



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 56

---

## TELECOMMUNICATIONS

---

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Service Provider Tax Law (Maine Revised Statute, Title 36, Chapter 358) referred to in this bulletin can be found in Attachment #1.

Telecommunication services are subject to the Maine Service Provider Tax, as are ancillary services and the installation, maintenance or repair of telecommunications equipment. This Bulletin not only applies to those persons engaged in providing telephone service, but also anyone engaged in the provision of other telecommunications services, and anyone engaged in the installation of telecommunications equipment (NOTE: this will include many contractors and electricians).

Certain sales of telecommunications services, including sales to certain persons, are exempt; for a list of exemptions, see Title 36, Section 2557 (included in Attachment #1).

The sale of prepaid calling service is exempt from the Maine Service Provider Tax but subject to the Maine Sales and Use Tax. See Section 1, Paragraph E of this bulletin for details.

### 1. TELECOMMUNICATIONS SERVICES & ANCILLARY SERVICES

**A. Generally; “telecommunications services” defined.** The Maine Service Provider Tax is imposed on the value of telecommunications services and ancillary services sold in this state. Value is measured by the sale price, which includes any services that are part of a sale.

Sales of telecommunications services to another telecommunications service provider for *resale* are exempt from tax.

Maine law defines “telecommunications services” as follows:

*“Telecommunications services” means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point or between or among points. “Telecommunications services” includes transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether the service is referred to as “Voice over Internet Protocol” services or is classified by the Federal Communications Commission as enhanced or value added. “Telecommunications services” does not include:*

*A. Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser when the purchaser's primary purpose for the underlying transaction is to obtain the processed data or information;*

*B. Installation or maintenance of wiring or equipment on a customer's premises;*

*C. Tangible personal property;*

*D. Advertising, including, but not limited to, directory advertising;*

*E. Billing and collection services provided to 3rd parties;*

*F. Internet access service;*

*G. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of those services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service as defined in 47 United States Code, Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers as defined in 47 Code of Federal Regulations, Section 20.3;*

*H. Ancillary services; or*

*I. Digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ringtones.*

Under the definition of “telecommunications services,” all intrastate, two-way interactive communications, including but not limited to voice, data, audio or video transmissions, are subject to the Service Provider Tax. This includes basic monthly telephone service as well as local (in-state) long-distance telephone service. The statutory definition makes it clear that “VOIP” service and other computer-processed telecommunications modalities are subject to the Service Provider Tax. The statute also makes it clear that the medium by which the information or signal is delivered has no bearing on taxability; therefore, telephone service provided through cable or via satellite is subject to the Service Provider Tax. Mobile telecommunications services are taxable only to customers whose place of primary use is within the State of Maine (see Section 5 below).

**Note:** While the definition of “telecommunications services” excludes the “installation or maintenance of wiring or equipment on a customer's premises,” the installation, maintenance or repair of telecommunications equipment is separately listed as a taxable service subject to the Maine Service Provider Tax. See Section 3 below.

**B. Taxable ancillary services.** While “ancillary services” are excluded from the definition of “telecommunications services,” they are *not* exempt from the Service Provider Tax. This is because they are listed separately in the statute as a taxable service. “Ancillary service” is defined in part by the statute as “a service that is associated with or incidental to the provision of telecommunication services....” **36 MRSA § 2551(1-C)**. Taxable ancillary services include the following:

(1) Conference bridging service. This is a type of vertical service (defined below) that links two or more participants in an audio or video conference call and may include the provision of a telephone number. “Conference bridging service” does not include the telecommunications services used to reach the conference bridge.

(2) Detailed telecommunications billing service. This means the service of separately stating information pertaining to individual calls on a customer’s billing statement.

(3) Directory assistance. This means the service of providing telephone number or address information, or both, to customers.

(4) Vertical service. This means a service offered in connection with one or more telecommunications services and offers advanced calling features that allow customers to identify caller and to manage multiple calls and call connections. "Vertical service" includes conference bridging service.

(5) Voice mail service. This means a service that enables the customer to store, send or receive recorded messages. "Voice mail service" does not include a vertical service that the customer may be required to have in order to use the voice mail service.

**C. Certain itemized charges.** Certain other services that may appear as itemized charges on monthly statements provided to customers by telephone companies and other telecommunications providers are subject to the Maine Service Provider Tax as "ancillary services," including the following:

- (1) Call blocking, forwarding & waiting
- (2) Caller ID
- (3) Conference calling
- (4) Local calling surcharge
- (5) Operator assisted calls
- (6) Paging
- (7) Pay-per-call service (900 and some 800)
- (8) Private network charge
- (9) Local Number Portability charge
- (10) Roaming charge
- (11) Data transfer charge
- (12) Service initiation charge (sometimes called "installation" charge)
- (13) State of Maine subscriber line charge or end-user common line charge, sometimes called the "FCC Ordered Access Charge" or some other term (allowed by FCC to enable local telephone companies to recover a portion of their costs of completing long-distance calls on their local networks)
- (14) Speed dialing
- (15) Teleconferencing
- (16) Three-way calling
- (17) Touchtone service
- (18) Voice messaging
- (19) Text messaging (see Section 4, Paragraph D of this bulletin)
- (20) Wire maintenance plan charge (from carrier's line to jack in customer's home or place of business)
- (21) Early termination fee

(22) Single bill fee (monthly fee charged for combining local and long distance charges onto one bill)

**D. Items excluded from tax base.** The following services, charges and fees are not subject to the Maine Service Provider Tax:

- (1) Service originating or terminating outside this State (interstate calls)
- (2) Internet access charges and long-distance access charges
- (3) Directory advertising services (yellow pages, etc.)
- (4) Sale of unbundled network elements for use in the provision of telecommunications services (generally these are sales between telecommunication companies)
- (5) Late payment charges and returned check fees
- (6) Lease of telecommunications equipment (lease/rental payments)
- (7) Lifeline surcharge billed to certain low-income consumers
- (8) Prepaid calling service (see Paragraph E below for details)
- (9) Mobile telecommunications services provided by a home service provider to a customer whose place of primary use is not within this State (see Section 4 below)
- (10) Access services provided by a local exchange carrier to an interstate or intrastate exchange carrier
- (11) Telecommunications relay service (TTY charge passed on to all customers to help subsidize the cost of TTY equipment)
- (12) Federal and State taxes
- (13) The following fees and surcharges:
  - a. Maine Telecommunications Education Access Fund (MTEAF) surcharge (sometimes termed “School and Library Fund surcharge”)
  - b. Maine Universal Service Fund (MUSF) surcharge
  - c. ConnectMe Fund surcharge
  - d. E-911 surcharge or service fee
  - e. Federal Universal Service Fund or “Universal Connectivity” surcharge

**E. Prepaid calling service.** The sale of prepaid calling service is exempt from the Maine Service Provider Tax, but such service, including the sale or recharging of calling cards, is subject to the Maine Sales and Use Tax. The Sales and Use Tax Law defines “prepaid calling service” and explains when prepaid service is taxable in Maine as follows:

*“Prepaid calling service” means the right to access exclusively telecommunications services that must be paid for in advance that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed, and that is sold in predetermined units or dollars, the number of which declines with use in a known amount. The sale or recharge of the service is considered a sale within the State if the transfer for consideration takes place at the vendor's place of business in the State. If the*

*sale or recharge of prepaid calling service does not take place at the vendor's place of business, the sale or recharge is deemed to take place at the customer's shipping address, or if there is no item shipped, at the customer's billing address or the location associated with the customer's mobile telephone number. The sale of the service is deemed to occur on the date of the transfer for consideration of the service. 36 MRSA § 1752 (8-B)*

### **3. INSTALLATION, MAINTENANCE AND REPAIR**

**A. Generally.** The installation, maintenance or repair of telecommunications equipment is subject to the Service Provider Tax. The statute defines “telecommunications equipment” as follows:

*“Telecommunications equipment” means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. “Telecommunications equipment” includes all transmission media that are used or capable of being used in the provision of 2-way interactive communications, including, without limitation, copper wire, coaxial cable and optical fiber, except those transmission media designed and primarily used to transmit electricity. “Telecommunications equipment” does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information.*

**36 MRSA § 2551(19)**

Thus, charges for the installation and repair of telephones, telephone systems, facsimile machines, modems, two-way radios and intercom systems are subject to the Service Provider Tax, as are charges by a contractor engaged by a telecommunications carrier to perform installation or repair work to the carrier's own lines or other infrastructure elements consisting of telecommunications equipment.

Computer networks also contain telecommunications equipment. Although the definition of telecommunications equipment specifically excludes “computers,” items such as wiring, cabling, modems, switches and other equipment necessary for the operation of the network meet the definition of telecommunications equipment. The installation and repair of these items are therefore subject to the Service Provider Tax.

The State Tax Assessor takes the position that “telecommunications equipment” does not include home automation systems and security/alarm systems to the extent they do not contain equipment making them capable of 2-way interactive communications. If they do include telecommunications equipment, installation and repair labor for that equipment (but not for the system as a whole) is subject to Service Provider Tax.

**B. Wiring and cables.** Since telecommunications equipment includes signal transmission media “*used or capable of being used*” in telecommunications, the installation, maintenance and repair of wiring and cables – including copper wire, coaxial cable, optical fiber, and category 5 & 6 wiring -- may also be subject to the tax. All electricians and contractors doing business in Maine should be aware of this fact.

If the person that installs the product knows or has reason to know at the time of installation that the product will be used in providing telecommunications services, the installation labor is taxable; if the installer knows that the product will be used only to transmit electricity, the work is not taxable. (The term “electricity” is used in the sense of transmitting or distributing electrical

power primarily in non-telecommunications activities.) If the person that installs the product does *not* know or have reason to know at the time of installation the use to which the product will be put, and the product is *capable* of being used in telecommunications, the installation labor is taxable.

Installation, maintenance and repair of items that are clearly not related to telecommunications are not taxable. This includes but is not limited to items such as lighting fixtures, garage door openers, HVAC systems, doorbells/buzzers, and smoke/motion detectors.

The burden of proof that a transaction is exempt is upon the seller of the installation/maintenance/repair service. Persons engaged in the installation of wiring and cables must maintain proper documentation to support any exemptions claimed. Absent such documentation, the entire installation is presumed to be taxable. Examples of documentation include, but are not limited to, contracts, blueprints and work orders.

**Examples:**

1. A company is hired to install coaxial cable throughout an apartment building for the specific purpose of enabling the tenants to receive cable television. Cable TV service permits 2-way interactive communication between the receiver and the service provider and also supports telephone and internet service. The installation of this coaxial cable is subject to the service provider tax.
2. A company is hired to wire a house for a telephone system. The company that runs the wiring does not install the telephone system, but has every reason to believe that telephonic devices will ultimately be connected to the wires and used in telecommunications. The installation of the wire is subject to the service provider tax.
3. An electrician is hired to run wiring through an office building, including coaxial cable, telephone wire, and category 5 wiring. The wiring is run in such a manner that it would be likely and practical that a user of the building would connect telecommunications equipment to the wiring. The electrician is not told what devices will be connected to the wiring. The installation of this wiring is subject to the service provider tax.
4. An electrician is hired to install wires and cables in an existing home. Three wires are installed, an electrical wire, a telephone wire, and a coaxial cable to be used for high-speed internet access. If the electrician does not itemize the labor, all the installation is taxable. If the electrician does itemize, the installation is taxable on the taxable components.
5. The installation, repair or maintenance of copper wire that will be used to provide electricity to an electrical receptacle is not taxable. The same is true for installation, repair or maintenance of copper wire that will be used to provide electricity to an electrical receptacle into which a computer will be plugged; although the computer may be used in two-way communications, this wiring falls into the exception for transmission media used primarily to transmit electricity, regardless of what equipment is ultimately plugged into the receptacle.
6. A security company runs wiring from a video camera to a video recorder or monitor. The tax does not apply to the installation, repair or maintenance of this wiring, unless the security system incorporates a modem, telephone wire and telephone jacks, in which case the labor associated with those items is taxable. Service providers should be sure to itemize

bills in any situation of this type in order to avoid being assessed tax on the cost of the entire job.

**7.** A company installs a security system that is linked to the building's telephone system. The labor to install the telecommunications equipment (modem, wires, jacks, switches) is taxable, but the installation of the wiring for the security system components (cameras, recorders, detection devices, etc.) is exempt.

**8.** Wiring and cables are installed to connect a control room to a piece of manufacturing equipment that produces widgets for sale. Even if audio, video, data or textual information signals or data are sent back and forth between the manufacturing equipment and the control room, the installation, repair or maintenance of this wiring is not subject to service provider tax because the wiring and cables are considered part of the manufacturing process.

**9.** The installation, repair or maintenance of wiring for one-way voice evacuation systems, mass notifications systems or emergency communications systems (to the extent they are one-way) are not subject to tax.

**C. Development or customization.** Charges for the development, creation or customization of telecommunications equipment, such as engineering or design services, are included in the sale price of the equipment and are therefore subject to the Service Provider Tax.

**D. Maintenance agreements.** Monthly or quarterly fees paid pursuant to a maintenance agreement for telecommunication equipment are subject to the Service Provider Tax.

**E. Computer equipment; mobile equipment.** "Telecommunications equipment" does not include computers or most computer equipment, but does include modems and other computer components used directly and primarily as a two-way interactive communications device capable of exchanging audio, video, data or textual information. It also includes cellular telephones and other mobile telecommunications equipment.

**F. Multi-functioning equipment.** For multi-functioning equipment, only the labor to install, maintain or repair the telecommunications equipment portion of the item is subject to the Service Provider Tax. For example, with a fax/printer/copier combined unit, only the labor charge for installing, maintaining or repairing the modem is subject to tax.

**G. Utility poles.** Utility poles do not constitute "telecommunications equipment" for purposes of the Service Provider Tax. Therefore, charges for installing such poles are not subject to the Service Provider Tax. However, the installation of telecommunications equipment to utility poles is taxable.

#### **4. MOBILE TELECOMMUNICATIONS**

**A. Generally.** Maine's taxation of mobile telecommunications is designed to comply with the federal Mobile Telecommunications Sourcing Act. The Maine Service Provider Tax therefore applies to wireless calls billed to a customer whose place of primary use is in this State, to the extent those services are associated with transmissions that originate and terminate within this State or within any other state; for this purpose, the term "state" includes the District of Columbia and any territory or possession of the United States. There may also be some charges imposed upon mobile phone customers that may not apply to "landline" phones, such as text messaging; such charges are also telecommunication services subject to the Maine Service Provider Tax. Otherwise,

the taxable telecommunication services for mobile telephones are the same types of services that are taxed in the case of “landline” equipment.

**B. Place of Primary Use.** “Place of primary use” is defined in 36 MRSA § 2551(8). The term generally means either the residential street address or the primary business street address of the customer. The place of primary use must be located within the licensed service area of the home service provider. See the law in Attachment 1 for more details, particularly 36 MRSA § 2556, which sets out the sourcing rules for mobile telecommunications services.

**C. Bundled sale of mobile telephone “plans.”** The law provides that otherwise nontaxable charges that are aggregated with and not separately stated from taxable mobile telecommunications charges are subject to taxation unless the home service provider can, to the satisfaction of the assessor, reasonably identify such charges from books and records kept in the regular course of its business.

**D. Related products and services.** Charges for text messaging service are taxable under the Service Provider Tax as an “ancillary service.” Digital products delivered or downloaded to a cellular telephone electronically, including music, video, text or ringtones are not subject to the Service Provider Tax, but are subject to the Sales and Use Tax. The sale of cellular telephone accessories, such as phone cases and headsets, is also subject to the Maine Sales and Use Tax.

**E. Telephone provided as part of service contract.** When a cellular telephone is provided by a mobile telecommunications provider to a customer as part of the service contract without a separately stated cost, the price of the telephone is considered a part of the sale price of the contract, and the Service Provider Tax applies to the entire contract price, with no Sales and Use Tax being due on the telephone.

**F. Mobile telecommunication towers.** Mobile communication towers do not constitute “telecommunications equipment” for purposes of the Service Provider Tax. Therefore, charges for installing such towers are not subject to the Service Provider Tax. However, the installation of telecommunications equipment to such towers is taxable.

## **5. SALES FOR RESALE**

Charges for the sale of telecommunications services by one telecommunications provider to another when the services are going to be resold to consumers are exempt from the Service Provider Tax. For example, when Carrier A purchases digital subscriber line (“DSL”) from Carrier B, and then Carrier A sells that DSL to its customers, the original sale to Carrier A is a sale for resale that is not subject to tax. However, if an Internet Service Provider (“ISP”) purchases DSL from a provider and then markets and sells DSL access to its customers by charging an internet access fee, the original sale to the ISP is not a tax-free sale for resale of DSL.

When a telecommunications provider contracts with an independent contractor or with another telecommunications provider to perform installation or repair work on telecommunications equipment, and these installation or repair charges are intended to be resold to a final customer (and subject to the Service Provider Tax), the transaction between the telecommunications provider and the contractor is considered a purchase for resale and is not subject to the Service Provider Tax. Likewise, charges for telecommunication line services that are intended to be resold by a telecommunications company to a final customer are not subject to the Service Provider Tax. (Note, however, that when a contractor is engaged by a telecommunications carrier to perform

installation or repair work to telecommunications equipment (including lines) in support of the carrier's infrastructure, the Service Provider Tax must be charged; see Section 3 of this bulletin above.)

## **6. ADDITIONAL INFORMATION**

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all-inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

**MAINE REVENUE SERVICES  
SALES, FUEL & SPECIAL TAX DIVISION  
P.O. BOX 1065  
AUGUSTA, ME 04332-1065  
TEL: (207) 624-9693  
NEXTALK: 1-888-577-6690**

The Department of Administrative and Financial Services does not discriminate on the basis of disability in admission, to access to, or operation of its programs, services or activities.

**Issued: June 12, 2009**

(Published under Appropriation 010-18F-0002-07)

**ATTACHMENT #1**  
**Excerpts from Title 36 MRSA**  
**Part 3 (Sales and Use Tax) and Chapter 358 (Service Provider Tax)**

**8-B. Prepaid calling service.** “Prepaid calling service” means the right to access exclusively telecommunications services that must be paid for in advance that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed, and that is sold in predetermined units or dollars, the number of which declines with use in a known amount. The sale or recharge of the service is considered a sale within the State if the transfer for consideration takes place at the vendor’s place of business in the State. If the sale or recharge of prepaid calling service does not take place at the vendor’s place of business, the sale or recharge is deemed to take place at the customer’s shipping address, or if there is no item shipped, at the customer’s billing address or the location associated with the customer’s mobile telephone number. The sale of the service is deemed to occur on the date of the transfer for consideration of the service.

**17-B. Taxable service.** “Taxable service” means the rental of living quarters in a hotel, rooming house, tourist or trailer camp; the transmission and distribution of electricity; the rental or lease of an automobile; the sale of an extended service contract on an automobile that entitles the purchaser to specific benefits in the service of the automobile for a specific duration; and the sale of prepaid calling service.

**§1811. Sales tax [portion only]**

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. The rate of tax is...5% on the value of all...taxable services. Value is measured by the sale price, except as otherwise provided....

**§2551 Definitions**

**1-C. Ancillary service.** “Ancillary service” means a service that is associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing service, directory assistance, vertical service and voice mail service.

**1-D. Conference bridging service.** “Conference bridging service” means an ancillary service that links 2 or more participants in an audio or video conference call and may include the provision of a telephone number. “Conference bridging service” does not include the telecommunications services used to reach the conference bridge.

**1-F. Directory assistance.** “Directory assistance” means an ancillary service of providing telephone number information or address information or both.

**5-A. International telecommunications service.** “International telecommunications service” means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. For purposes of this subsection, “United States” includes a territory or possession of the United States.

**5-B. Interstate telecommunications service.** “Interstate telecommunications service” means a telecommunications service that originates in one state, territory or possession of the

United States and terminates in a different state, territory or possession of the United States. For purposes of this subsection, “state” includes the District of Columbia.

**8. Place of primary use.** “Place of primary use” means the street address representative of where a customer’s use of mobile telecommunications services primarily occurs, which must be either the residential street address or the primary business street address of the customer and must also be located within the licensed service area of the home service provider. For purposes of determining the place of primary use, “customer” means the person or entity that contracts with the home service provider for mobile telecommunications services or, if the end user of such services is not the contracting party, the person that is the end user of such services. The term “customer” does not include a reseller of mobile telecommunications services or a serving carrier under an agreement to serve the customer outside the home service provider’s licensed service area.

**15. Sale price.** “Sale price” means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the cost of materials used, labor or service cost, interest, losses and any other expense of the seller. “Sale price” includes any consideration for services that are a part of a sale. “Sale price” does not include:

- A. Discounts allowed and taken on sales;
- B. Allowances in cash or by credit made upon the return of services pursuant to warranty;
- C. The price of services rejected by customers when the full sale price is refunded either in cash or by credit;
- D. The amount of any tax imposed by the United States or the State on or with respect to the sale of a service, whether imposed upon the seller or the consumer; or
- E. The cost of transportation from the service provider’s place of business or other point from which shipment is made directly to the purchaser, as long as those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States Postal Service.

**17. Service provider.** “Service provider” means a person who sells one or more of the services listed in section 2552.

**19. Telecommunications equipment.** “Telecommunications equipment” means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. “Telecommunications equipment” includes all transmission media that are used or capable of being used in the provision of 2-way interactive communications, including, without limitation, copper wire, coaxial cable and optical fiber, except those transmission media designed and primarily used to transmit electricity. “Telecommunications equipment” does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information.

**20-A. Telecommunications services.** “Telecommunications services” means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point or between or among points. “Telecommunications services” includes transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether the service is referred to as “Voice over Internet Protocol” services or is classified by the

Federal Communications Commission as enhanced or value added. “Telecommunications services” does not include:

- A. Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser when the purchaser’s primary purpose for the underlying transaction is to obtain the processed data or information;
- B. Installation or maintenance of wiring or equipment on a customer’s premises;
- C. Tangible personal property;
- D. Advertising, including, but not limited to, directory advertising;
- E. Billing and collection services provided to 3rd parties;
- F. Internet access service;
- G. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of those services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service as defined in 47 United States Code, Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers as defined in 47 Code of Federal Regulations, Section 20.3;
- H. Ancillary services; or
- I. Digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ringtones.

**20-B. Vertical service.** “Vertical service” means an ancillary service that is offered in connection with one or more telecommunications services and offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections. “Vertical service” includes conference bridging service.

**21-A. Voice mail service.** “Voice mail service” means an ancillary service that enables the customer to store, send or receive recorded messages. “Voice mail service” does not include a vertical service that the customer may be required to have in order to use the voice mail service.

**36 § 2552. Tax imposed [portion only]**

**1. Rate.** A tax at the rate of 5% is imposed on the value of the following services sold in this State:

- ...
- E. Telecommunications services;
- F. The installation, maintenance or repair of telecommunications equipment;
- ...
- K. Ancillary services.

**§2556. Sourcing rules for mobile telecommunications services**

**1. Sourcing rule; identifying place of primary use.** Mobile telecommunications services provided to a customer whose place of primary use is located in this State, the charges for which are billed by or for the customer’s home service provider, are deemed to be provided at the customer’s place of primary use. A home service provider is responsible for obtaining and maintaining a record of a customer’s place of primary use. Subject to subsection 2 and if the home service

provider's reliance on the information provided by its customer is in good faith, the home service provider:

A. May rely on the applicable residential or business street address supplied by the home service provider's customer; and

B. May not be held liable for any additional taxes under this chapter based on a different determination of the place of primary use.

**2. Correction of place of primary use; determination by assessor.** If the assessor determines that the address used by a home service provider as a customer's place of primary use does not meet the definition provided by section 2551, subsection 8, the assessor shall notify the customer in writing of that determination and provide the customer an opportunity to demonstrate that that address is the customer's place of primary use. If the customer fails to demonstrate to the assessor's satisfaction within 30 days from the time it receives notice from the assessor, or within another time period as the assessor may allow, that the address in question is the customer's place of primary use, the assessor shall provide the home service provider with the proper address to be used as the customer's place of primary use. The home service provider shall begin using the address provided by the assessor as the customer's place of primary use within 30 days from the date it receives notice of the assessor's determination.

**3. Hold harmless provision; use of electronic database or enhanced zip code.** A home service provider is entitled to the hold harmless protections provided by the federal Mobile Telecommunications Sourcing Act, Public Law 106-252, Section 1, 114 Stat. 2, (2000).

**4. Bundled services.** Notwithstanding any other provision of this Part, otherwise nontaxable charges that are aggregated with and not separately stated from taxable mobile telecommunications charges are subject to taxation unless the home service provider can, to the satisfaction of the assessor, reasonably identify such charges from books and records kept in the regular course of its business. A customer may not rely upon the nontaxability of bundled services unless the customer's home service provider separately states the otherwise nontaxable services or the home service provider elects, after receiving written notice from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business and that reasonably identify the nontaxable charges.

**5. Certain preexisting contracts.** Subject to subsection 2, a home service provider may treat the address used by it for purposes of the tax imposed by this chapter for any customer under a service contract or agreement in effect on July 28, 2002 as that customer's place of primary use for the remaining term of the service contract or agreement, excluding any extension or renewal period.

## **§2557. Exemptions**

The tax imposed by this chapter does not apply in connection with:

**1. Exemptions by constitutional provisions.** Sales that this State is prohibited from taxing under the constitution or laws of the United States or under the constitution of this State;

**2. Certain governmental entities.** Sales to the State or any political subdivision, or to the Federal Government, or to any unincorporated agency or instrumentality of either of them or to any incorporated agency or instrumentality of them wholly owned by them. This exemption does not

apply to corporations organized under Title IV, Part E of the federal Farm Credit Act of 1971, 12 United States Code, Sections 2211 to 2214;

**3. Hospitals, research centers, churches and schools.** Sales to:

- A. Incorporated hospitals;
- B. Incorporated nonprofit nursing homes licensed by the Department of Health and Human Services;
- C. Incorporated nonprofit residential care facilities licensed by the Department of Health and Human Services;
- D. Incorporated nonprofit assisted housing programs for the elderly licensed by the Department of Health and Human Services;
- E. Incorporated nonprofit home health agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended;
- F. Incorporated nonprofit rural community health centers;
- G. Incorporated nonprofit dental health centers;
- H. Incorporated nonprofit organizations organized for the sole purpose of conducting medical research;
- I. Incorporated nonprofit organizations organized for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology;
- J. Institutions incorporated as nonprofit corporations for the purpose of operating educational television or radio stations;
- K. Schools;
- L. Incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia; and
- M. Regularly organized churches or houses of religious worship.

**4. Other institutions.** Sales to incorporated private nonprofit residential child care facilities that are licensed by the Department of Health and Human Services as residential child care facilities;

**5. Nonprofit fire departments and nonprofit ambulance services.** Sales to incorporated nonprofit fire departments, to incorporated nonprofit ambulance services and to air ambulance services that are limited liability companies all of whose members are nonprofit organizations;

**6. Community mental health facilities, community mental retardation facilities and community substance abuse facilities.** Sales to mental health facilities, mental retardation facilities or substance abuse facilities that are:

- A. Contractors under or receiving support under the federal Community Mental Health Centers Act, or its successors; or
- B. Receiving support from the Department of Health and Human Services pursuant to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204;

**7. Regional planning commissions and councils of government.** Sales to regional planning commissions and councils of government that are established in accordance with Title 30-A;

**8. Historical societies, museums and certain memorial foundations.** Sales to incorporated nonprofit memorial foundations that primarily provide cultural programs free to the public, historical societies and museums;

**9. Nursery schools and day-care centers.** Sales to licensed, incorporated nonprofit nursery schools and day-care centers;

**10. Certain church-affiliated residential homes.** Sales to any church-affiliated nonprofit organization that operates, under a charter granted by the Legislature, a residential home for adults;

**11. Medical patients and their families.** Sales to incorporated nonprofit organizations providing:

A. Temporary residential accommodations to pediatric patients suffering from critical illness or disease such as cancer or who are accident victims, to adult patients with cancer or to the families of the patients; or

B. Temporary residential accommodations, or food, or both, to hospital patients or to the families of hospital patients;

**12. Emergency shelter and feeding organizations.** Sales to incorporated nonprofit organizations that provide free temporary emergency shelter or food for underprivileged individuals in this State;

**13. Child abuse and neglect councils; child advocacy organizations; community action agencies.** Sales to:

A. Incorporated, nonprofit child abuse and neglect councils as defined in Title 22, section 3872, subsection 1-A;

B. Statewide organizations that advocate for children and that are members of the Medicaid Advisory Committee; and

C. Community action agencies designated in accordance with Title 22, section 5324;

**14. Certain libraries.** Sales to any nonprofit free public lending library that is funded in part or wholly by the State or any political subdivision or the Federal Government;

**15. Veterans' memorial cemetery associations.** Sales to incorporated nonprofit veterans' memorial cemetery associations;

**16. Nonprofit volunteer search and rescue organizations.** Sales to incorporated, nonprofit volunteer search and rescue organizations;

**17. Incorporated nonprofit hospice organizations.** Sales to incorporated nonprofit hospice organizations that provide a program or care for the physical and emotional needs of terminally ill patients;

**18. Nonprofit youth organizations.** Sales to nonprofit youth organizations whose primary purpose is to provide athletic instruction in a nonresidential setting or sales to councils and local units of incorporated nonprofit national scouting organizations;

**19. Certain incorporated nonprofit educational organizations.** Sales to incorporated nonprofit educational organizations that are receiving, or have received, funding from the Department of Education and that provide educational programs specifically designed for teaching young people how to make decisions about drugs, alcohol and interpersonal relationships at a residential camp setting;

**20. Charitable suppliers of medical equipment.** Sales to local branches of incorporated international nonprofit charitable organizations that provide, on a loan basis and free of charge, medical supplies and equipment to persons;

**21. Organizations fulfilling wishes of children with life-threatening diseases.** Sales to incorporated nonprofit organizations whose sole purpose is to fulfill the wishes of children with life-threatening diseases when their families or guardians are unable otherwise to financially fulfill those wishes;

**22. Incorporated nonprofit providers of certain support systems for single-parent families.** Sales to incorporated nonprofit organizations engaged primarily in providing support systems for single-parent families for the development of psychological and economic self-sufficiency;

**23. Nonprofit home construction organizations.** Sales to local branches of incorporated nonprofit organizations whose purpose is to construct low-cost housing for low-income people;

**24. Vietnam veteran registries.** Sales to incorporated, nonprofit organizations whose sole purpose is to create, maintain and update a registry of Vietnam veterans;

**25. Organizations providing certain services for hearing-impaired persons.** Sales to incorporated nonprofit organizations whose primary purposes are to promote public understanding of hearing impairment and to assist hearing-impaired persons through the dissemination of information about hearing impairment to the general public and referral to and coordination of community resources available to hearing-impaired persons;

**26. State-chartered credit unions.** Sales to credit unions that are organized under the laws of this State. This subsection remains in effect only for the time that federally chartered credit unions are, by reason of federal law, exempt from payment of the tax imposed by this chapter;

**27. Nonprofit housing development organizations.** Sales to nonprofit organizations whose primary purpose is to develop housing for low-income people;

**28. Eye banks.** Sales to nonprofit organizations whose primary purpose is to obtain, medically evaluate and distribute eyes for use in corneal transplantation, research and education;

**29. Centers for innovation.** Sales to centers for innovation as described in Title 5, section 13141;

**30. Sales for resale.** Sales of services to another service provider for resale;

**31. Construction contracts with exempt organizations.** Sales to a construction contractor or its subcontractor of fabrication services that are to be physically incorporated in, and become a permanent part of, real property for sale to any organization or government agency provided exemption under this section, except as otherwise provided by section 2560. The exemptions provided in this section apply only when an exempt entity purchases a service for its own use or on its own behalf and do not apply when an exempt entity pays for the service for the use of or on behalf of another person;

**32. Prepaid calling service.** Sales of prepaid calling service;

**33. International telecommunications service.** Sales of international telecommunications service; and

**34. Interstate telecommunications service.** Sales of interstate telecommunications service.

**§2560. Exempt activities**

A tax exemption provided by section 2557 to a person based upon its charitable, nonprofit or other public purposes applies only if the service purchased is intended to be used by the person primarily in the activity identified by the particular exemption. A tax exemption provided by section 2557 to a person based upon its charitable, nonprofit or other public purposes does not apply where title is held or taken by the person as security for any financing arrangement. An exemption certificate issued by the State Tax Assessor pursuant to section 2557 must identify the exempt activity and must state that the certificate may be used by the holder only when purchasing services intended to be used by the holder primarily in the exempt activity. When an otherwise qualifying person is engaged in both exempt and nonexempt activities, an exemption certificate may be issued to the person only if the person has established to the satisfaction of the assessor that the applicant has adequate accounting controls to limit the use of the certificate to exempt purchases.



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION

---

## RESALE AUTHORIZATION FOR SERVICES SUBJECT TO MAINE SERVICE PROVIDER TAX

---

IT IS HEREBY CERTIFIED: That \_\_\_\_\_ (“Provider”) holds a valid Maine Service Provider Registration No. \_\_\_\_\_ issued pursuant to 36 M.R.S.A. §2553 and is in the business of selling telecommunications services and/or ancillary services; and that the services purchased from \_\_\_\_\_ will be resold in the ordinary course of business. These services when resold by the above named provider will be subject to the Maine Service Provider Tax, unless such sale is otherwise exempted pursuant to 36 M.R.S.A. §2557.

I understand that if the services are not resold but are instead used by the provider for its own purposes, the provider will be held liable for the Service Provider Tax.

I HEREBY CERTIFY THAT: I am an authorized representative of

Purchaser \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Signature \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_