



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

GENERAL INFORMATION BULLETIN

October 1, 2017

NO. 107

This bulletin contains important information about legislation enacted during the first session of the 128th Legislature and other recent developments 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.

What you will find in this publication:

NEW

- ✓ Sales tax exemption enacted
- ✓ Sales tax calculation method
- ✓ Remote seller collection responsibilities
- ✓ Service provider tax refund provisions

AMENDED

- ✓ Prosthetic and orthotic devices exemption
- ✓ Sales tax refund application process
- ✓ Continuous rental of lodging exemption
- ✓ Motor fuel excise tax refund assignments

INFORMATIONAL

- ✓ Fall symposia schedule and registration form

ADDITIONAL RESOURCES

Maine Revenue Services' website: www.maine.gov/revenue

Instructional Bulletins: www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm

Sales tax certificates and affidavits: www.maine.gov/revenue/forms/sales/salesforms.htm

Maine Revenue Services Rules: www.maine.gov/revenue/rules/homepage.html

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

CERTAIN SALES BY CIVIC, RELIGIOUS OR FRATERNAL ORGANIZATIONS

NEW EXEMPTION

36 M.R.S. §1760(101)

EFFECTIVE NOVEMBER 1, 2017

Sales of prepared food are taxable at a rate of 8%. Effective November 1, 2017, sales of prepared food made by civic, religious, or fraternal organizations may be made exempt from sales tax, when the sale of prepared food occurs at a public or member-only event, except when alcoholic beverages are available for sale at the event. This exemption is limited to the first 24 days during which such sales are made in a calendar year. The exemption does not apply to sales of prepared food made by such organizations at private functions, such as weddings. (**PL 2017, c. 211, §B-2**)

COLLECTION OF TAX BY REMOTE SELLERS

NEW RESPONSIBILITIES

36 M.R.S. §1951-B(3)

EFFECTIVE NOVEMBER 1, 2017

Remote sellers are required to collect and remit the sales taxes imposed by 36 M.R.S. § 1811 in the same manner as a retailer having a physical presence in the State if, during the current or previous calendar year, the seller sold tangible personal property, products transferred electronically or services that are taxable by Maine for delivery into Maine in at least 200 separate transactions, or if the seller's gross revenues from such sales exceeded \$100,000. The application for tax registration is available at www.maine.gov/cgi-bin/online/suwtaxreg/index. (**PL 2017, c. 245, §1**)

CHANGES IN COMPUTATION OF SALES TAX

Through December 31, 2017, a retailer may compute the amount of sales tax due on taxable transactions using conventional rounding or the sales tax bracket charts available on our website at www.maine.gov/revenue/salesuse/salestax/salestax.

Effective January 1, 2018, a retailer must compute the amount of sales tax due on taxable transactions using the conventional rounding method. When the sale price involves a fraction of a dollar, the tax computation must be carried to the 3rd decimal place, then rounded down to the next whole cent whenever the 3rd decimal place is one, 2, 3 or 4 and rounded up to the next whole cent whenever the 3rd decimal place is 5, 6, 7, 8 or 9.

When several purchases are made together, the tax may be computed on each item individually, or on the total price of the several items, as the retailer may elect. Should the retailer elect to compute the tax on the total price of the several items, purchases taxed at 5.5%, 8%, 9% and 10% must be separately totaled. (**PL 2017, c. 211, §§B-3, B-4, B-5, B-6**)

SERVICE PROVIDER TAX REFUND PROVISIONS

NEW REFUND PROVISIONS
36 M.R.S. §§ 2555, 2555-A
EFFECTIVE NOVEMBER 1, 2017

Effective November 1, 2017, a service provider tax that has been erroneously or illegally computed by a service provider and included on a customer's bill must be refunded or credited to the customer by the service provider. The service provider will be unable to receive a credit or refund of the tax from Maine Revenue Services until the provider has provided evidence satisfactory to the assessor that the tax has been refunded or credited to the customer. This provision applies to any request for a refund or credit for which administrative or judicial review is still available. (*PL 2017, c. 257, §§3, 4, and 6*)

SALES TAX REFUND PROVISIONS

ADMINISTRATIVE PROCESSES AMENDED
36 M.R.S. § 2011
EFFECTIVE NOVEMBER 1, 2017

Taxpayers that have paid erroneously or illegally collected sales tax to a retailer have the right to request a refund of that tax directly from the retailer. Once refunded or credited to the customer, the retailer is allowed a credit or refund of the tax from Maine Revenue Services. If a taxpayer is unable to receive a refund from the retailer, a request for a refund can be made directly to Maine Revenue Services.

Prior administrative practice required the taxpayer to provide evidence the retailer refused to refund the tax before requesting a refund from Maine Revenue Services. The new law allows a taxpayer to first apply directly with Maine Revenue Services for a refund or credit of erroneously or illegally collected sales tax that has been paid to a retailer by submitting an affidavit that states in part that the refund or credit has not been and will not be requested from the retailer. This provision applies to any request for a refund or credit that is currently under administrative or judicial review. (*PL 2017, c. 257, §1*)

PROSTHETIC AND ORTHOTIC DEVICES

AMENDED DEFINITION
36 M.R.S. § 1760(5-A)
RETROACTIVE TO OCTOBER 1, 2016

The exemption for prosthetic and orthotic devices has been clarified to read:

“Sales of:

- A. Prosthetic or orthotic devices sold by means of an order issued by a health care practitioner as defined in Title 24, section 2505, subsection 1-A who is licensed under Title 32; and
- B. Crutches and wheelchairs for the use of sick, injured or disabled persons and not for rental.” (*PL 2017, c. 170, §C-4*)

CONTINUOUS RENTAL EXEMPTION

AMENDED DEFINITION

36 M.R.S. § 1760(20)

EFFECTIVE NOVEMBER 1, 2017

The exemption for continuous rental of lodging has been clarified to include a person that rents living quarters for 28 or more consecutive days, when the living quarters are used by that person's employees in connection with their employment. The Affidavit of Exemption for 28-Day Continuous Rental is under revision and will be posted to our website in October 2017. (PL 2017, c. 170, § C-5)

**MOTOR FUEL REFUNDS FOR GOVERNMENT AGENCIES
AND POLITICAL SUBDIVISIONS**

NEW REFUND ASSIGNMENT PROVISIONS

36 M.R.S. §§2910-B, 3208-A

EFFECTIVE NOVEMBER 1, 2017

The statutes providing refunds to government agencies and political subdivisions have been clarified to include "federal government agencies" within the definition of "political subdivision", effective November 1, 2017. Any government agency that buys and uses gasoline or diesel fuels upon which excise tax was paid may apply to Maine Revenue Services for a refund of the excise tax paid on that fuel. By contractual agreement, a government agency or political subdivision may assign its right to receive refunds under these sections to a third party. For more information, visit www.maine.gov/fueltax. (PL 2017, c. 211, §§B-7, B-8)