



MAINE REVENUE SERVICES

*SALES, USE & SERVICE PROVIDER TAX
SYMPOSIUM*

Vehicles

Registration

- Any presence in State establishes nexus
 - Physical building; store, office, warehouse
 - Personnel; sales persons, repairers, installers
 - Property; leased property, realty
- Manages or operates hotel, rooming house, etc.
- Making sales on behalf of owner
- Requirement as condition to doing business in Maine
- Holders of wine direct shipper license
- Voluntary registrants
 - Remote sellers

Retailer Certificate

- Issued by MRS
- Acknowledges that the person is registered with MRS for the collection and remittance of sales and use tax
- Displays the sales tax registration number assigned to that person
- Must be conspicuously displayed at the retailer's place of business and
- Cannot be transferred or assigned.

Resale Certificate

- Must be presented to the retailer by the purchaser
- Allows person to purchase goods that will be resold exempt from sales tax
- Provides documentation to seller to support the exempt sale
- Seller must retain in file

Resale Certificate

- MRS issues resale certificates
- Certificates initially valid for three years
 - Renewals = 5 years
- Retailers need to update their resale cert files
- Retailers receive a resale certificate if:
 - Account is active and
 - Reporting more than \$3,000 gross sale

Accounts reporting less than \$3,000 gross sales

- Will not receive a resale certificate
- Will pay sales tax on purchases, even if for resale
- Will be allowed to take a credit for tax paid on the sales tax return

SALES TAX 101

- *“Sales tax is a levy on purchaser”*
- *“Seller is obligated to collect tax”*
- *“Taxes collected are held in trust for the State”*
- *“Liability for taxes is enforceable against any responsible individual ”*

SALES TAX

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State.

Every retailer shall add the sales tax... to his sale price

SALES TAX 101

“Don’t assume you know the definition of a term”

SALES TAX

*A tax is imposed on the value of all **tangible personal property** and taxable services sold at retail in this State.*

Every retailer shall add the sales tax... to his sale price

SALES TAX 101

All sales of tangible personal property are taxable

*-unless –
exempted or excluded by definition*

TANGIBLE PERSONAL PROPERTY

...personal property that may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses,

*but does not include rights and credits, insurance policies, bills of exchange, stocks and bonds and similar evidences of indebtedness or ownership.
"Tangible personal property" includes electricity.
"Tangible personal property" includes any computer software that is not a custom computer software program.*

SALES TAX

*A tax is imposed on the value of all tangible personal property and **taxable services** sold at retail in this State.*

Every retailer shall add the sales tax... to his sale price

SALES TAX 101

*Services are generally exempt
-except –
services that are included in sale
price of tangible personal property
- and -
those specifically defined as
“Taxable Services”*

SERVICES SUBJECT TO SALES TAX

- Rental of living quarters in any hotel, rooming house, tourist or trailer camp;
 - Includes casual rentals
- Rental or lease of an automobile;
- Rental or lease of a pickup truck or van weighing less than 26,000 pounds
- Extended warranties on automobiles
- Prepaid calling arrangements; and
- Transmission and distribution of electricity.

SERVICES SUBJECT TO SERVICE PROVIDER TAX

- Extended cable TV services
- Extended satellite TV services
- Fabrication services
- Rental of video media and video equipment
- Rental of furniture in a rent-to-own contract
- Telecommunications services
- Installation, maintenance and repair of telecommunications equipment
- Ancillary services

SALES TAX

A tax is imposed on the value of all tangible personal property and taxable services **sold at retail** in this State.

Every retailer shall add the sales tax... to his sale price

SALE

any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes leases and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts are deemed by the State Tax Assessor to be in lieu of purchase.

Transfer – When has a sale occurred

● NOT when

- A deposit is made towards a purchase
- A gift certificate is purchased
- Goods are placed on lay-away
- An order is placed
- Goods are delivered out-of-state

● BUT when

- The goods are received by the purchaser
- A gift certificate is redeemed
- The goods are received by the purchaser
- The goods are received by the purchaser
- Goods are delivered in Maine

Consideration – When has a sale occurred

- A sale could occur without cash payment
 - barter
 - exchange
- A sale could occur without payment in full
 - Installment sale
 - Lease in lieu of purchase
 - “On account” with retailer

RETAIL SALE

any sale of tangible personal property or a taxable service in the ordinary course of business

RETAIL SALE EXCLUDES

- Exclusion = exemption
- Casual sales
- Estate sales by a personal representative
- Sale of an automobile which will be rented including p/u and van weighing < 26,000 lbs
- Sale of video media and equipment which will be rented
- Sale of cable or satellite tv equipment which will be rented
- Sale of furniture and audio media which will be rented
- Sale of loaner vehicle to new vehicle dealer
- Sale of parts used in the repair of an automobile covered by a taxed extended warranty

RETAIL SALE EXCLUDES

- Sales to retailers holding a resale certificate
 - Of tangible property for resale as tangible property
 - Of a taxable service for resale as a taxable service
- Sales to out-of-state retailers not holding a Maine resale certificate
 - Of tangible property for resale outside of Maine as tangible property
 - Of a taxable service for resale outside of Maine as a taxable service
- Sale of repair parts used in telecommunications equipment repairs under a taxed extended maintenance contract
- Purchase for resale at casual sale is never excluded

Consignment vs Brokerage

- Consignment sales = retail sale
 - Dealer negotiates terms and conditions of sale
 - Dealer collects and remits tax and reports sale
- Brokerage sale ≠ retail sale
 - Dealer does not negotiate any terms
 - Simply brings buyer and seller together
 - Dealer does not report sale

Casual Sales

- Sales by an individual who is not a retailer
- Fund raising events by civic, religious or fraternal organizations
- Sales by retailers of equipment previously used in their business
- Consignment sales are not casual sales

TAXABLE CASUAL SALES

The tax imposed by chapters 211 to 225 shall be levied upon all casual rentals of living quarters in a hotel, rooming house or tourist or trailer camp and upon all casual sales involving the sale of trailers, truck campers, motor vehicles, special mobile equipment, watercraft or aircraft

except those sold for resale at retail sale or to a corporation, partnership, limited liability company or limited liability partnership when the seller is the owner of a majority of the common stock of the corporation or of the ownership interests in the partnership, limited liability company or limited liability partnership.

Use Tax

A tax is imposed, at the respective rate provided in section 1811, on the storage, use or other consumption in this State of tangible personal property or a service, the sale of which would be subject to tax under section 1764 or 1811.

Use Tax

Every person so storing, using or otherwise consuming is liable for the tax until the person has paid the tax or has taken a receipt from the seller, as duly authorized by the assessor, showing that the seller has collected the sales or use tax

Purchases subject to Use Tax

- Maine vendors - no tax charged
- Out of state vendors – no Maine tax charged
- Out of state vendors – less than 5% tax to other state
- Withdrawals from inventory

Demonstrators

- No taxable use for demonstrating or displaying a product held in inventory for sale
- Dealer plates allow use without registration
- Demonstration = de minimis use
- More than 6000 miles of use = taxable use
- Vehicles used in operation of business = taxable use
 - Wrecker, plow truck, courtesy van, parts vehicle

Withdrawals from inventory

- Parts/supplies for business vehicles = taxable
- Parts to recondition vehicles for resale = exempt
 - Consumable supplies = taxable
- Use of a vehicle taken in on trade = no use tax

No tax on delivery out of state...

when the seller delivers the property to a location outside of this State or to the United States Postal Service, a common carrier or a contract carrier hired by the seller for delivery to a location outside this State

Tax Rates

- 5% general sales tax
- 7% prepared food and drinks, transient rentals
- 10% short-term rental of automobiles
- 5% general service provider tax
- If sales tax not separately stated on invoice, must include statement that tax is included

SALES TAX

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State.

Value is measured by the sale price.

Every retailer shall add the sales tax... to his sale price

**SALE PRICE
includes**

any consideration for services
associated with the sale

if they are "part of"
a retail sale

**SALE PRICE
includes**

All receipts, cash, credits and property of
any kind or nature and any amount for
which credit is allowed by the seller to
the purchaser, without any
deduction on account of
the cost of the property sold,
the cost of the materials used,
labor or service cost,
interest paid, losses or
any other expenses.

Sale price includes..

- "Processing fees" or "documentation fees"
- Rustproofing, protection packages, installation of accessories
- Freight-in

Sale price does not include..

- Title fee
- State Inspection fee
- Finance charges
- Credit life insurance
- GAP insurance

Trade-in exceptions

- Motor vehicles
- Watercraft
- Aircraft
- Chain saws
- Special mobile equipment
- Trailers
- Truck campers

BUT...
only like kind trade ins allowed

Motor Vehicles

"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, section 7851 and a snowmobile as defined in Title 12, section 7821.

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.

Aircraft

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

Special Mobile Equipment

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

Trailers

"Trailer" means a vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks. "Trailer" includes a camper trailer as defined in section 1481, subsection 1-A.

Truck Camper

"Truck camper" means a slide-in camper designed to be mounted on a truck body to provide temporary living quarters for recreational, camping, travel or other use.

Truck camper

- Only item that can be traded against an item not of "like kind"
- Trade-in credit allowed against camper trailers



	<p>Cores</p> <ul style="list-style-type: none"> ■ No trade-ins allowed on cores ■ Core charge is part of sale price of new part ■ No tax refund to customer when core is returned and refund is given
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**SALE PRICE
excludes**

certain discounts

allowed and taken on sales

Reductions in sale price

- Discounts that reduce the taxable sale price
 - 20% off SALE and 2%/10; net 30
 - Retailer coupons
 - Retailer rebates
 - "Deal of the Day"
- Discounts that DO NOT reduce the taxable sale price.
 - Manufacturer's coupons
 - Manufacturer's rebates

**SALE PRICE
excludes**

**Allowances in cash or by
credit made upon the
return of merchandise
pursuant to warranty**

Return pursuant to warranty

- **Return to dealer**
 - Tax refundable to dealer
 - Provided tax refunded to customer
- **Return to manufacturer**
 - Tax refundable to customer
 - Buy-backs, no refund
 - Arbitration through Lemon Law reimbursement to include tax but no refund to manufacturer
 - Recalls

**SALE PRICE
excludes**

**The price of property
returned by customers,
when
the full price is refunded
either in cash or by credit**

**SALE PRICE
excludes**

The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated

Taxable sale price includes

- Other fees or services being passed on to customer
 - Hazardous Disposal Fees
 - Parts from sublet repairs

SALES TAX 101

Transactions containing both taxable and exempt items packaged as a "bundle" are taxable unless

- *Taxable items are de minimus*
- *Values for taxable vs exempt are separately stated*
- *Retailer can account for separate values in its records*

SALES TAX 101

*Labor is generally exempt
-except -*

- *labor not separately stated*
- *Fabrication labor*
- *Telecom labor*

Manufacturer's Warranty

- Sold as part of product
- Parts used in repair work taxed under original sale price of product
- No additional use tax to repair company

Extended Warranty – other than automobiles

- Optional to customer
- Sale of warranty not taxable
 - Intangible - insurance
- Use of parts in performance of contract subject to use tax to repair company
 - Even if exempt organization

**Extended Warranty –
other than automobiles**

- When dealer charges warranty company, collect sales tax on parts.
- When dealer charges customer for some or all parts, collect sales tax on parts.

**Extended Warranty -
Automobiles**

- Sale of warranty taxable
- Use of parts in performance of contract are exempt
 - If deductible is involved, tax on proportion attributable to parts

Pickups and Vans

- Definition of “automobile” includes pickups and vans with a GVW of 10,000 pounds
- Affects sales of extended warranties of pickups and vans, exempts purchase of parts for repairs under warranty

Goodwill Repairs

- Repairs at no charge within 30 days after sale = implied warranty
 - No tax on parts
 - Part of original sale price
 - If repair made by dealer

Tools and supplies

- Tools and equipment used in repair work are taxable to repair company
- Supplies
 - Consumables
 - Billable shop supplies

Consumables

- Used in the performance of a service
- Taxable to repairer
 - Cleaners
 - Masks
 - Glass cleaner
 - Blades
 - Grinding wheels
 - Hand cleaner
 - Paper towels
 - etc

Billable shop supplies

- Physical part that ultimately transfers to customer
- Sales tax to customer
 - Fluids and oils
 - Grease
 - Solder
 - Screws, bolts, nuts
 - Fasteners
 - Light bulbs
 - etc

Other Situations - Tires

- Repairs
 - Service only – no tax
 - Fixing flat, adding air, balancing
 - Retreading or recapping
 - If no breakdown, 50/50
 - Tax material portion
- Sales
 - Taxable sale price includes services that are a part of the sale - balancing

SALE PRICE excludes

The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax.

**Sales Tax Included
in Sales Price**

If the retailer does not state the amount of the tax separately from the sale price..., the retailer shall include a statement on the sales slip or invoice presented to the purchaser that the stated price includes Maine sales tax.

**SALE PRICE
excludes**

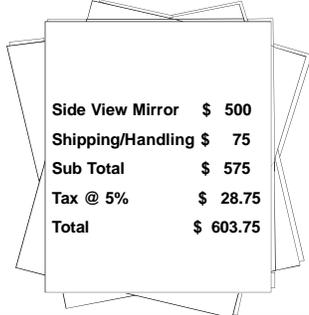
delivery charges

but only when three
criteria are met

When ...

- Shipment is made directly to the purchaser
- Shipment charges are separately stated
- Shipment is made by common or contract carrier or the US Mail

**“Shipping & Handling” is taxable
if sale is taxable**



Side View Mirror	\$ 500
Shipping/Handling	\$ 75
Sub Total	\$ 575
Tax @ 5%	\$ 28.75
Total	\$ 603.75

**SALE PRICE
excludes**

Various fees

- Lemon law arbitration fee**
- Lead-acid battery deposit**
- Recycling assistance fee**
- Disposal fees for used tires**
- Motor oil premiums**

Recycling Assistance Fees

A fee is imposed on the retail sale in this State of new tires and new lead-acid batteries in the amount of \$1 per tire or lead-acid battery. A fee in the same amount is imposed on the storage, use or other consumption in this State of tires and lead-acid batteries purchased new in this State by the user or purchased outside the State by the user unless the fee imposed by this section has been paid.

Motor Oil Premium

In addition to any other tax or charge imposed under state or federal law, a premium is imposed on motor vehicle oil sold or distributed in the State as provided in this subsection.

A motor vehicle oil dealer that makes the first sale or distribution of motor vehicle oil in the State shall pay the premium.

SALES TAX 101

*Services are generally exempt
-except –
services that are included in sale price of tangible
personal property*

- and -

*those specifically defined as
“Taxable Services”*

SERVICES SUBJECT TO SALES TAX

- Rental of living quarters in any hotel, rooming house, tourist or trailer camp;
 - Includes casual rentals
- Rental or lease of an automobile;
- Rental or lease of a pickup truck or van weighing less than 26,000 pounds
- Extended warranties on automobiles
- Prepaid calling arrangements; and
- Transmission and distribution of electricity.

Short term rentals of autos

- Less than 12 months to one person
- 10% sales tax
- Rentals executed in Maine are taxable even though vehicle may be used outside of Maine
- Purchase of autos to be rented are exempt

Short term rentals of autos

- The value of rental ... is the total rental charged to the lessee and includes, but is not limited to,
 - maintenance and service contracts,
 - drop-off or pick-up fees,
 - airport surcharges,
 - mileage fees
- and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State.
- All fees must be disclosed when an estimated quote is provided to the lessee.

Pickups and Vans

- Are automobiles for purposes of imposing the 10% short-term auto rental tax if GVW is less than 26,000 pounds
 - But only if rented by a person primarily engaged in renting automobiles on a short term basis
- Rentals of "automobiles" to service customers of new vehicle dealers pursuant to manufacturer's warranty is exempt.

Long term rentals of autos

Rental or lease of an automobile for one year or more must be taxed at the time of the lease or rental transaction at 5% of the following:

- the total monthly lease payment multiplied by the number of payments in the lease or rental,
- the amount of equity involved in any trade-in and
- the value of any cash down payment.

Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.

Long term rentals of autos

▪ Tax base excludes

- Sales Tax
- Excise Tax
- Ancillary service, if separately stated
 - Registration fees, life/disability/GAP insurance

▪ Lease to nonresident for immediate removal exempt

Agent of lessor

- _____
- Dealer is agent of lessor when
 - Dealer is affiliated with lessor
 - Negotiates the terms or conditions of the lease on behalf of lessor
 - *“Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.”*

Pickups and Vans

- Are automobiles for purposes of imposing the 5% long term auto rental tax if GVW is 10,000 pounds or less

Pickups and Vans

- 10,000 lbs or less
 - 5% tax on long term rentals
 - Extended warranty is taxed
 - Repair parts pursuant to extended warranty service is exempt
 - Rental to service customer is exempt
- Less than 26,000 lbs
 - 10% tax on short-term rentals
 - Purchase for rental is exempt.
 - Purchase of repair parts for rentals are exempt

Leases/Rentals

- Trade-in credits only allowed on sales
 - Lease in lieu = sale
- Only sales to exempt organizations are exempt
 - Lease in lieu, rentals of autos, interim rental = sale to exempt org

SALES TAX 101

*Lease payments are not
subject to tax
- except -
leases that are listed as a
taxable service - or -
leases that are sales*

Leases/Rentals

Other than automobiles

- True lease
 - Use tax on purchase price
- Lease with option to purchase
 - Use tax on purchase price and
 - Sales tax on option sale
- Lease in lieu of purchase
 - = Sale
 - Sales tax on total of lease payment

Leases/Rentals

Other than automobiles

- True lease
- Lease with option to purchase
- Lease in lieu of purchase
- **Interim Rentals**

Interim Rentals

Other than automobiles

- Rental by a retailer
- Item was purchased exempt for resale
- Rental is incidental to resale
- Sales tax applies to each rental payment

Vehicles to Non-residents

- Motor Vehicles, inc. motorcycles
- Semi-trailers
- Camper trailers
- Watercraft
- Does not include trailers

For Immediate Removal Only

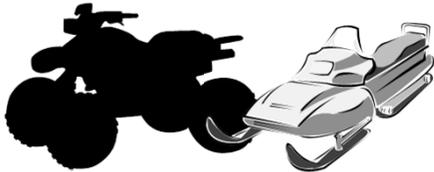
Nonresident

- Individuals
 - Domiciled (legal resident) in another State
 - License, realty, registration to vote, "home", tax returns, payment of excise taxes
- Corporations
 - Commercial domiciled (headquartered) in another State
- Dealer held responsible in circumstances where documentation indicates person is not a "non-resident"

If vehicle returns to Maine

- Other than watercraft, if used in Maine during first 12 months, purchaser subject to use tax
- Watercraft allows 30 days of use in Maine before use tax applies
 - Temporary storage does not count toward 30 days
 - Repairs
 - Winter storage
 - If more than 30 days use in Maine, subject to use tax on 40% of sale price

Sales of snowmobiles and all-terrain vehicles to nonresidents



No immediate removal requirement

Vehicles used in interstate commerce

- Vehicles, railroad rolling stock, aircraft and watercraft
 - Does not apply to repair parts
- Placed in use by the purchaser
 - Not operating under authority of another person
- Placed in use within 30 days of purchase
- Used in interstate commerce more than 80% of the time within the next 2 years
- Applies to sales only; not leases

Amputee Veterans

- Automobiles only
- Applies to veterans who are granted free registration by Sec of State
- Not only amputee
 - Includes loss of use of ...
 - Blindness
- Letter from Veterans Administration
 - Note: Different letters for different benefits
 - Letter will state exemption from sales tax
- Applies only to sales, not leases
- Veteran can have only one of these “free registration” vehicles
- Note: Military personnel have no special treatment
 - Non-resident exemption could apply

Automobile

"Automobile" means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks. "Automobile" includes a pickup truck or van with a gross vehicle weight rating of 10,000 pounds or less.

Maine Business' Use Out-of-State

- Motor vehicle
- Immediately removed from Maine
- Used exclusively outside of Maine
- “Qualifying resident business”
 - Principal place of business is Maine
 - Conducts business from locations in and out of Maine
- Use tax if Maine business uses vehicle in Maine within 12 months of purchase

Vehicles

- Vehicles to non-residents
- Vehicles used in ICC
- Amputee veterans
- Certain vehicles purchased by Maine businesses with fixed locations out-of-state
- **Certain vehicles previously used out of state**

Vehicles

- Vehicles to non-residents
- Vehicles used in ICC
- Amputee veterans
- Certain vehicles purchased by Maine businesses with fixed locations out-of-state
- Certain vehicles previously used out of state
- **Certain Snow Grooming Equipment**
 - *“Sales to incorporated nonprofit snowmobile clubs of snowmobiles and snowmobile trail grooming equipment used directly and exclusively for the grooming of snowmobile trails.”*

Aircraft

- *Sales, use or leases of aircraft and sales of repair and replacement parts exclusively for use in aircraft or in the significant overhauling or rebuilding of aircraft or aircraft parts or components from July 1, 2011 to June 30, 2015.*

Automobiles used in driver education

- *Sales to automobile dealers, registered under section 1754-B, 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.*

Other Exemptions through “retail sale” exclusions

- *The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented, on a short-term basis;*
- *The sale to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;*
- *The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;*
- *The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953.*

Loaner vehicles defined

- *“Loaner vehicle” means an automobile to be provided to a motor vehicle dealer’s service customers for short-term use free of charge pursuant to the dealer’s franchise, as defined in Title 10, section 1171, subsection 6.*

Loaner vehicles exempt

- *The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29 A, section 953*
- *The use of a loaner vehicle provided by a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, to a service customer pursuant to a manufacturer's or dealer's warranty.*

Loaner Vehicles

- Provided to service customer
- Pursuant to manufacturers' or dealers' warranty
- Short term use
- Free of charge to customer
- No tax on purchase of vehicle by dealer
- Vehicle cannot be used for other purposes
- If rented incidentally to non-warranty customers, 10% tax applies even if no charge.
 - \$30/day rental imputed

Other Exemptions – Commercial Farming/Fishing

- Motor vehicles including snowmobiles and ATVs and trailers designed for highway use DO NOT qualify for exemption under any circumstance
 - See back of card
- Watercraft to commercial fishermen
- Farm Tractors to commercial farmers
- No exemption for vehicles suitable for use other than in fishing or farming
 - Front end loader
 - Farmer/fishermen may qualify for refund

Printed Matter - Promotional items

Sales of advertising or promotional materials printed on paper and purchased for the purpose of subsequently transporting such materials outside the State for use by the purchaser thereafter solely outside the State.

Packaging Material

- Packaging materials
 - Sales of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials
 - For use in packing property sold

SALES TAX 101

Maine statute does not provide a blanket sales and use tax exemption for nonprofit organizations who have been granted a federal tax exemption, known as 501(c) organizations.

Who does qualify?

- Governmental – Federal and Maine
- Schools – public and private
- Churches and houses of religious worship
- Hospitals
- Variety of healthcare, educational, religious & children organizations
- All found in Title 36, §1760
- Most require incorporation and nonprofit

Exempt Sale Documentation

- Sales to US Government, State of Maine, Maine cities and counties:
 - Exemption certificates are not needed
 - Proof sale is to governmental entity
- All other exempt entities:
 - Exemption certificate must be issued by MRS and presented to retailer
- Purchases must be made and paid for by the exempt entity

Rule 302 – Sales to Government Agencies and Exempt Organizations

- Direct bill – exempt
- Cash, personal check, personal credit card – taxable unless accompanied by a purchase order
- Credit/Debit card of organization – exempt but document who, when and last 4 digits of card

Burden of Proof

The burden of proving that a transaction was not taxable shall be upon is on the person charged with tax liability. The presumption that a sale was not for resale may be overcome during an audit or upon reconsideration if the seller proves that the purchaser was the holder of a currently valid resale certificate as provided in section 1754-B at the time of the sale or proves through other means that the property purchased was purchased for resale by the purchaser in the ordinary course of business. Notwithstanding section 1752, subsection 11, paragraph B, if the seller satisfies the seller's burden of proof, the sale is not considered a retail sale.

SALES TAX 101

***If in doubt,
Tax it!***

Exempt Sale Documentation

- See Forms on webpage
- Sample Document section of reference guide
 - not necessarily current form, however.

**Exempt Documentation
Submitted to MRS**

- Immediate Removal – motor vehicles
- Immediate Removal – Watercraft
- Snowmobiles/atvs sold to nonresidents
- Interstate Commerce

**Exempt Documentation
Retained by Dealer**

- Resale Certificates
- Permanent Exemption Certificates
- Farming/Fishing Cards and Affidavits
- Auto purchased for lease/rental
- Out-of-state delivery
- Amputee Veteran letter

**No registration
unless tax paid**

Whenever tangible personal property is required by the laws of this State to be registered for use within the State the applicant for registration, whether or not the owner, must either pay the sales tax or use tax or prove that the tax is not due.

Dealer Certificate (Form ST-6)

- Provides proof that sales tax was collected or transaction was exempt
- Proof needed by customer as a prerequisite to registration
- 60 year old process
- Modernize and streamline

Dealer Certificate (Form ST-6)

- Effective July 1, 2012
 - Eliminate ST-6
 - Bill of sale will be used by customer to prove sales tax paid
 - Title data will be used by MRS to verify reporting of sales

Bill of Sale and Title App

- Important that customer is informed
- Needs BOS at time of registration
- No need for duplicate copy
 - Town will not keep
- If they don't have BOS, no registration
- Also important that title application is complete
 - Especially seller name and dealer plate number
- If sale is exempt, "sales tax" line must show "EXEMPT"

Other situations

- Long term lease of automobile
 - Treat the same way as sales
 - Lease document should show sales tax
- Leases of other vehicles
 - Use tax liability of dealer/lessor
 - Complete ST-6-U at registration
 - Pay use tax or state "Use Tax paid under ST#____" under "Other"
- Other Rentals – short-term auto, interim rentals
 - Complete ST-6-U at registration
 - Explain "short-term auto rental" under "Other"

Supplemental Return (Form ST-8)

- MRS encourages dealers to use Excel spreadsheet
 - Available on website as a fillable form
 - Fill out and email
- Also working on a .pdf fillable form
 - Fill out and email
 - Could print and mail in
- Email to MRS or electronic submission
 - Gail.l.lane@maine.gov
- MRS will work with software companies

Illegal advertising

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part will be assumed or absorbed by the retailer, or that it will not be added to or included in the selling price of the property sold, or if added or included that it or any part thereof will be refunded. Any person violating any part of this section shall be guilty of a Class E crime.

Filing Requirements

- Frequencies addressed in Rule 304
- Monthly
 - \$600 +/-month avg
- Quarterly
 - \$100 to \$599/month avg
- Semi- annual
 - Less than \$100/mo avg but at least \$50 a year
- Annual
 - Less than \$50 a year
- Seasonal
 - If only opened certain months during the year, file only in those months

Filing Requirements

- Extensions
 - Available on a permanent basis; no one time extensions
- Cash vs Accrual
 - Must report on accrual basis unless cash basis is used on income tax return
- Supplemental returns
 - Retailers selling certain items such as autos, boats, camper trailers must also file a supplemental return providing more details
- Consolidated returns
 - Retailers with 2 or more locations can file consolidated.

Filing & Payment Mandates

- Filing returns
 - All sales, use and service provider filers
- Paying tax liabilities
 - In 2012, combined tax liability \$16,000 or more

Options for filing returns

Electronic Methods

- Internet - IFile
- Telephone – TeleFile
- Confirmation numbers provided
- Payment options for ACH Debit/Credit or check



Paper Methods

- Amended Returns
- Waivers available
 - Good for two years

Benefits of Internet Filing

- Internet filing is available 24/7
- Easily update contact information
- Email reminders sent
- No unnecessary bills for math errors
- History of filed returns
- File now, settle later (before due date)
- File multiple returns without exiting

Benefits of Telephone Filing

- Good option for unreliable or no internet access
- No unnecessary bills for math errors
- Email reminders if requested
- File multiple returns without exiting
- Now available for sales, use, and service provider tax
- Welcome packets with instructions, worksheets, and payment vouchers

Recordkeeping

- Records must be retained for a period of at least 6 years
- Must be kept in such a manner as to ensure their security and accessibility for inspection by the assessor or any designated agent.
- Imaged documents stored in a digital format are acceptable provided:
 - System meets accepted industry standards for integrity and reliability
 - Procedures to capture and store are reliable and authentic
 - Detail is captured and retained to efficiently conduct an audit
 - Adequate hardware/software is available to readily access the records

Erroneous Collection

Any amount that has been paid by a retailer shall be refunded only upon proof that the amount has been returned to the person from whom it was originally collected.

Breakage

Breakage under this section shall be retained by the retailer as compensation for the collection.

Worthless accounts

The tax paid on sales represented by accounts charged off as worthless may be credited against the tax due on a subsequent report filed within 3 years of the charge-off, but, if any such accounts are thereafter collected by the retailer, a tax shall be paid upon the amounts so collected.

Worthless accounts

- Only retailer who made sale can take bad debt credit
- If receivable is sold to a third party, third party cannot take credit
- Bad Debt = principal less payments toward principal less proceeds of sale (if any)
- See Bulletin # 29

Sales and use taxes collected by the retailer are held in trust for the State Tax Assessor

Interest

- Accrues automatically
- Compounded
- Rate for 2010, 2011 & 2012 - 7%
- Discretionary limited waiver
- Continues to accrue during review

Penalties

- **Failure to file**
- Failure to file after 30 days from demand to file
- **Failure to pay**
- Failure to pay after 10 days from demand for payment
- Negligence
- Fraud
- Substantial understatement
- Jeopardy
- Insufficient funds check

Section 187- B(7) WAIVER AND ABATEMENT

- limited grounds
- standard: "reasonable cause"
- The assessor can determine that grounds constituting reasonable cause are apparent and either waive, abate or refrain from imposing penalties.

For additional assistance:



(207) 624-9693



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