:25,989,600;
5. Game will offer for an additional \$1.00 a multiplier option called All Star Bonus that will multiply non-jackpot prizes by 2, 3, 4 or 5 times; and
6. The draw nights for this game will be Wednesday and Saturday.

Fiscal impact of rule:

There is no known fiscal impact.

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Agency name: Department of Administrative and Financial Services, **Bureau of Alcoholic Beverages and Lottery Operations / Maine State Liquor and Lottery Commission**

Umbrella-Unit: **18-553**

Statutory authority: 8 MRS §§ 374, 372 sub-§2 ¶I

Chapter number/title: **Ch. 30**, Hot Lotto Rules

Filing number: **2017-167**

Effective date: 11/6/2017

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:
The Hot Lotto draw game is ending on the last drawing on October 28, 2017.

Fiscal impact of rule:
There is no known fiscal impact.