



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 16

FINANCIAL INSTITUTIONS

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.

The term "financial institutions" includes savings banks, credit unions, trust companies, national banks, savings and loan associations (both state and federal), and other state chartered financial institutions. Certain federally chartered banking institutions are exempt from state sales and use taxes. State chartered credit unions also enjoy an exemption from sales tax. Please refer to Section 3 of this Bulletin for more information on exemptions.

Persons engaged in the business of selling tangible personal property are required to register with Maine Revenue Services. Once registered, the person adds sales tax to the sale price of such property, except when selling to others for resale, and reports and pays tax to the State on the basis of total taxable sales.

Financial institutions are not primarily engaged in the business of selling tangible personal property. In some cases, though, they fall within the category of retailers under the Sales and Use Tax Law. They would register as sellers, and collect and remit the tax as required by law. In other cases they may be liable for use taxes, as noted below.

1. SALES.

a. Taxable sales. Financial institutions are engaged in making taxable sales when selling tangible personal property. This is true even though such sales may be small in relation to the activities of the bank as a whole. Taxable sales would include such items as coin banks, checks and check books, and repossessed personal property.

b. Exempt sales. The following are examples of transactions which are not subject to sales tax:

- i. Tangible personal property given to customers free of charge. Such items would be subject to use tax, however, as discussed in Section 2 below.

ii. The issuing or cashing of checks, travelers checks, etc. and charges in connection with such transactions.

iii. Casual sales such as the sale of old typewriters or other office equipment which have become obsolete or are no longer of any use .

2. PURCHASES.

a. Purchases for Own Use. Financial institutions are liable in the same way as any other person or organization not exempt under the Sales and Use Tax Law to pay the sales or use tax on all items purchased for use by them in this State. Such purchases would include office equipment, supplies, electricity, fuel for heating the premises, check books furnished free of charge to customers, etc. If such items are purchased outside the State for use in Maine, and the seller does not collect the Maine tax, use tax should be reported and paid directly to the State. Use tax is reported on the same return form as sales tax.

b. Purchases for Resale. When a retailer purchases tangible personal property for resale, the retailer should furnish the supplier with a resale certificate as provided in Rule 301. The certificate will enable the retailer to purchase tangible personal property for resale without payment of sales tax. Only one certificate need be filed with each supplier to cover subsequent purchases. However, the retailer must state to the supplier whether the purchase is for resale or not and will be held responsible for the tax on any item purchased for resale but subsequently used by the retailer. **Purchasers who avoid payment of tax through deliberate misuse of resale certificates will be subject to prosecution.**

3. EXEMPT INSTITUTIONS.

a. Certain Federally Chartered Banking Institutions. Federal Land Banks, Federal Land Bank Associations and Federal Credit Unions are by reason of federal law not subject to state sales or use taxes. They are not required to pay sales tax on purchases made in this State for their own use. Nor are they required to pay use tax on purchases made outside the State for their own use within the State. In addition they are not required to charge a tax on sales made by them, although persons purchasing items of tangible personal property from these instrumentalities are liable for use tax on their purchases.

A federal chartered banking institution which claims to be exempt from Maine sales and use taxes must obtain an exemption certificate from Maine Revenue Services in accordance with Rule 302. The institution would furnish the seller with a copy of the certificate to exempt the sale. Only one certificate need be filed with the seller to cover subsequent purchases.

b. State Chartered Credit Unions. As provided in 1760(71), sales to state chartered credit unions are exempt from tax. This exemption remains in effect only while federally chartered credit unions are, by federal law, exempt. Unlike federal credit un-

ions, however, sales made by a state credit union are taxable sales. The state credit union is required to be registered with Maine Revenue Services and its sales would be treated in the same manner as other banking institutions described in Section 1 of this bulletin.

4. 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

10. Retailer. "Retailer" means any person who makes retail sales or who is required to register by §1754 or is registered under §1756.

13. Sale. "Sale" means 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.

17. Tangible personal property. "Tangible personal property" means personal property which 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.

36 §1760 - Exemptions

1. Exemptions by constitutional provisions. Sales which this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

2. State and political subdivisions. Sales to the State or any political subdivision, or to the Federal Government, or to any unincorporated agency or instrumentality of either of them or to any incorporated agency or instrumentality of them wholly owned by them. This exemption shall not apply where title is held or taken as security for any financing arrangement.

71. State-chartered credit unions. Sales to credit unions that are organized under the laws of this State. This subsection shall remain in effect only for the time that federally chartered credit unions are, by reason of federal law, exempt from payment of state sales tax.

36 §1861 - Imposition of Use Tax

A tax is imposed, at the respective rate provided in §1811, on the storage, use or other consumption in this State of tangible personal property or a service the sale of which, if it had occurred in this State, would be subject to tax under §1764 or §1811. Every person so storing, using or otherwise consuming is liable for the tax until he has paid the tax or has taken a receipt from his seller, as duly authorized by the State Tax Assessor, showing that the seller has collected the sales or use tax, in which case the seller shall be liable for it. Retailers registered under §1754 or §1756 shall collect the tax and make remittance to the State Tax Assessor. The amount of the tax payable by the purchaser shall be that provided in the case of sales taxes by §1812. When tangible personal property purchased for resale is withdrawn from inventory by the retailer for his own use, use tax liability accrues at the date of withdrawal.