



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 30

TRANSPORTATION CHARGES

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 taxpayers with respect to transportation charges. 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 MRSA (“Maine Revised Statutes Annotated”) Title 36. Both Title 36 and all MRS rules may be seen by clicking on “laws and rules” at the top of the MRS website.

1. **GENERALLY**

The Maine Sales and Use Tax Law imposes the sales or use tax based on the full amount of the sale price paid to the seller of tangible personal property or taxable services, including “any consideration for services that are part of a retail sale.” (See 36 MRSA § 1752 (14)(A)(1)) However, charges for transportation may be excluded from the sale price and treated as exempt from sales tax if all three of the following requirements are met (See 36 MRSA § 1752 (14)(B)(7)):

- A. Shipment is made from the retailer’s place of business, or other point, directly to the purchaser;
- B. The transportation charges are separately stated; and
- C. The transportation occurs by means of common carrier, contract carrier or the United States mail.

2. **SHIPMENT DIRECTLY TO THE PURCHASER**

In order to be exempt from sales tax, transportation charges must be for shipment “directly to the purchaser” “from the retailer’s place of business or other point from which shipment is made.” Shipment need not be made from the location of the seller, so transportation charges associated with a so-called “drop shipment” may be exempt if the other requirements noted above are met. The costs of transporting the property sold to the location of the seller are a part of the taxable sale price of the property when those costs are charged to the retail customer,

whether or not those charges are separately stated. For example, the cost of shipping a motor vehicle from the manufacturer to the dealer is part of the tax base when the dealer sells the vehicle, even though that cost may be separately stated on the dealer's invoice to the customer. Similarly, with respect to a catalog or special order sale made at a retail location where the goods are shipped to the retailer and picked up by the customer at the retail location, the cost of shipping the goods to the retailer are part of the sale price when those costs are charged to the customer by the retailer. The same is true of "home party" sales where the goods ordered at the party are shipped to the representative and then delivered by the representative to the customers.

3. SEPARATELY STATED CHARGES

In order to be exempt from sales tax, transportation charges must be separately stated. It is not essential that the transportation charges be separately stated on the invoice of the seller. Any verifiable record showing the amount of the transportation charge as a separately stated item, such as a bill of lading, is acceptable evidence to substantiate a deduction for transportation charges. In the absence of a verifiable record, no deduction from the sale price is allowed. An estimate of the cost of transportation, by either the seller or the purchaser, will not be accepted.

The cost of transportation is **not** considered to be "separately stated" when it is combined with charges for other services as in the case of a "shipping and handling" charge.

Certain costs that may be associated with transportation are considered part of the sale price and are subject to sales tax. For example, cash on delivery ("COD") charges are not transportation charges. A COD charge constitutes payment for the service of collecting from the purchaser and is therefore included in the sale price and subject to sales tax. Handling charges, mileage charges, "wait charges" and fuel surcharges are also included in the sale price and subject to sales tax even if they are separately stated from a charge for transportation.

When a sale has both taxable and exempt components (for example, a restaurant buying both food and supplies), transportation charges may be partially exempted from tax if a proration is done; however, if the cost of the taxable items are 10% or less of the total invoice, the taxable portion of the transaction is considered *de minimis* and the transportation charges are exempt.

4. SHIPMENT BY COMMON CARRIER, CONTRACT CARRIER OR US MAIL

In order for transportation charges to be exempt, the transportation must occur by common carrier, contract carrier or the U.S. mail. Charges for delivery in the seller's own vehicles are part of the sale price for purposes of computing the sales tax. A seller of tangible personal property cannot itself be a common or contract carrier with respect to that property.

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 should be in writing, should contain full information as to the transaction in question and should be directed to:

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