



MAINE REVENUE SERVICES PROPERTY TAX DIVISION GUIDANCE DOCUMENT

BUSINESS EQUIPMENT TAX EXEMPTION

REFERENCE: 36 M.R.S. §§ 691 – 700-B
March 23, 2018; replaces April, 2014 document

1. Eligible Business Equipment. Eligible business equipment is exempt from property taxation. “Eligible Business Equipment” means qualified property that, in the absence of this exemption, would first be subject to assessment in Maine on or after April 1, 2008. Eligible business equipment includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property. Eligible business equipment also includes inventory parts.

2. Qualified Property. “Qualified property” means tangible personal property that:
 - A. Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and

 - B. Either:
 - (1) Was subject to an allowance for depreciation under the Internal Revenue Code (the Code) on April 1 of the property tax year for which a claim for exemption is filed or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or

 - (2) In the case of construction in progress or inventory parts, would be subject under the Code to an allowance for depreciation when placed in service or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated.

 - C. Qualified property also includes all property that is affixed or attached to a building or real estate if the property is used primarily to further a particular trade or business activity taking place in that building or on that real estate. Qualified property does not include a building or components or attachments to a building if they are used primarily to serve the building as a building, regardless of the particular trade or activity taking place in or on the building. Qualified property also does not include land improvements if they are used primarily to further the use of the land as land, regardless of the particular trade or business activity taking place in or on the land.

3. Excluded Persons.* Property owned or used by the following persons does not qualify for BETE:
- A. A public utility;
 - B. A provider of radio paging service;
 - C. A provider of mobile telecommunications services;
 - D. A cable television company;
 - E. A provider of satellite-based direct television broadcast services; or
 - F. A provider of multichannel multipoint television distribution services.

* Person means an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, business trust, receiver, assignee, or any other group or combination acting as a unit.

4. Excluded Property. The following property does not qualify for BETE:
- A. Office furniture;
 - B. Lamps and lighting fixtures used primarily for general office lighting;
 - C. Property owned or used by an excluded person (see section 3);
 - D. Telecommunications personal property, including property used to support a telecommunications antenna used by a telecommunications business;
 - E. Gambling machines or devices;
 - F. Property located at a retail sales facility and used primarily in a retail sales activity;
 - G. Natural gas pipeline (except less than one mile in length owned by a consumer), pumping or compression stations, storage depots, and appurtenant facilities used for natural gas;
 - H. Property used to produce or transmit energy primarily for sale; and
 - I. Certain pollution control facilities.

5. Retail Property. Property located at a retail sales facility and used primarily in a retail sales activity does not qualify for BETE, however it may qualify for the Business Equipment Tax Reimbursement program.

- A. Retail sales facility. "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods at retail or renting tangible personal property. Retail sales facility does not include a separate structure that

is used as a warehouse or call center facility.

B. Retail sales activity. “Retail sales activity” means an activity associated with the selection and retail purchase of goods or rental of tangible personal property. This does not include production, manufacturing, or processing.

C. Definitions.

(1) “Retail” means a transaction between the seller and the purchaser for consumption or use, and not for resale, by the purchaser.

(2) “Located at” the retail sales facility means in or near the facility, but within the parcel of land upon which the structure is situated.

(3) “Structure” means a building or other freestanding architectural construction at which an individual can be present to select and purchase goods or rent tangible personal property.

6. Property Otherwise Exempt from Taxation. Property that would, exclusive of BETE, be exempt from property tax is not eligible for BETE and is therefore not eligible for reimbursement. This property includes but is not limited to the following:

A. Property located at hospitals, health maintenance organization, blood banks (See 36 M.R.S. § 652(1)(K));

B. Property located at public schools (20-A M.R.S. § 4001(3)(C))

C. Property included under 36 M.R.S. § 656:

(1) Water pollution control facilities;

(2) Air pollution control facilities;

(3) Animal waste storage facilities;

(4) Mining property;

(5) Landing area of privately owned airport; and

(6) Corporations supplying water to municipalities.

7. General Provisions.

A. Filing. An applicant must file a BETE application, reporting all eligible property, by April 1 of each year. If the report is not filed by April 1, the filing deadline is automatically extended to May 1 without the need for the taxpayer to request – or the assessor to grant – that extension. On written request, the assessor may grant the applicant an extension of time to file the application. An extension of time may not extend beyond the municipal tax commitment date. Applicants are required to file annually, whether or not there are changes in their BETE eligible

property. The assessor must review, approve and sign all applications.

- B. Recording. All property determined to be eligible for BETE must be included in the municipal commitment book, and valued as if it were subject to taxation, depreciated, and adjusted by the declared municipal assessment ratio annually according to just value.
- C. Records retention/Maine Revenue Services (MRS) audit. All applications must be available for inspection by MRS and kept on file as required by the rules set forth by State Archives Advisory Board. If an audit determines that ineligible property was exempted, MRS can recapture the improperly distributed funds by a setoff against other payments due to the municipality. The recapture period is up to three years. A municipality aggrieved by a determination of MRS may appeal pursuant to 36 M.R.S. § 151.
- D. Appeals. If an assessor determines that property is ineligible, the assessor must provide a written notice of denial, including the reason for the denial, to the applicant prior to the commitment date by certified mail. Taxpayers may appeal the decision as outlined in 36 M.R.S. subchapter 8. For additional information on abatement and appeals please see Bulletin 10.

8. Reimbursements. A municipality that has appropriately exempted equipment under this program is entitled to recover from the State 50% of property tax revenue lost due to the exemption. Municipalities may also be entitled to a higher percentage of reimbursement under the following circumstances:

- A. Enhanced BETE reimbursement. If the personal property factor within a municipality exceeds 5%, then the municipality may choose to receive an enhanced BETE reimbursement from the State. The personal property factor is the total value of all business personal property in the municipality, whether taxable or exempt, divided by the value of all taxable property in the municipality plus the value that would have been assessed on BETE qualified equipment if it were taxable.
- B. BETE located in certain tax increment financing (TIF) districts. If the percentage of TIF revenue to be retained by the municipality for the municipality's own authorized project costs under the terms of the TIF agreement is greater than the percentage of BETE reimbursement the municipality is entitled to under either the standard reimbursement or the enhanced BETE provision, the municipality is entitled to reimbursement at the higher percentage as stated in the TIF agreement. This only applies to TIFs approved prior to April 1, 2008.

9. Tax Rate Calculation. In the calculation of a tax rate, a municipality is required to add to the total taxable municipal value that would otherwise be used to determine the municipal tax rate, the value of all qualified BETE equipment for which the municipality is entitled to reimbursement.

10. MRS Audits. If the State Tax Assessor determines that a municipality has granted an unqualified exemption, the State will deny reimbursement to the municipality on the rejected property. The municipality may either revoke the taxpayer's exemption or accept the exemption with no reimbursement from the State. If the municipality disagrees with the State's decision, the municipality may appeal the decision through the process under 36 M.R.S. § 151.

11. Municipality. For purposes of this guidance document the word municipality is inclusive of all jurisdictions located within the unorganized territory.

12. Questions. For questions regarding the BETE program, please contact the Property Tax Division, Maine Revenue Services, at the numbers or locations below.

NOTE: This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

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(Published under Appropriation No. 1037.1)