



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

GENERAL INFORMATION BULLETIN

September 1, 2015 (updated December 21, 2015)

NO. 105

This bulletin contains important information about legislation recently enacted during the 127th Legislature as well as recent developments and issues that affect everyone who reports Maine sales, use and service provider taxes. Please read it carefully. The changes contain a variety of effective dates and apply to sales occurring on or after the applicable effective date.

In this issue:

- Sales tax on lodging increases to 9%
- Certain food products become taxable
- Paper or plastic carry-out bag fees are exempt
- Service Provider Tax rate increases to 6%
- Basic cable/satellite television and radio services become taxable
- Residential long distance telecommunications services become taxable
- New exemptions for certain nonprofit groups

FALL SEMINARS

Sales and use tax symposiums will be held in the Caribou, Bangor, Augusta and Portland areas this fall.

See dates and locations at the end of this bulletin and on our website.

SALES TAX ON LODGING INCREASES TO 9% ON JANUARY 1, 2016

The sales tax on the rental of living quarters in a hotel, rooming house or tourist or trailer camp, including casual rentals, increases from 8% to 9% effective January 1, 2016.

Persons engaged in this industry are reminded that a sale occurs when there is a transfer of a service for payment. Rate increases apply to transactions occurring on or after the effective date. A contract for a future purchase or a deposit received toward a future purchase is not a sale until the service is delivered and the seller receives payment or a promise of payment (receivable). The rate in effect when the service is delivered applies, not when the contract is negotiated or when a deposit is made.

If reservations are received or contracts are negotiated in 2015 for lodging on or after January 1, 2016, the 9% rate will apply even if the deposit was for the entire amount due. Deposits received in 2015 should not be reported as sales in 2015. For example, if a deposit is received in November 2015 for a stay in July 2016, the sale is not reported until it occurs in July 2016 at which time the 9% sales tax applies. (*Chapter 267*)

CERTAIN FOOD PRODUCTS ARE NO LONGER EXEMPT AS GROCERY STAPLES BEGINNING JANUARY 1, 2016

"Grocery staples" are defined in Maine sales tax law as "food products ordinarily consumed for human nourishment." Grocery staples are not subject to sales tax. However, certain food products are excluded from the definition of grocery staples, making them subject to sales tax.

Currently, those excluded food products are spirituous, malt or vinous liquors; soft drinks, iced tea and sodas; medicines, tonics, vitamins and dietary supplements, except when sold on prescription; water and ice; dietary substitutes; candy and confections; and prepared food.

Beginning January 1, 2016, food and drinks listed below that are sold for consumption without further preparation will also be excluded from grocery staples and therefore subject to sales tax, even when sold in bulk quantities.

Food products that will be subject to tax are:

- Confectionery spreads, such as marshmallow fluff and crème, and chocolate spreads;
- Powdered and liquid drink mixes except powdered milk, infant formula, coffee and tea;
- Salads (not prepared by the retailer);
- Supplemental meal items such as corn chips, potato chips, crisped vegetable or fruit chips, potato sticks, pork rinds, pretzels, crackers, popped popcorn, cheese sticks, cheese puffs and dips;
- Fruit bars, granola bars, trail mix, breakfast bars, rice cakes, popcorn cakes, bread sticks and dried sugared fruit;
- Nuts and seeds that have been processed or treated by salting, spicing, smoking, roasting or other means (does not include peanut butter);
- Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, cakes, pies, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat pudding, gelatins and dessert sauces; and
- Meat sticks, meat jerky and meat bars.

Additionally, new definitions have been provided for "candy" and "soft drinks."

Candy is "a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces."

Soft drinks are "nonalcoholic beverages that contain natural or artificial sweeteners. 'Soft drinks' does not include beverages that contain milk or milk products; that contain soy, rice or similar milk substitutes; or that contain greater than 50% vegetable or fruit juice by volume."

For those persons engaged in selling prepared food, the bulk sale of certain food products will be affected by this change. Whole pies, whole cakes, sales of six or more doughnuts, muffins, cookies, or pastries, quarts of ice cream, ice cream cakes, potato salad, macaroni salad and

coleslaw will no longer be exempt from sales tax because bakery items, ice cream and salads are no longer “grocery staples.”

Instruction Bulletins No. 12 and 27 contain more details on this subject. They can viewed at www.maine.gov/revenue/salesuse/salestax. (*Chapter 267*)

**PAPER OR PLASTIC CARRY-OUT BAG FEES
ARE NOT PART OF THE TAXABLE SALE PRICE**

*T*he definition of sale price has been amended to exclude “any amount charged for a paper or plastic single-use carry-out bag” from the taxable sale price of other products included in a transaction.

The City of Portland had passed an ordinance last year requiring certain retailers to charge their customers a 5 cent per bag fee for every paper or plastic bag used in a transaction. This bag fee had been considered by Maine Revenue Service to be part of the sale price of the items purchased. This amendment to the law now exempts that fee effective June 9, 2015. This exclusion is not limited to the Portland retailers and would apply to any fee charged for a paper or plastic single-use carry-out bag by any retailer in the State. (*Chapter 150*)

**SERVICE PROVIDER TAX RATE INCREASES TO 6%
ON JANUARY 1, 2016**

*T*he service provider tax rate increases from 5% to 6% effective January 1, 2016.

For services such as cable and satellite television services and telecommunications services that are provided over a period of time that includes the effective date of the rate change, the billing date will determine which rate to apply. Billing dates on or after January 1, 2016, for services subject to service provider tax will be subject to the increased rate of 6%. For instance, a telephone bill dated January 20, 2016, for the period of December 16, 2015, through January 15, 2016, should reflect those services as taxable at the 6% rate.

SERVICES SUBJECT TO SERVICE PROVIDER TAX EXPANDED

*T*he following services will become subject to the service provider tax on January 1, 2016:

- The sale of basic cable and satellite television service. Previously, only the “extended” portion of cable and satellite television service was taxable.
- The sale of satellite radio services, including the installation or use of associated equipment.
- The sale of residential interstate and international telecommunications services. Previously, all interstate and international telecommunications services were exempt. Effective January 1, 2016, only those services sold to a business qualify for exemption.

Sales of these services are taxable beginning with billing dates occurring on or after January 1, 2016. For instance, a cable bill covering basic and extended services dated January 20, 2016, for the period of December 16, 2015, through January 15, 2016, is entirely subject to the service provider tax. (*Chapter 267*)

NEW EXEMPTIONS

New sales and service provider tax exemptions were enacted for the two types of organizations noted below. The exemptions become effective October 1, 2015.

Sales to incorporated nonprofit organizations organized for the purpose of providing direct supportive services in the State to veterans and their families living with service-related post-traumatic stress disorder or traumatic brain injury. 36 MRSA §§ 1760(98) and 2557(37)

Sales to nonprofit collaboratives of academic, public, school and special libraries that provide support for library resource sharing, promote quality library information services and support the cultural, educational and economic development of the State. 36 MRSA §§ 1760(99) and 2557(38)

The application for an exemption certificate and relevant exemption affidavits are on the Maine Revenue Services website at: <http://www.maine.gov/revenue/forms/sales/salesforms.htm>.

ADDITIONAL RESOURCES

Sales Tax Instructional Bulletins can be found at <http://maine.gov/revenue/salesuse/salestax/bulletinssales.htm>.

Maine Revenue Services Rules can be found at <http://maine.gov/revenue/rules/homepage.html>.

Maine Revenue's website can be found at <http://www.maine.gov/revenue>.

For general assistance, please call (207) 624-9693 or email us at sales.tax@maine.gov.