



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 2

FUNERAL DIRECTORS

This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine tax law. It is written in a relatively informal style and is intended to address issues commonly faced by funeral directors. Taxpayers are responsible for complying with all applicable tax statutes and rules. Although bulletins issued by Maine Revenue Services (“MRS”) do not have the same legal force and effect as rules, justifiable reliance upon this bulletin will be considered in mitigation of any penalties for any underpayment of tax due. This bulletin is current as of the last revision date shown at the end of the document.

The Sales and Use Tax Law is found in Part 3 of Maine Revised Statutes (“M.R.S.”), Title 36. Both Title 36 and all MRS rules may be seen by clicking on “Laws and Rules” at the left side of the MRS website (www.maine.gov/revenue). Bulletins referenced below can be viewed at www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm.

1. GENERALLY

Sales of funeral services are exempt from sales and use tax. See 36 M.R.S. § 1760(24). “Sales of funeral services”, in addition to services provided by the mortician, funeral home director and staff of the funeral home, means sales of tangible personal property by a funeral director that are a necessary part of the preparation of a human body for burial or cremation or the ceremony conducted by the funeral director.

2. TAXABLE SALES

Sales by a funeral director of items of tangible personal property that are not an integral part of the funeral service, or preparation for the service, are taxable. Every funeral director must register with MRS as a retailer. Common taxable items sold by funeral directors include flowers, keepsakes or pendants (known variously as “funeral jewelry” or “memorial jewelry”), register books, prayer cards, and acknowledgement cards. See Rule 301 (“Sales for Resale and Sales of Packaging Materials”) and Rule 304 (“Sales Tax Returns and Payments”).

Sales by other retailers in connection with funerals are also subject to sales tax. Examples would be sales of flowers by florists for delivery to a funeral and sales of gravestones by monument dealers.

3. EXEMPT SALES

Sales by funeral directors of caskets, vaults, boxes, clothing, crematory urns, or other similar items generally referred to as “funeral furnishings,” are exempt from tax. Services

provided by the funeral director, such as embalming, cremation, use of the facilities for viewing and funeral services, transportation, and burial services, are exempt.

4. PURCHASES

A. Purchases for use by Funeral Director or Funeral Business. Purchases by a funeral director of materials and equipment used in preparing for and conducting a funeral service, rather than resold to a customer, are subject to sales and use tax. Taxable items include but are not limited to furniture, motor vehicles, and materials and tools used in embalming (including fluids, chemicals, cosmetics, and instruments). Funeral directors must pay sales tax on these items at the time of purchase. If the seller does not charge a sales tax, the funeral director must report and pay the use tax on its monthly sales tax return.

B. Purchases for Resale. When a retailer purchases tangible personal property for resale, the retailer must furnish the supplier with a resale certificate as provided in Rule 301. See also Instructional Bulletin No. 54 (“Resale Certificates”). The certificate enables 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. The retailer must state to the supplier that the purchase is for resale and will be held responsible for the tax on any item purchased for resale but subsequently used for any other purpose by the retailer. **Purchasers who avoid payment of tax through deliberate misuse of resale certificates may be subject to criminal prosecution.**

5. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the sales and use tax law faced by funeral directors. It is not intended to be all-inclusive. Requests for information on specific situations must be in writing, must contain full information as to the transaction in question, and must be directed to:

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