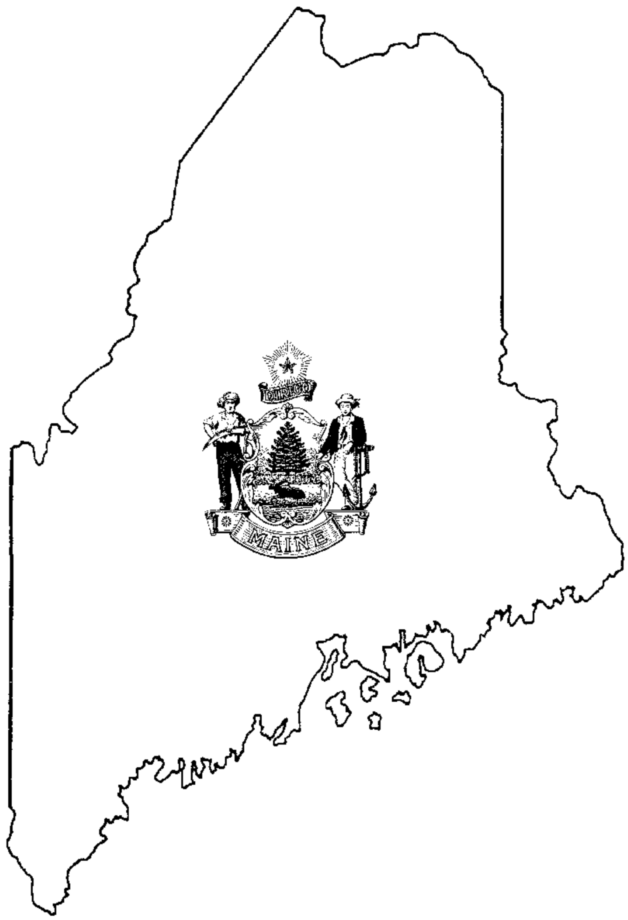
INDIVIDUAL INCOME TAX

Determining
Residency Status



GUIDANCE DOCUMENT

Maine Revenue Services, Income/Estate Tax Division

Last Revised: April 2017

INTRODUCTION

If you are a **Maine *resident*** for the entire tax year, you must pay Maine tax on all of your taxable income regardless of its sources – wages, investment income, interest income, pension, and dividends among other things. Note however, that active duty military pay earned by a Maine resident service member for service performed outside of Maine under written military orders is not subject to Maine individual income tax. If you are subject to income tax by another state or similar jurisdiction in another country on some of this same income, you may be allowed a credit against Maine income tax for all or some of the tax paid to the other state or jurisdiction. (*See the MRS Instructional Pamphlet, "Credit for Income Taxes paid to Another Jurisdiction.")*

If you are a **nonresident** or **"safe harbor" resident** of Maine, you must pay Maine tax on all income from work performed in Maine. You must also pay Maine tax on all other income derived from Maine sources, including income derived from sole proprietorships, partnerships and S corporations, and capital gains from real or tangible property sold in Maine and income from rental of Maine property. Except for certain sales of a partnership interest on or after July 1, 2005, a nonresident generally does not have to pay Maine tax on interest, dividends, alimony, pensions or other income from intangible sources unless such income is from property employed in a business carried on in Maine.

If you are a **part-year resident** of Maine, you must pay tax on all of your income for the part of the year you were a Maine resident, and you must also pay tax on any income derived from Maine sources during the part of the year you were a nonresident or a "safe harbor" resident.

Exceptions:

- ⓘ A nonresident individual working in Maine as an employee is not required to pay a Maine tax or file a Maine return on income from personal services unless that individual works in Maine for more than 12 days or, having worked in Maine for more than 12 days, earns or derives income from all Maine sources totaling more than $3,000. Up to 24 days performing certain personal services, such as training and site inspections, are not counted against the 12-day threshold. Also, generally, a nonresident individual present in Maine for business for no more than 12 days and earning no more than $3,000 from business activity in Maine is not required to pay a Maine tax or file a Maine return on that income.
- ⓘ Income earned by a nonresident employee of a political subdivision of an adjoining state performing services in Maine in accordance with an interlocal agreement under 30-A M.R.S., Chapter 115 is not considered Maine-source income, so long as the work performed does not displace a Maine resident employee.
- ⓘ Compensation or income directly related to a declared state disaster or emergency is exempt from Maine tax if the taxpayer's only presence in Maine during the tax year is for the sole purpose of providing disaster relief.

See 36 M.R.S. §§ 5142(8-B) and 5142(9) and Rule 806.

A **"resident"** taxpayer is a person who is:

- domiciled in Maine (a "permanent legal resident") or
- a statutory resident (*see* below).

A **"safe harbor" resident** is a person who is domiciled in Maine but who is not a Maine resident for income tax purposes (see below). For more information and examples, see the *Guidance to Residency*

Safe Harbors brochure available at http://www.maine.gov/revenue/incomeestate/guidance or call the forms line at (207) 624-7894.

A **"part-year resident"** of Maine is an individual who is domiciled in Maine for part of the year and who is not a statutory resident in that year (see below).

A **"nonresident"** taxpayer is an individual who earns income in Maine but who is not a Maine resident for income tax purposes.

DOMICILE STATUS

The state in which you are domiciled is your **permanent legal residence**. This is the place you intend to make your home for a permanent or indefinite period of time. It is generally the place where you dwell and which is the center of your domestic, social and civic life.

Except for "safe harbor" residents, if you are domiciled in Maine, you are a Maine "resident" for income tax purposes – even if you are outside the state for the entire tax year. A person can have only one domicile, therefore, if you are domiciled in Maine you cannot be domiciled in another state or country. Similarly, if you are domiciled in another state or country, you cannot be domiciled in Maine. **However, as explained in the following section you may be domiciled in one state or country and still be a statutory resident for tax purposes in another state or country.**

Once your domicile is established in Maine, it continues until you establish domicile elsewhere. If your legal residency becomes an issue, you will have the burden of showing that you have established domicile in another state or country.

If you move out of Maine temporarily, without establishing domicile in the other state (or country), you continue to be domiciled in Maine. This is the case even if you sell your home in Maine.

For most people, even those who divide their time between different states, there is no question where they are domiciled; it is clear where they maintain their "home base."

For others, though, it can be more difficult. When Maine Revenue Services determines where a taxpayer is domiciled, we consider **all** of the taxpayer's relevant facts and circumstances (with a few exceptions noted below). You should do the same when determining how to file your income tax returns. Remember that although your **intent** is critical in determining where you are domiciled, a simple statement of intent – "I intended to make Florida my domicile in 2016," for example – is not conclusive. Many factors are used as evidence of domicile.

It is important to know that **no single factor** will determine your state of domicile. Rather, all relevant factors are evaluated together. The criteria below are some of the factors we consider in making domicile determinations. You, too, should consider them to determine your domicile for income tax purposes.

Property ownership and residence:

- the location of your principal residence
- your mailing address
- where you spend the most amount of time

- whether you applied for a Homestead or Veterans property tax exemption in Maine or a comparable benefit in another state

Family and dependents:
- whether you can be claimed as a dependent on another person's federal income tax return and where that person is domiciled
- where your spouse or dependents reside
- where your dependents attend elementary and secondary school
- where you or your dependents qualify for in-state college tuition

Licenses and registrations:
- where you are registered to vote
- which state issued your driver's license
- where your vehicles are registered
- where you maintain professional licenses
- where you declare residency for hunting and fishing licenses

Financial data:
- the state where you qualify for unemployment insurance
- the state in which you filed previous resident tax returns
- the state where you earn your wages
- the address recorded for insurance policies, deeds, mortgages, or other legal documents

Affiliations:
- the state in which you hold fraternal, social or athletic memberships
- the state where you maintain union memberships
- the location of a church or other house of worship of which you are a member

Other factors:
- where your personal property is located
- where you conduct your business
- the address listed for you in a telephone directory
- where you keep your pets

Exceptions: Maine Revenue Services does not consider your charitable contributions (whether made to an organization located in or outside of Maine) when making domicile determinations. Also, the geographic location of your professional advisors (doctors, lawyers, accountants, etc.) and financial institutions is not considered.

If you are married, both you and your spouse are presumed to have the same state of residency, even though you may live apart for a portion of the year. (This presumption can be overcome if the facts clearly show that the spouses are domiciled in different states.)

STATUTORY RESIDENCY STATUS

Even if you are domiciled in another state, you may still be taxed as a Maine resident if you are a "statutory resident." ***Statutory residency,*** *however, does not apply to military personnel. See the section* *on "Military Personnel" for more information on state taxation of military personnel and their family members*.

You are a statutory resident if:

1. you spent more than 183 days in Maine during the tax year (any portion of a day is counted as a full day), **and**
2. you maintained a **permanent place of abode** in Maine for the entire tax year.

A **permanent place of abode** is a house, apartment, dwelling place, or other residence that an individual maintains as his or her household, whether or not he or she owns it.

The term does not include a seasonal camp or cottage that is used only for vacations, a hotel or motel room, or a dormitory room used by a student during the school year. A place of abode is not deemed permanent if it is maintained only during a temporary stay in Maine for the accomplishment of a particular purpose.

If you maintained a permanent place of abode in Maine, but claim you were domiciled elsewhere and that you were not present in Maine for more than 183 days in the tax year (as is the case with many so-called "snowbirds," for example), you should keep adequate records to verify that more than half of the year was spent in another state. Records confirming your whereabouts commonly include planners, calendars, plane tickets, canceled checks and credit card and other receipts.

RESIDENCY "SAFE HARBORS"

Maine law provides that certain individuals are not treated as resident individuals even though they are domiciled in Maine. In order to qualify for such a "safe harbor," you must fall under either the General Safe Harbor to the normal residency rules described elsewhere in this document, or the Foreign Safe Harbor. If you believe you qualify for one of these safe harbors, you should consult the Maine Revenue Services *Guidance to Residency "Safe Harbors,"* which contains more detailed information on eligibility and filing requirements.

General Safe Harbor: An individual who is domiciled in Maine will nevertheless be treated as a nonresident individual if he or she satisfies all three of the following requirements:

- did not maintain a permanent place of abode in Maine for the entire taxable year;
- maintained a permanent place of abode **outside** Maine for the entire taxable year; and
- spent **no more than 30 days** in the aggregate in Maine during the taxable year.

Foreign Safe Harbor: An individual who is domiciled in Maine will nevertheless be treated as a nonresident individual if he or she satisfies all three of the following requirements:

- within any period of 548 consecutive days (the "548-day period") beginning or ending during that tax year, the individual is present in a foreign country (or countries) for at least 450 days;
- during the 548-day period, the individual is not present in Maine for more than 90 days and does not maintain a permanent place of abode in Maine at which the individual's spouse (unless the spouse is legally separated) or minor children are present for more than 90 days; and
- during the nonresident portion of the taxable year with which or within which the 548-day period begins and during the nonresident portion of the taxable year with which or within

which the 548-day period ends, the individual is present in Maine for a number of days that does not exceed an amount which bears the same ratio to 90 as the number of days contained in the nonresident portion of the taxable year bears to 548.

NOW WHAT DO I DO?

Once you've determined where you are a resident, you can identify what types of income are taxable to Maine, what credits you may be entitled to, and what forms are needed.

If you are a full-year Maine *resident*, file Maine Form 1040ME, Individual Income Tax Return.

If you are a *nonresident or a "safe harbor" resident* for all or part of the year and your Maine gross income meets the Maine minimum filing requirement, you must file Form 1040ME and include Schedule NR, Part-Year Residents/Nonresidents/"Safe Harbor" Residents, or Schedule NRH, Nonresident or "Safe Harbor" Resident Married Person Electing to File Single.

EXAMPLES

Example 1 - Full-year Domiciled Resident. Ben and Jennifer are retired. They own a home in Maine in which they reside from May 1 to October 1 (153 days) each year. Ben and Jennifer have Maine driver's licenses and car registrations, and bank accounts in Maine. They are active in community and church affairs in Maine, vote in Maine, and consider Maine to be their home. Ben and Jennifer spend the rest of the year at their condominium in Florida. Ben and Jennifer are residents of Maine for tax purposes, even though they do not spend more than 183 days per year in the state, because they are domiciled in Maine.

Example 2 - Full-year Domiciled Resident. Stan and Susan own a house in Rockland, Maine. Their three children are enrolled in the Rockland school system, they register vehicles in Maine, are registered to vote in Rockland and use their Maine address on their insurance policies and mortgage documents. Stan is a merchant seaman who works for a company based out of Texas. His assignments take him out to sea for 4 to 5 months at a time; he always returns to Rockland to be with his family between trips. He and four co-workers split the rent on a small apartment in Texas to use as a home base immediately before and/or after each trip and to provide an address for mail delivery. Stan is domiciled in Maine together with the rest of his family; Maine is his permanent legal residence. He is, therefore, a full-year Maine resident for tax purposes.

Example 3 – Nonresident. David is domiciled in New York. He is transferred to his employer's Maine office for a temporary assignment from March 1 to November 30 (274 days), after which he returns to New York. Although David takes an apartment in Maine during this period, he is not a Maine resident, even though he spends more than 183 days of the taxable year in Maine, because he did not have a place of abode in Maine for the entire year. Instead, David will be subject to tax as a nonresident on his income from Maine sources, including any salary or other compensation for services performed in Maine.

Example 4 – Statutory Resident. Pete and Pam were formerly domiciled in Winthrop, Maine. In 2016 they retired from their jobs with the State of Maine and bought a home in Port Charlotte, Florida.

Within a few months of that purchase, they obtained Florida drivers licenses, registered to vote in Port Charlotte and took other steps to establish domicile in Florida. As of the move, MRS considers them to be domiciled in that state. They continue to maintain their lakefront house in Winthrop for the entire year and return to Maine every year from mid-April to the end of October (200 days) to spend time with family and friends. Pete and Pam are statutory residents of Maine because they maintain a permanent place of abode and spend more than 183 days in Maine.

Example 5 – Nonresident, then Statutory Resident. Sarah is domiciled in New Jersey. She is transferred to her employer's Maine office for an assignment from June 1, 2016 to August 1, 2017. If Sarah resides in an apartment in Maine during this period, she will not be a statutory resident in Maine in 2016, even though she spends more than 183 days of the taxable year in Maine, because her apartment was not maintained for the entire year. Only income she receives (such as her salary) that is connected to or derived from sources in Maine will be subject to Maine's income tax in that year. If Sarah's assignment is extended in 2017 to last for the entire year and she maintains the apartment as a residence throughout 2017, she will be a statutory resident in 2017, and all her income will be subject to Maine income tax that year.

Example 6 – Statutory Resident, then Domiciled Resident. In example 5 above, Sarah became a statutory resident in 2016. She continued to maintain her apartment in 2017, changed her domicile from New Jersey to Maine in April 2017, and was present in Maine for more than 183 days in 2017. Under these circumstances, she will be a full-year resident in 2017 and all her income will be subject to Maine tax in that year.

Example 7 – Part-year residents. Susan and Sam have been domiciled in Maine for the past five years. They are homeowners and calendar year taxpayers. Susan receives notice from her employer that she is being transferred to the company's office in New York. On September 1, 2016, Susan and Sam move to a new home in Connecticut with the intent to make Connecticut their new state of domicile and take sufficient steps to make it so. Prior to leaving, they put their house in Maine on the market for sale with a local real estate office. An offer is made for the house on October 1, 2016. The house is sold on December 1, 2016. Under these facts, Susan and Sam are part-year residents for 2016. For the period from January 1 through September 1, 2016, they were residents because they were domiciled in Maine. After that date, they relinquished their domicile in Maine and became domiciled in Connecticut. As residents, any income they received from January 1 to September 1, from whatever source, is subject to Maine personal income tax. For the period from September 2 through December 31, 2016, however, only income they receive that is connected to or derived from sources in Maine (such as any taxable gain on the sale of their Maine home) will be subject to Maine's income tax.

RESIDENT and NONRESIDENT ALIENS

If you are a nonresident alien for federal tax purposes, but have Maine earned income, you may be required to pay Maine income tax. If you are a resident alien for federal tax purposes, and are a Maine resident for tax purposes, you will be required to pay Maine income tax on all your income. The same guidelines that apply to Maine residents, part-year residents of Maine or nonresidents apply to resident aliens and nonresident aliens alike.

MILITARY PERSONNEL

A **military member's** legal residence does not change solely because of a change in duty assignment. The legal residence designated at the time of entry into the service remains the same until the member establishes a new legal residence. A completed DD Form 2058, "State of Legal Residence Certificate" is evidence of a change in domicile (but does not prove it conclusively).

Note that active duty military pay earned by a Maine resident service member for service performed outside of Maine under written military orders is not subject to Maine individual income tax. If you are a nonresident who is stationed in Maine, your military income will not be taxed by Maine, nor will income from intangible sources, such as interest and dividends. However, if you work at an additional job in Maine or operate a business in Maine, that income will be taxed by Maine.

Generally, a **military spouse** cannot lose or acquire residence or domicile in a state for tax purposes when the military spouse is absent from, or located in, a state solely to be with the service member who is complying with military orders. Consequently, for Maine income tax purposes, a military spouse will not be treated as a resident of Maine if the following conditions are met:

- The military spouse is located in Maine solely to be with the service member;
- The service member is located in Maine in compliance with military orders;
- The service member and the spouse were residents or domiciled in the same state other than Maine immediately prior to being located in Maine.

Consequently, income of a nonresident military spouse earned for the performance of services in Maine will not be treated as Maine-source income subject to Maine income taxation.

The exclusion from state taxation applies only with respect to the military spouse. Non-military income earned in Maine by a service member is Maine-source income and remains subject to Maine income tax.

Individuals domiciled in Maine who are members of the armed forces of the United States, the National Guard or Reservists who received federal orders for active duty continue to be domiciled in Maine for income tax purposes for the period of time they are stationed outside of Maine.

STUDENTS

Students generally remain residents of the state in which they were domiciled prior to attending college (even if they attend college full-time in another state).

If you are a Maine resident who attends school in another state, you remain a Maine resident and must pay Maine tax on all taxable income from all sources until you have established domicile in the other state.

Example 8 – Resident Student. John attends a college outside of Maine and lives in a dormitory room on campus. He graduated from high school in Maine and when he returns to Maine, he stays with his parents. Even though he spends most of his time in another state, he continues to be a Maine resident because he has not established a new domicile in another state.

Example 9 – Nonresident Student. Donna is domiciled in New Jersey and attends college in Maine. She lives in a dormitory room on campus during the school year (240+ days), which runs from late August to May. When the school year ends, she moves out of the dormitory and resides out of state with her parents. The following August, Donna returns to college for another year and again resides in a dormitory room on campus.

Donna's domicile remains the same as her parents. Although she spends most of her time in Maine, she has not changed her previous domicile. In addition, she is not a statutory resident by physical presence. Even though she was present in Maine for more than 183 days, her dormitory room is not considered a permanent place of abode.

ANSWERS TO FREQUENTLY ASKED QUESTIONS

Q. ***Each year, I live in Maine for five months and in another state for seven months. Does this mean I am not a Maine resident?***

A. Not necessarily. If you were domiciled in Maine before you began spending time in the other state, you continue to be a full-year Maine resident unless, or until, you have taken steps to establish domicile in the other state or country.

Q. ***I retired, sold my permanent home in Maine and live the life of a nomad, traveling around the country in a recreational vehicle. Can I correctly say that I am not a resident of any state?***

A. No. Everyone is domiciled somewhere. In your case, even though you sold your Maine home, you continue to be a Maine resident until you establish a domicile in another state.

Q. ***My job requires that I move from Maine to another state for the next two years. Will I still be a Maine resident?***

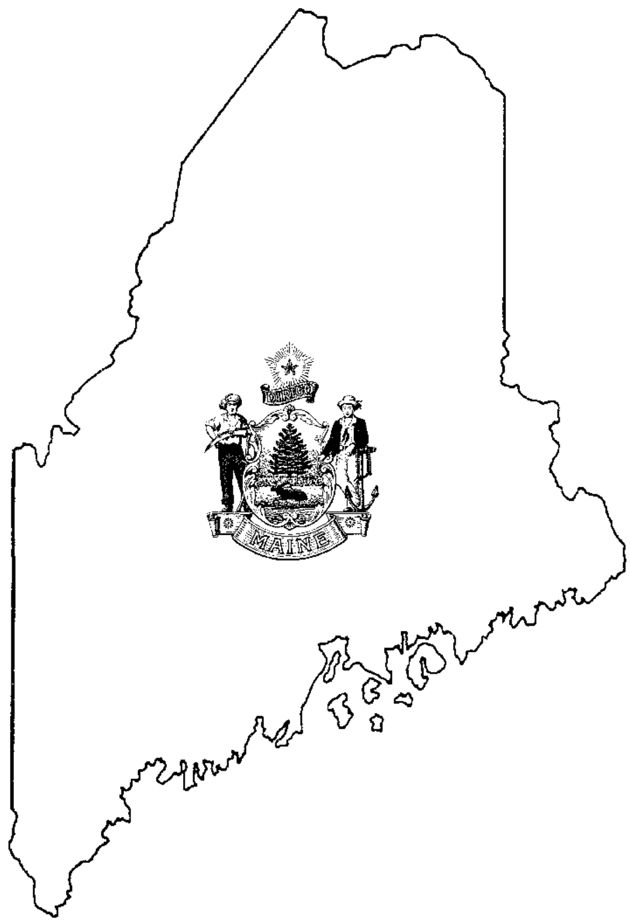
A. Yes. If you temporarily move to another state where you intend to stay only for a limited time (no matter how long), your residency does not change. If the other state taxes the same income that is taxed by Maine, you may be able to claim a credit for taxes paid to the other state. When you file your Maine Form 1040ME, include the *Worksheet for Credit for Income Tax Paid to Other Jurisdictions.*

If, on the other hand, you move to another state with the intention of making it your home permanently or for an indefinite time, and take steps sufficient to establish a new domicile in that location, you no longer are a Maine resident and would be considered a part-year resident for the year of the move. This change in permanent legal residence is generally characterized by severing ties with Maine and establishing them with another state or country. *See the factors described on pages 3 and 4 for establishing a domicile.*

INDIVIDUAL INCOME TAX

Residency “Safe Harbors”

For Residents Spending Time Outside Maine



GUIDANCE DOCUMENT

Maine Revenue Services, Income/Estate Tax Division

Last Revised: December, 2015

As explained in the Maine Revenue Services Guidance to Residency Status, an individual who is domiciled in Maine is generally treated as a Maine resident for income tax purposes. However, Maine law provides that certain individuals are not treated as resident individuals even though they are domiciled in Maine. These individuals may fall under either the "General Safe Harbor" or the "Foreign Safe Harbor" exception to the normal rule.

GENERAL SAFE HARBOR

An individual who is domiciled in Maine will nevertheless be treated as a nonresident individual if he or she satisfies all three of the following requirements:

- The individual did not maintain a permanent place of abode in Maine for the entire taxable year (it is presumed that you maintain a permanent place of abode in Maine if you are married or have minor children and your spouse (unless you are legally separated) and/or minor children reside in a permanent place of abode in Maine);

- The individual maintained a permanent place of abode outside Maine for the entire taxable year; and

- The individual spent no more than 30 days in the aggregate in Maine during the taxable year.

A "permanent place of abode" is a house, apartment, dwelling place or other residence that an individual maintains as his or her home, whether or not he or she owns it. The term does not include a seasonal camp or cottage that is used only for vacations, a hotel or motel room, or a dormitory room used by a student during the school year.

Where an individual domiciled in Maine claims that he or she should be treated as a nonresident individual for a specific taxable year, the burden of proof is on the individual to demonstrate that all three requirements of the general safe harbor have been satisfied.

An individual who is domiciled in Maine that meets all three requirements of the general safe harbor during the taxable year is treated as a nonresident individual for Maine income tax purposes for that taxable year. However, if during the taxable year all three requirements of the general safe harbor are not met, the individual is subject to Maine income tax as a resident individual for that year unless the individual meets the requirements of the foreign safe harbor.

Filing Returns: An individual who meets all three requirements of the general safe harbor during a taxable year may file a Maine income tax return as a "safe harbor" resident individual for that taxable year. Individuals qualifying under the safe harbor rule will be treated as a nonresident for Maine individual income tax purposes.

General Safe Harbor - Examples

Example 1: Paul, single, is a member of the U.S. armed forces stationed in Arizona. He lived in military housing in Arizona during the entire tax year. He did not maintain a permanent place of abode in Maine at any time during the tax year. While on leave, he stayed with relatives in Maine for 15 days.

Because Paul meets all three requirements of the general safe harbor, he may file a Maine tax return as a "safe harbor" resident for that tax year.

Example 2: Same as Example 1 above, except that Paul owned a home in Maine for the entire tax year. He did not rent the Maine home to anyone during the tax year. Because Paul maintained a permanent place of abode in Maine, he does not meet the requirements of the general safe harbor. He must file a Maine return as a resident for that tax year.

Example 3: Lindsey is a student attending college full-time in Massachusetts. Because Lindsey's parents are domiciled in Maine and claim her as a dependent on their Maine income tax return, Lindsey is also considered to be domiciled in Maine. She did not maintain a permanent place of abode in Maine. Lindsey is in a summer intern program and lives in a dormitory room on her college campus for the entire year. She did not spend more than 30 days in Maine during the year. Because Lindsey did not maintain a permanent place of abode outside Maine for the entire year (a dormitory may not be considered a permanent place of abode), she does not meet the requirements of the general safe harbor. She must file a Maine return as a resident for that tax year.

FOREIGN SAFE HARBOR

An individual who is domiciled in Maine will nevertheless be treated as a "safe harbor" resident if he or she satisfies all three of the following requirements:

- Within any period of 548 consecutive days (the "548-day period"), the individual is present in a foreign country (or countries) for at least 450 days;

  An individual may choose any period of 548 days that begins on or after January 1, 2007 in order to meet the requirements of the foreign safe harbor. Each 548-day period will only apply to the tax years included either partially or fully in the 548-day period. An individual cannot satisfy all three requirements of the foreign safe harbor until the 548-day period has concluded.

- During the 548-day period, the individual is not present in Maine for more than 90 days and does not maintain a permanent place of abode in Maine at which the individual's spouse (unless the spouse is legally separated) or minor children are present for more than 90 days; and

- During the portion of the 548-day period included in the taxable years during which the 548-day period begins and during the portion of the 548-day period included in the taxable year during which the 548-day period ends, the individual is, for each period, present in Maine for a number of days that does not exceed the result of the following calculation:

  Step 1: Divide the number of days in the taxable year that are also included in the 548-day period by 548 to calculate the percentage to use in Step 2.

  Step 2: Multiply 90 by the percentage computed in Step 1. If the number you calculate, as determined for each period, is equal to or greater than the number of days spent in Maine for each period, you have met this requirement.

<u>Rounding Days</u>: Round up to the next highest whole number all decimals that include .50 through .99. Round down to the next lowest whole number all decimals that include .01 through .49 (example 10.51 is rounded up to 11 while 10.47 is rounded down to 10).

<u>Rounding Percentages</u>: Round decimals to 4 places to calculate percentages (example .109489 is rounded to .1095 or 10.95%).

EXAMPLE: *Taxpayer A's 548-day period begins September 1, 2013 and ends March 2, 2015. Taxpayer A's taxable year is based on a calendar year. The number of days in each taxable year included in the 548-day period is 122 days during 2013, 365 days during 2014 and 61 days during 2015. Taxpayer A spent less than 90 days in Maine during the 548-day period, including 15 days between September 1, 2013 and December 31, 2013 and 10 days between January 1, 2015 and March 2, 2015. Taxpayer A must make the following calculations for 2013 and 2015.*

<u>CALCULATION:</u>

1) Compute the percentage of days in each taxable year included in the 548-day period.
   2013: 122 days of the taxable year included in the 548-day period.
   2015: 61 days of the taxable year included in the 548-day period.

   The percentages are computed as follows:
   2013: 122 ÷ 548 = 22.26% *[.2226]*
   2015: 61 ÷ 548 = 11.13% *[.1113]*

2) For each period, multiply 90 by the percentage calculated in Step 1. Compare the result determined for each period with the actual number of days spent in Maine during the portion of the taxable year included in the 548-day period.

   2013: 90 x 22.26% = 20 days *(days spent in Maine during the portion of the 548-day period included in 2013 was 15)*

   2015: 90 x 11.13% = 10 days *(days spent in Maine during the portion of the 548-day period included in 2015 was 10)*

Because the number of days actually spent in Maine during the portion of the 548-day period included in 2013 (15 days) is not more than the number allowable for that period (20) and because the number of days actually spent in Maine during the portion of the 548-day period included in 2015 (10 days) is not more than the number allowable for that period (10), Taxpayer A has met this requirement. If, for either 2013 or 2015, Taxpayer A had spent more days in Maine than the number allowable for either period, Taxpayer A would not have met this requirement. For additional examples, see below.

If you meet all of the foreign safe harbor requirements, the portion of the 548-day period included in each taxable year is known as the "**safe harbor nonresident portion"** of that taxable year. For purposes of determining the number of days present in Maine, count any part of a day spent in Maine as a whole day present in Maine, except for partial days you were in Maine solely in transit to a destination outside Maine.

Filing Returns: If you meet all three requirements of the foreign safe harbor, you will be:

- A **part-year resident** for the taxable year in which the 548-day period begins. This assumes that you were a resident of Maine for the period of the taxable year prior to the beginning of the 548-day period and also assumes that the 548-day period does not begin on the first day of the taxable year (see nonresident discussion below);

- A **part-year resident** for the taxable year in which the 548-day period ends. This assumes that you were a resident of Maine for the period of the taxable year after the end of the 548-day period and also assumes that the 548-day period does not end on the last day of the taxable year (see nonresident discussion below). See Example 2 below; and

- A **"safe harbor" resident** treated as a nonresident for Maine tax purposes for any taxable year fully covered by the 548-day period. See Example 1 below. This will include the taxable year where the 548-day period begins on the first day of the taxable year or ends on the last day of the taxable year.

  If the due date for filing your return is prior to the end of the 548-day period, you may, if you believe that you will ultimately meet all the requirements of the foreign safe harbor, either:

  1. File Maine income tax returns as a full-year resident of Maine for all taxable years included either partially or fully in the 548-day period and, if you ultimately meet all the requirements of the foreign safe harbor, file timely amended Maine income tax returns using the appropriate residency status for each tax year as discussed above; or

  2. If an extension is needed beyond the automatic 6-month extension for filing each return, apply for an extension of time to file each Maine income tax return affected by the 548-day period by submitting a letter explaining why additional time is being requested.

Note: An extension of time to file the Maine income tax return does not extend the time to pay the income tax due. To avoid or minimize the interest or penalty that might otherwise be owed if you do not ultimately meet all of the requirements of the foreign safe harbor, you may want to pay, on or before the original due date of the return, the amount of tax owed as a resident individual.

Foreign Safe Harbor - Examples

Example 1: Abe is domiciled in Maine. He is single. His taxable year is the calendar year. During the period November 1, 2013 through May 2, 2015 (a period of 548 consecutive days), he is present in a foreign country 480 days.

During the 548-day period, Abe was present in Maine a total of 65 days: 9 days during the period November 1, 2013 through December 31, 2013, 41 days during 2014 and 15 days during the period January 1, 2015 through May 2, 2015.

Because Abe was present in a foreign country 480 days, he meets the first requirement. Abe also meets the second requirement because he was present in Maine not more than 90 days during the 548-day period.

To find out whether Abe meets the third requirement, he must determine if the number of days present in Maine during the period November 1, 2013 through December 31, 2013 (9 days) exceeds the maximum number of days allowed for that period. The total number of days in the period November 1, 2013 through December 31, 2013 is 61.

The maximum number of days Abe may be present in Maine during the period November 1, 2013 through December 31, 2013 is 10, determined as follows:

Step 1: *61 days (November 1 - December 31) ÷ 548 = 11.13% [.1113]*
Step 2: *90 x 11.13% =* **10** *days allowed in Maine for this period*

Because Abe was present in Maine 9 days during the period November 1, 2013 through December 31, 2013, he did not exceed the maximum 10 days allowed for this period.

Abe must also determine if the number of days he was present in Maine during the period January 1, 2015 through May 2, 2015 (15 days) exceeds the maximum allowed for that period. The total number of days for the period January 1, 2015 through May 2, 2015 is 122.

The maximum number of days he may be present in Maine during the period January 1, 2015 through May 2, 2015 is 20, determined as follows:

Step 1: *122 days (January 1 - May 2) ÷ 548 = 22.26% [.2226]*
Step 2: *90 x 22.26% =* **20** *days allowed in Maine for this period*

Because Abe was present in Maine 15 days during the period January 1, 2015 through May 2, 2015, he did not exceed the maximum 20 days allowed for this period.

Abe meets all the requirements of the foreign safe harbor. Therefore, he may file as a **part-year resident** for the 2013 and 2015 tax year's (assuming that Abe was a resident of Maine for the remaining portion of each year) and as a **"safe harbor" resident** individual for the 2014 tax year.

Example 2: Belinda is domiciled in Maine. Belinda is married and has two children. Her taxable year is the calendar year. Belinda is in the military and during the period July 2, 2014 through December 31, 2015 (a period of 548 consecutive days) she and her family were present in a foreign country 488 days.

During the 548-day period, Belinda and her family were present in Maine a total of 60 days: 20 days during the period July 2, 2014 through December 31, 2014 and 40 days during 2015.

Because Belinda was present in a foreign country 488 days, she meets the first requirement. Belinda and her family also meet the second requirement because they were present in Maine not more than 90 days during the 548-day period.

Belinda must also determine if the number of days she was present in Maine during the period of July 2, 2014 through December 31, 2014 (20 days) exceeds the maximum allowed for that period. The total number of days in the period July 2, 2014 through December 31, 2014 is 183 days.

The maximum number of days she may be present in Maine during the period July 2, 2014 through December 31, 2014 is 30, determined as follows:

Step 1: *183 days (July 2 - December 31) ÷ 548 = 33.39% [.3339]*
Step 2: *90 x 33.39% =* **30** days allowed in Maine for this period

Because Belinda was present in Maine 20 days during the period July 2, 2014 through December 31, 2014, she did not exceed the maximum 30 days allowed for this period.

Belinda must also determine if the number of days she was present in Maine during the period January 1, 2015 through December 31, 2015 (40 days) exceeds the maximum allowed for that period. The total number of days for the period January 1, 2015 through December 31, 2015 is 365.

The maximum number of days Belinda may be present in Maine during the period January 1, 2015 through December 31, 2015 is 60, determined as follows:

Step 1: *365 days January 1 - December 31) ÷ 548 = 66.61% [.6661]*
Step 2: *90 x 66.61% =* **60** *days allowed in Maine for this period*

Because Belinda was present in Maine 40 days during the period January 1, 2015 through December 31, 2015, she did not exceed the maximum of 60 days allowed for this period.

Belinda meets all the requirements of the foreign safe harbor. Therefore, she may file as a **part-year resident** for the 2014 tax year (assuming that she was a resident of Maine for the remaining portion of the year) and as a **"safe harbor" resident** individual for the 2015 tax year.

If Belinda spent more than 90 days in Maine during the 548-day period or if Belinda's spouse or children spent more than 90 days in Maine during the 548-day period at a home she maintained as a permanent place of abode, she would not have met the requirements of the foreign safe harbor. If this were the case, Belinda would be required to file as a **resident** individual for all tax years involved.

Example 3: Chad is domiciled in Maine. Chad is single. His taxable year is the calendar year. During the period August 1, 2013 through January 30, 2015 (a period of 548 consecutive days), he was present in a foreign country 470 days.

During the 548-day period, Chad was present in Maine a total of 54 days: 15 days during the period August 1, 2013 through December 31, 2013, 33 days during 2014 and 6 days during the period January 1, 2015 through January 30, 2015.

Because Chad was present in a foreign country 470 days, he meets the first requirement. Chad also meets the second requirement because he was present in Maine not more than 90 days during the 548-day period.

Chad must determine if the number of days he was present in Maine during the period August 2, 2013 through December 31, 2013 (15 days) exceeds the maximum allowed for that period. The total number of days in the period August 1, 2013 through December 31, 2013 is 153.

The maximum number of days Chad may be present in Maine during the period August 1, 2013 through December 31, 2013 is 25, determined as follows:

Step 1: *153 days (August 1 - December 31) ÷ 548 = 27.92% [.2792]*
Step 2: *90 x 27.92% =* **25** *days allowed in Maine for this period*

Because Chad was present in Maine 15 days during the period August 1, 2013 through December 31, 2013, he did not exceed the maximum of 25 days allowed for this period.

Chad must also determine if the number of days he was present in Maine during the period January 1, 2015 through January 30, 2015 (6 days) exceeds the maximum allowed for that period. The total number of days for the period January 1, 2015 through January 30, 2015 is 30.

The maximum number of days Chad may be present in Maine during the period January 1, 2015 through January 30, 2015 is 5, determined as follows:

Step 1: *30 days (January 1 - January 30) ÷ 548 = 5.47% [.0547]*
Step 2: *90 x 5.47% =* **5** *days allowed in Maine for this period*

Because Chad was present in Maine for 6 days during the period January 1, 2015 through January 30, 2015, he exceeds the maximum of 5 days allowed for this period and fails to meet the third requirement of the foreign safe harbor. Therefore, he must file as a **resident** individual for each of the 2013, 2014 and 2015 tax years.