



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 42

ORIGINAL REGISTRATION OF VEHICLES – TAXABLE/EXEMPT

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 Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1. Also attached are applicable Sales and Use Tax Rules. Additional information regarding the registration of watercraft, snowmobiles and all-terrain vehicles can be found in Instruction Bulletin No. 47.

The applicant for the original registration of the above vehicles must present either a Dealer's Certificate or a properly completed Use Tax Certificate to the appropriate registering agency. Unless the purchase of the vehicle was exempt from taxation, the Dealer's Certificate is a receipt of sales tax paid to a dealer; whereas the Use Tax Certificate requires that the use tax be paid to the Secretary of State prior to the issuance of registration.

1. DEALER'S CERTIFICATE

Maine vehicle dealers must provide their customers with a "Dealer's Certificate" showing either that the sales tax due on the vehicle to be registered has been collected by the dealer, or that the sale of the vehicle is exempt or otherwise not subject to tax. A properly completed "Dealer's Certificate" must be submitted to the Secretary of State as a prerequisite to any original registration.

It is the responsibility of Maine vehicle dealers to collect and report the sales tax on all retail sales of vehicles made in this state, unless the purchaser qualifies for one of the tax exemptions discussed below.

A Maine vehicle dealer does not have the option of allowing his customers to pay the use tax directly to the Secretary of State at the time of registration, and the dealer will be held accountable for the tax on all taxable retail sales.

2. USE TAX CERTIFICATE

a. Sales by Out of State Dealers. Vehicles purchased from dealers located outside the State of Maine for use in this State are subject to the use tax. An individual registering such a vehicle in this State must complete a "Use Tax Certificate" and submit it to the

Secretary of State, along with any use tax due, as a prerequisite to any original registration.

b. Casual Sales. 1764 of the Sales and Use Tax Law imposes a sales or use tax on casual sales of the following items:

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|--------------------|--------------------------|
| Motor Vehicles | Special Mobile Equipment |
| Camper Trailers | Aircraft |
| Livestock Trailers | Watercraft |

The purchaser of these items at casual sale will be held liable for the use tax and will be required to file a "Use Tax Certificate" with the Secretary of State and pay any use tax due as a prerequisite to any original registration. (see Section 4 for definitions).

c. Obtaining a Use Tax Certificate. A "Use Tax Certificate" may be obtained by anyone requiring one from the local excise tax collector, the Secretary of State, or the Sales Tax Section of Maine Revenue Services.

3. TAX EXEMPTIONS

a. Sales for Resale. Under the Sales and Use Tax Law, a sale of a vehicle for resale (except for resale as a casual sale) is not a taxable transaction if no use is made of the vehicle other than demonstration or display. However, registration of a vehicle is considered evidence that use other than demonstration or display is being made of the vehicle, and the registrant will be required to pay the use tax as a prerequisite to registration.

b. Exempt Agencies. Sales made directly to the Federal government, this State or any political subdivision of this State, or to any unincorporated agency of the above, are exempt from sales or use tax. In addition to the federal Government, the State of Maine and any county, city, town or plantation in the State of Maine, this exemption covers sales to:

School districts in Maine;

Water, power, parking, sewer and other districts in Maine, established by legislative act as quasi-municipal corporations;

Village corporations;

The Maine Turnpike Authority.

No exemption number is issued to the above agencies of government. All that is required on a "Use Tax Certificate" or a "Dealer's Certificate" is the name of the exempt agency and the signature of an authorized individual.

The Sales and Use Tax Law also provides exemption to various organizations, such as hospitals, certain schools, and regularly organized churches or houses of religious wor-

ship, as well as other organizations. To qualify for exemption, such organizations must have been issued a certificate of exemption by Maine Revenue Services. When a motor vehicle is sold to an exempt organization the exemption permit number (a five-digit number prefixed by the letter 'E') must be entered in the appropriate box of the "Dealers Certificate" or "Use Tax Certificate" if an exemption is claimed. Sales to organizations which do not hold and provide an exemption certificate will be deemed taxable.

Please note that this exemption does not apply to sales to clergy or to staff members or employees of exempt organizations. Such sales are taxable as in any other case.

c. Sale of Dual Controlled Automobiles Used in Driver Training Programs.

This exemption applies to sales by automobile dealers registered under the Sales and Use Tax Law of automobiles for the purpose of equipping the same with dual controls and loaning or leasing them to public or private schools without consideration or for the consideration of not more than \$1 a year. Individuals registering such vehicles should so indicate in Box E of the "Dealer's Certificate".

d. Sales to Amputee Veterans. The exemption applies to sales of automobiles to veterans who are granted free registration by the Secretary of State under the provisions of 251 of Title 29. Veterans qualifying for this exemption should complete the proper block on the "Dealer's Certificate" or "Use Tax Certificate".

e. Vehicles Sold to Persons in the Military Services. A sale of a vehicle to a person in the military service is handled in exactly the same way as a sale to a civilian.

f. Vehicles Used in Interstate Commerce. A vehicle which is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days (90 days with good cause) after the sale and which is used by the purchaser not less than 80% of the time for the next two years as an instrumentality of interstate or foreign commerce, may be registered by the owner without payment of use tax. When the vehicle was purchased at casual sale or from a dealer outside this state, the purchaser is required to check Box 'E' and explain on the reverse side of the use tax certificate that the vehicle qualifies for exemption as an instrumentality of interstate or foreign commerce. Maine Revenue Services subsequently may request an affidavit of exemption and will make such further investigations as may be necessary to verify the exemption.

It should be noted that this exemption applies only when the vehicle is being used in interstate commerce by the owner. A vehicle being used in interstate commerce by a lessee does not qualify for the interstate commerce exemption and would be subject to the use tax if the vehicle is to be located in the state.

4. TRADE-INS

a. Allowance for Trade-In. When one or more motor vehicles, farm tractors, watercraft, aircraft, self-propelled vehicles used to harvest lumber, camper trailers or livestock trailers are traded in toward the sale price of another item of the same kind, i.e. motor vehicle traded for a motor vehicle, farm tractor for a farm tractor, boat for a boat, etc., the sales or use tax is levied only upon the difference between the sale price of the purchased vehicle and the sale price of the vehicle or vehicles taken in trade, except for transactions between dealers involving exchange of the vehicles from inventory. However, if a motor vehicle is traded in toward a boat or a camper trailer is traded in toward a motor vehicle or if any of the above items is traded in toward any of the other items mentioned, then no credit for trade-in will be allowed.

It may appear that similar items would qualify under both motor vehicles and special mobile equipment. However, special attention should be made to Section 4-B, Definitions, which differentiates the two. The basic difference is that "motor vehicles" are "designed for the conveyance of passengers or property on the public highways". "Special mobile equipment" is not designed for that purpose and "may be only incidentally operated or moved over the highway."

For example, a crane which is permanently attached to a motor vehicle and sold as one unit is considered a motor vehicle, and if traded against another motor vehicle, would be allowed the trade-in credit. On the other hand, a crane which is self-propelled, but hauled from location to location on a flat bed, is not considered a motor vehicle even though it may incidentally be operated over the road. In this case, if the crane is traded in towards other special mobile equipment, the trade-in allowance will be credited against the purchase price.

When an item other than a motor vehicle, watercraft, aircraft, farm tractor, self-propelled vehicle used to harvest lumber, camper trailer, livestock trailer or special mobile equipment is traded towards one of the aforementioned items, tax applies to the entire sales price, including allowance for trade-in. For example, if a refrigerator is traded in towards the purchase of a boat, no trade-in credit is allowed and the tax is based on the sale price of the boat.

i. Trailers. Trade-in credits are only allowed on camper trailers and livestock trailers. All other trailers are subject to sales or use tax on the full purchase price of the trailer without deduction for a trade-in. For example, trade-in allowances for snowmobile trailers, utility trailers and boat trailers are not deducted from the sale price before computing the tax due.

b. Definitions. Definitions to the following terms can be found at the end of this bulletin in Attachment #1; motor vehicle, camper trailers, special mobile equipment, farm tractors, watercraft and aircraft.

i. Motor Vehicle. In the case of transactions involving motor vehicles, the deduction based on allowance for trade-in in computing sales or use tax will apply only when both vehicles involved are self-propelled and are designed for the conveyance of passengers or property on the public highway. Trailers of all types do not qualify as motor vehicles as they are not self-propelled. "Motor vehicles" includes cranes, shovels, cement mixers, and other equipment permanently attached to a motor vehicle, when sold as one unit. "Permanently attached" means that the components are physically joined together in a secure fashion and that they are not separated to be used independently.

ii. Camper Trailers. "Camper trailers" are only those vehicles without motive power, designed to provide living quarters and drawn by a motor vehicle. They include conventional travel trailers, park trailers, fifth-wheel travel trailers and folding camping trailers. They do not include truck campers, conventional motor homes, van campers and van conversion kits. Trade-in credits are allowed when different types of "camper trailers" are traded against one another. For instance credit is allowed when a folding camper trailer is traded-in toward either a park trailer, a travel trailer or a fifth-wheel. However no credit is allowed when a camper trailer is traded against one of the items mentioned above which do not qualify as a "camper trailer". For instance, credit would not be allowed when a park trailer is traded for a motor home.

iii. Farm Tractors. If a farm tractor is not both designed and used as a farm implement, there can be no deduction for trade-in allowance. Thus, bulldozers and other types of tractors designed for use in construction do not qualify as farm tractors.

iv. Livestock Trailers. The Sales Tax Law does not provide a definition of livestock trailer. However, it will be considered that a livestock trailer is a vehicle without motive power, designed for carrying livestock and for being drawn by a motor vehicle. "Livestock trailer" includes horse trailers.

5. SPECIAL SITUATIONS

a. Transfer of Equity. Where an individual takes possession of a motor vehicle from the original purchaser and assumes payment of the remaining loan balance, such transaction will be considered a casual sale, and the use tax is payable by the individual assuming payments. Since insurance and finance charges are not subject to tax, the purchaser should obtain a "close-out" figure from the financial institution as a basis on which to pay the use tax.

b. Leases.

i. Short term rentals of automobiles. Persons making leases or rentals of automobiles on a short-term basis are not required to pay tax on the cost of auto-

mobiles purchased exclusively for such use, but are required to register with the State Tax Assessor and collect and report tax on the rental charges. This provision only applies to "automobiles" as defined in 1752(1-B). "Short-term basis" means a lease or rental period of less than one year to the same person. In the event that an automobile purchased tax exempt under this provision is used for any purpose other than short-term rental, the lessor is required to report and pay use tax based on the purchase price.

A Maine dealer who purchases automobiles for resale and leases an automobile on a short-term bases while holding it for resale would not be required to pay a tax on his cost, but would collect and report tax on the rental charges. On other vehicles which do not qualify for the above provision, such as pick-up trucks, the dealer must either pay a tax on his purchase price, or may, under certain conditions, collect and report tax on rental charges.

A Maine dealer should provide the applicant for registration of a leased vehicle with a "Dealer's Certificate", certifying that the dealer/lessor will, or has, accounted for any tax due on the vehicle.

ii. Leases of other vehicles. All other applicants for registration of leased vehicles must prove that the tax is not owing, or pay any tax due, as a prerequisite to registration. The basis of the tax is the purchase price of the vehicle to the lessor. As with other applicants, if sales tax was paid to a Maine dealer, a "Dealer's Certificate" should be filed with the Secretary of State at the time of registration. If sales tax was not paid to a Maine dealer, a "Use Tax Certificate" should be filed and any tax due paid by the applicant as a prerequisite to registration.

Lessors are responsible for the payment of use tax on leased equipment in this State. Where the lessee cannot provide documentation to support payment of tax by the lessor, the lessee will be held responsible for the use tax. When an option to purchase a leased vehicle is exercised by the lessee, the transaction is a "sale". Tax is due on the option price paid by the lessee.

c. Sales by Estates. All sales of motor vehicles by personal representatives of estates are taxable. However, a motor vehicle received by a beneficiary of a decedent is not taxable, as the transaction is not in the nature of the sale.

d. Credit Allowed for Sales Tax Paid to Other Taxing Jurisdictions. Credit is allowed for any sales or use tax paid to other taxing jurisdictions against any Maine use tax which may be due on a vehicle. An applicant for original registration of a vehicle claiming credit for sales tax paid to another taxing jurisdiction must so indicate on a "Use Tax Certificate" and must provide the Secretary of State with a receipt of payment of such tax before credit will be allowed against the Maine use tax due on the transaction.

e. **Prior Use Outside the State of Maine.**

i. **Automobiles.** Automobiles purchased and actually used by the present owner outside the State of Maine, where the owner was a bona fide resident of the other state at the time of purchase and employed or registered to vote there, are exempt from the Maine use tax. "Automobile" for purposes of this provision includes pick-up trucks and vans, but only when such vehicles are legally registered as automobiles. A pick-up truck or similar vehicle which is required to be issued a commercial registration, or which is actually so registered, is not an automobile for purposes of this exemption. "Automobile" for purposes of this provision does not include motorcycles, mopeds, motor homes, recreational vehicles, buses, trucks, stock cars, or antique autos registered as such.

ii. **Motor Vehicles Other Than Automobiles.** Except for an automobile as defined above, a vehicle purchased and used by the present owner outside the State will be subject to Maine Use Tax as a prerequisite to registration for use in Maine unless it was registered and actually used elsewhere for more than twelve months before being brought into Maine. For purposes of this provision, "use" does not include storage, but means actual utilization of the vehicle for a purpose consistent with its design.

If the vehicle was registered by its present owner outside the state for a period of more than 12 months prior to Maine registration, the Secretary of State will not be required to collect the use tax as a prerequisite to Maine registration. Proof of out-of-state registration for the vehicle must be entered on the appropriate line of the use tax certificate.

Exemptions claimed on the basis of bona fide use outside the State of Maine may be audited or investigated by Maine Revenue Services. If Maine Revenue determines that the exemption was improperly claimed, assessment will be made of the appropriate use tax along with applicable interest and penalty charges.

f. **Motor Vehicles Purchased in Maine by Nonresidents.** A person, not a Maine resident, who purchases a motor vehicle in Maine may do so without paying Maine sales tax by filing an affidavit stating that the motor vehicle will be driven or transported outside the State immediately upon delivery. If the motor vehicle is registered in Maine within twelve months of the date of purchase, however, the person registering it becomes liable for Maine use tax based on the purchase price.

6. **REVIEW OF PURCHASE PRICES AND EXEMPTIONS**

Purchase prices and exemptions claimed are subject to audit or investigation by Maine Revenue Services. If it is determined that the purchase price was understated or that an exemp-

tion was claimed improperly, as assessment will be made of the appropriate use tax along with applicable interest and penalty charges.

7. 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:

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ATTACHMENT #1
Excerpts taken from 36 M.R.S.A.

36 §1752 - Definitions

1-A. Aircraft. "Aircraft" means any powered contrivance designed for navigation in the air except a rocket or missile.

1-B. Automobile. "Automobile," for purposes of subsection 17-A, paragraph B, means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks.

3. Farm tractor. "Farm tractor" means any self-propelled vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

7. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. "Motor vehicle" includes an all-terrain vehicle as defined in Title 12, §7851 and a snowmobile as defined in Title 12, §7821.

7-A. Vehicle. "Vehicle" shall have the same meaning which is ascribed to that term by Title 29, section 1.

14-B. Special mobile equipment. "Special mobile equipment" means any self-propelled vehicle not designed or used primarily for the transportation of persons or property which may be only incidentally operated or moved over the highways, including, but not limited to, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well drillers and wood sawing equipment.

22. Camper trailer. "Camper trailer" has the same meaning as in section 1481, but without any restriction on length.

24. Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft designed for use as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, which are customarily used in the operations of the watercraft.

36 §1760 - Exemptions

21. Automobiles used in driver education program. Sales to automobile dealers, registered under §1754, of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without consideration or for a consideration of not more than \$1 a year, and used exclusively by such schools in driver education programs.

22. Automobiles to amputee veterans. Sales of automobiles to veterans who are granted free registration of such vehicles by the Secretary of State under Title 29, 251. Certificates of exemption or refunds of taxes paid shall be granted under such rules or regulations as the Tax Assessor may prescribe.

23. Motor vehicles. Motor vehicles purchased by a nonresident and intended to be driven or transported outside the State immediately upon delivery by the seller. If such motor vehicle is registered for use in Maine within 12 months of the date of purchase, the person seeking registration shall be liable for use tax on the basis of the original purchase price;

23-A. Truck bodies and trailers. Truck bodies and trailers, manufactured in Maine, except camper bodies and trailers, purchased by a nonresident who intends to remove them immediately from the State upon delivery by the seller. If the truck body or trailer is returned to Maine for an otherwise taxable use in Maine within 12 months of the date of purchase, the purchaser shall be liable for use tax, based on the original purchase price;

23-B. Semitrailers. Semitrailers purchased by a nonresident and intended to be driven or transported outside the State immediately upon delivery by the seller. If the semitrailer is registered for use in Maine within 12 months of the date of purchase, the person seeking registration shall be liable for use tax on the basis of the original purchase price;

25. Watercraft sold to nonresidents. Sales in this State to nonresidents of watercraft, when such craft are either delivered outside the State or delivered in the State to be sailed or transported outside the State immediately upon delivery by the seller; and any sales to nonresidents, under contracts for the construction of any such craft to be so delivered, of materials to be incorporated; and any sales to nonresidents for the repair, alteration, refitting, reconstruction, overhaul or restoration of any such craft to be so delivered, of materials to be incorporated. Unless the craft is present in the State for more than 30 days during the 12-month period following its date of purchase or is registered in Maine without also being registered in another state or documented with a location in this State, within 12 months of the date of purchase, the purchaser is exempt from the use tax.

27. Aircraft purchased by a nonresident. Aircraft purchased by a nonresident and intended to be driven or transported outside the State immediately upon delivery by the seller. If any such craft are registered for use in Maine within 12 months of the date of purchase, the person seeking registration shall be liable for use tax on the basis of the original purchase price.

41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft which is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and which is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which

it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation which exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate commerce.

45. Certain property purchased outside the State. Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29, 1, and if the owner was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

A-1. If the property is a watercraft which is registered outside the State by an owner who at the time of purchase was a resident of another state and the watercraft is present in the State not more than 30 days during the 12 months following its purchase; or

B. For more than 12 months in all other cases.

For purposes of this subsection, "use" does not include storage, but means actual utilization of the property for a purpose consistent with its design. Property, other than automobiles and watercraft, which is required to be registered for use in this State does not qualify for exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State.

36 §1764 - Tax against certain isolated sales

The tax imposed by chapters 211 to 225 must be levied upon all casual sales involving the sale of camper trailers, motor vehicles, special mobile equipment, livestock trailers, watercraft or aircraft except those sold for resale at retail sale or to a corporation when the seller is the owner of a majority of the common stock of the corporation.

36 §1765 - Trade-in credit

When one or more of the following items of tangible personal property are traded in toward the sale price of another of the same kind of the following items, the tax imposed by this Part shall be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade, except for transactions between dealers involving exchange of the property from inventory:

- 1. Motor vehicles.** Motor vehicles;
- 2. Farm tractors.** Farm tractors;
- 3. Watercraft.** Watercraft;

4. Aircraft. Aircraft;

5. Lumber harvesting vehicles or loaders. Self-propelled vehicles or loaders used to harvest lumber;

6. Chain saws. Chain saws;

7. Special mobile equipment. Special mobile equipment;

8. Livestock trailers. Livestock trailers, including horse trailers; or

9. Camper trailers. Camper trailers.

36 §1862 - Taxes paid in other jurisdictions

The use tax provisions of chapters 211 to 225 shall not apply with respect to the use, storage or consumption in this State of purchases outside the State where the purchaser has paid a sales or use tax equal to or greater than the amount imposed by chapters 211 to 225 in another taxing jurisdiction, the proof of payment of the tax to be according to rules made by the State Tax Assessor. If the amount of tax paid in another taxing jurisdiction is not equal to or greater than the amount of tax imposed by chapters 211 to 225, then the purchaser shall pay to the State Tax Assessor an amount sufficient to make the tax paid in the other taxing jurisdiction and in this State equal to the amount imposed by chapters 211 to 225.

36 §1952-A - Payment of tax on vehicles and watercraft

The tax imposed by chapters 211 to 225 on the sale or use of any vehicle or watercraft must, except where the dealer thereof has collected such tax in full, be paid by the purchaser or other person seeking registration of the vehicle or watercraft at the time and place of registration of such vehicle or watercraft. In the case of vehicles, except snowmobiles and all-terrain vehicles, the tax must be collected by the Secretary of State and transmitted to the Treasurer of State as provided by Title 29, chapter 5, subchapter 1-A. In the case of watercraft, snowmobiles and all-terrain vehicles, the tax must be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as provided by Title 12, §7793-A to §7793-E, §7824-A to §7824-E or §7854-A to §7854-E.