



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 23

PACKING, PACKAGING AND SHIPPING MATERIALS

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 persons using packing, packaging and shipping materials in Maine. Taxpayers are responsible for complying with all applicable tax statutes and rules. Although Maine Revenue Services (“MRS”) bulletins 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 an 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 Title 36 of the Maine Revised Statutes (“M.R.S.”). 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. TAXABLE PACKAGING MATERIALS

“Packing, packaging and shipping materials” include any materials that are used to protect products being stored or that are used to ensure the delivery of the contents in good physical condition. Packing, packaging and shipping materials include, but are not limited to, the following:

Bags	Crates	Sawdust
Bindings	Dry Ice	Styrofoam
Boxes	Ice	Shrink Wrap
Bubble Wrap	Labels	Tapes
Containers	Paper	Twines
Cores		Wrappings

Packing, packaging and shipping materials are taxable when purchased by a business unless they qualify for exemption as explained below. Examples of taxable uses are:

- Transporting a business’ own goods from one location to another location of the business. For example, pallets used in transporting goods from a business’ warehouse to one of its retail stores.
- Temporarily storing a business’ inventory, such as in boxes or crates in a stock room or warehouse.
- Mailing correspondence and advertising material to customers. For example, envelopes and labels used to mail customer statements and newsletters.

- Protecting or preserving a business' retail inventory. For example, ice used by a supermarket to display fresh fish or cellophane wrap used by a restaurant to preserve food until use.

2. EXEMPT PACKAGING MATERIALS

36 M.R.S. § 1760(12-A) provides an exemption for certain packing, packaging and shipping materials. This exemption applies to materials that pass into the possession of the customer and are used by the purchaser:

- in its business of packing, packaging, shipping and transporting tangible personal property owned by a third party;
- in packing, packaging or shipping tangible personal property that is being sold by the purchaser; or
- to wrap or package tangible personal property upon which the purchaser has performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in the regular course of business.

The exemption applies to both returnable and non-returnable packaging materials.

Examples of exempt uses include the following:

- The use of bags by a retailer to package goods purchased by a customer.
- The use of boxes, stuffing, labels and tape by a gift shop to package an item for shipping to a customer's home.
- The use of hangers, plastic, twine and wrapping paper by a dry cleaning business to package garments that have been cleaned for a customer.
- The use of ice by a fish processor for shipping fish to a customer.
- The use of foam trays and shrink wrap by a grocer to package meat for sale to customers.
- The use of boxes, stuffing, labels and tape to package items owned by the client of a transportation or furniture mover for shipment to another location.

36 M.R.S. § 1760(93) provides an exemption for plastic bags sold to a local redemption center licensed under Title 38, section 3113, when the bags are used by the center to sort, store or transport returnable beverage containers.

3. PURCHASES OF PACKAGING MATERIALS

A person claiming exemption when purchasing packaging materials must provide the supplier with a resale certificate or exemption certificate as provided in Rule 301 ("Sales for Resale and Sales of Packaging Materials"). The certificate will enable the purchaser to purchase packaging materials without payment of sales tax. Only one certificate need be filed with each supplier to cover subsequent purchases. The purchaser must state to the supplier whether the purchase is for resale or exempt as packaging materials and will be held responsible for the tax on any item purchased exempt but subsequently used by the purchaser. **Purchasers who avoid payment of tax through deliberate misuse of resale certificates may be subject to criminal prosecution.**

4. CHARGES TO CUSTOMERS FOR PACKAGING MATERIALS

If a retailer charges its customer a fee for paper or plastic single-use carry-out bags, the charge for the bag is not subject to sales tax. See 36 M.R.S. § 1752(14)(B)(14). For example, if a grocery store charges a customer 5 cents for each of the 10 bags used in packaging the customer's goods, no tax applies to the 50 cent charge. A charge for any type of packaging material other than a "paper or plastic single-use carry-out bag" is taxable unless the customer is otherwise exempt.

5. 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 must be in writing, must contain full information as to the transaction in question, and must be directed to the:

**MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
P.O. BOX 1060
AUGUSTA, ME 04332-1060
TEL: (207) 624-9693
TTY: 7-1-1**

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