



# MAINE REVENUE SERVICES

## SALES, FUEL & SPECIAL TAX DIVISION

### BUSINESS GUIDE TO SALES, USE, and SERVICE PROVIDER TAX

---

Revised July 1, 2018

---

This guide 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 provide an overview of the Sales, Use, and Service Provider Tax Law. Bulletins and rules that provide additional information are listed at the end of this guide.

Taxpayers are responsible for complying with all applicable tax statutes and rules. Although Maine Revenue Services (“MRS”) bulletins and guides do not have the same legal force and effect as rules, justifiable reliance upon this guide will be considered in mitigation of any penalties for any underpayment of tax due. This guide is current as of the revision date shown above.

**SALES TAX.** A sales tax is imposed at the rate of 5.5% of the sale price on retail sales of tangible personal property; products transferred electronically; prepaid calling arrangements (not to be confused with prepaid wireless, which is addressed under “Service Provider Tax” in this document); transmission and distribution of electricity; extended service contracts on an automobile or truck; the rental or lease for more than one year of an automobile; the rental or lease of a camper trailer or motor home as tangible personal property and not as the rental of living quarters; and the rental or lease of a pickup truck or van when not rented from a person primarily engaged in the short-term rental of automobiles. The tax rate is 8% on sales of prepared food and alcoholic drinks sold in establishments that are licensed for on-premises consumption of liquor. The tax rate is 9% on certain rentals of living quarters. The tax rate is 10% on short-term rentals of automobiles and on short-term rentals of pickup trucks and vans with a gross vehicle weight of less than 26,000 pounds when rented from a person primarily engaged in the short-term rental of automobiles.

**USE TAX.** Purchases made for use in Maine are subject to a use tax, generally at the rate of 5.5%, when the retailer has not charged sales tax. Some common taxable items for a business are office supplies and equipment, janitorial supplies, computer hardware, software and supplies, reference books, fax machines and supplies, and photocopiers and supplies. Items withdrawn from inventory for use by the retailer are subject to use tax. Use tax applies to casual purchases of motor vehicles, watercraft, trailers, truck campers, and special mobile equipment. Use tax applies at the rate that would have been charged if the items had been sold. For example, a retailer that provides a prepared meal free of charge to one of its employees and the meal is not part of the employee’s compensation, the retailer is required to report 8% tax on the cost of the food items used, since the sale of prepared food is subject to sales tax at 8%. Use tax must be reported directly to the State.

**SERVICE PROVIDER TAX.** A service provider tax is imposed on certain services sold in the State. The 6% service provider tax is imposed on cable and satellite television services; radio

services; fabrication services; the rental of video media and video equipment; the rental of furniture and audio equipment pursuant to a “rent-to-own” contract; telecommunications service (including prepaid wireless, but not sales of prepaid calling cards, which are subject to sales tax); installation, maintenance, or repair of telecommunications equipment; private nonmedical institution services; community support services for persons with mental health diagnoses; community support services for persons with intellectual disabilities or autism; home support services; and group residential services for persons with brain injuries. This tax is imposed upon the provider of these services and not upon the consumer. If the seller includes the tax on a customer’s bill, it must be shown by the provider on the invoice or bill as a separate item and identified as a “service provider tax.”

**RECYCLING ASSISTANCE FEE.** In addition to the sales or use tax, a recycling assistance fee is imposed on retail sales of new tires and new lead-acid batteries. The amount of the fee is \$1.00 on each tire or battery. The fee is not a part of the “sale price” of the item on which it is imposed for purposes of computing the sales tax. The fee must be paid directly to MRS by the purchaser on purchases made outside of Maine for use in Maine. The purchaser is liable for payment unless the purchaser has taken a receipt from the retailer which shows that the fee has been collected.

**OIL PREMIUM.** A premium is imposed on gasoline engine crankcase oil, diesel engine crankcase oil, and certain other motor vehicle oils sold or distributed by motor vehicle oil dealers in the State. The premium is imposed on the oil dealers’ first sale or distribution of motor vehicle oil in this state. If you are engaged in selling or distributing motor vehicle oil, the premium must be remitted to the State Tax Assessor (“Assessor”). For more detailed information, please visit our website at [www.maine.gov/revenue/](http://www.maine.gov/revenue/) or call (207) 624-9693.

**PREPAID WIRELESS FEE.** A prepaid wireless fee is applied to purchases of prepaid wireless service from a wireless service provider and also on any prepaid wireless service sold by a retailer, such as service sold in the form of a prepaid wireless card (not to be confused with a prepaid calling card). The fee must be collected by the seller from the prepaid wireless consumer with respect to each retail transaction occurring in this State. The amount of the prepaid wireless fee must be separately stated on an invoice, receipt, or similar document that is provided to the prepaid wireless consumer by the seller when practicable. Like sales tax, the fee is the liability of the consumer. However, the seller is responsible for collecting the fee. The amount of the fee is set by rule by the Public Utilities Commission. For the current rate, visit the PUC Communications Rules website at <http://www.maine.gov/mpuc/legislative/rules/part2-telephone.shtml> or call (207) 624-9693.

## **REGISTRATION.**

**Sales Tax.** The following persons are required to register as sellers and to collect and remit the sales tax, the recycling assistance fee, the prepaid wireless fee, and the oil premium when applicable.

1. Every seller of tangible personal property or taxable services, whether at wholesale or at retail, who maintains any kind of business location in Maine.

2. Every seller of tangible personal property or taxable services who has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution.
3. Every seller of tangible personal property or taxable services who does not have a business location in Maine but makes retail sales in Maine or solicits orders by means of salespersons in Maine.
4. Every person that has a substantial physical presence in this State that makes sales of tangible personal property or taxable services in Maine as an agent of a principal located outside of Maine or receives compensation from sales of tangible personal property or taxable services for use in Maine made by a principal located outside of Maine, unless the principal is registered as a seller.
5. Every person who is engaged in the rental of living quarters in Maine, including casual rentals of a cottage, condominium unit or vacation home.
6. Effective October 1, 2018, every operator of a transient rental platform and every room remarketer (which includes online travel companies and other persons that reserve, arrange for, offer, furnish or collect or receive consideration for the rental of living quarters in Maine).
7. Every person who makes rentals or leases of automobiles, camper trailers, or motor homes in Maine.
8. Every person who makes consignment sales.
9. Every lessor engaged in the leasing of tangible personal property located in Maine who makes retail sales to purchasers from Maine.
10. Every person engaged in the transmission and distribution of electricity.
11. Every person that holds a wine direct shipper license.
12. Every person required to register as a condition of doing business with the State of Maine.
13. Every person selling tangible personal property, products transferred electronically, or taxable services for delivery into Maine if the person's gross revenue from those sales or deliveries exceeds \$100,000 in the previous calendar year or current calendar year.
14. Every person selling tangible personal property, products transferred electronically, or taxable services for delivery into Maine in at least 200 separate transactions in the previous calendar year or the current calendar year.

See Instructional Bulletin No. 43 (“Registration of Out-of-State Sellers”) for information about other circumstances where an out-of-state retailer may be required to register.

**Service Provider Tax.** The following persons are required to register as service providers and to calculate and remit the service provider tax.

1. Every person who sells telecommunications service in Maine.
2. Every person who sells ancillary services in Maine.
3. Every person who sells cable and satellite television or radio services in Maine.
4. Every person who rents of video media, video games, or video equipment in Maine.
5. Every person who sells fabrication services in Maine.
6. Every person who rents furniture, home electronic devices, audio media or audio equipment, pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105.
7. Every person who installs, maintains, or repairs telecommunications equipment.
8. Every person who provides private nonmedical institution services, community support services for persons with mental health diagnoses, community support services for persons with intellectual disabilities or autism, home support services, or group residential services for persons with brain injuries. Each of these services must be provided pursuant to a contract with the Department of Health and Human Services.

**RETAILER CERTIFICATES.** Applications for retailer certificates are available from MRS. **A separate certificate must be obtained for each place of business in this State and must be made available for inspection by MRS or authorized municipal officials.** Certificates are not transferable. There is no fee for registration. Retailer certificates have no expiration date and (unlike resale certificates discussed below) are valid until cancelled by the retailer or revoked by MRS.

#### **LIABILITY; COLLECTION FROM CUSTOMERS.**

**Sales Tax.** For each reporting period, the retailer is liable to the State for the sales tax and fees on taxable sales, rentals, and services sold during that period, whether or not the retailer has collected the sales tax and fees from the customer.

The retailer must compute the amount of sales tax due using conventional rounding method. When the sale price involves a fraction of a dollar, the tax computation must be carried to the 3<sup>rd</sup> decimal place, then rounded down to the next whole cent whenever the 3<sup>rd</sup> decimal place is 1, 2, 3 or 4 and rounded up to the next whole cent whenever the 3<sup>rd</sup> decimal place is 5, 6, 7, 8 or 9.

When several purchases are made together, the tax may be computed on each item individually, or on the total price of the several items, as the retailer may elect. Should the retailer elect to compute the tax on the total price of the several items, purchases taxed at 5.5%, 8%, 9%, and 10% must be separately totaled.

**Service Provider Tax.** For each reporting period, the provider is liable to the State for the service provider tax due on taxable services provided during that period. A service provider is not required to pass the service provider tax on to the customer. If a provider chooses to include the service provider tax on the customer statement or invoice, it must be separately itemized as a “service provider tax.”

**SALES FOR RESALE.** When any person in the business of selling tangible personal property or taxable services buys them for resale, that person is not required to pay, and the supplier is not required to collect, any tax. **However, the supplier must require the purchaser to furnish a resale certificate.**

**RESALE CERTIFICATES.** The purpose of the resale certificate is to protect the retailer from possible liability for the tax since, without a resale certificate, the burden of proving that a sale is for resale is on the person making the sale.

MRS will issue a sales tax resale certificate to active registered retailers reporting annual gross sales of \$3,000 or more. Resale certificates will be mailed to existing retailers for each qualifying period, and provisional certificates will be provided to new qualifying businesses with their “retailer” certificate. The resale certificate may be used **only** to purchase the types of items ordinarily purchased for resale by that business. A resale certificate may also be used to purchase a taxable service for resale as that same taxable service (for example, the rental of living quarters for resale as the rental of living quarters).

Retailers reporting annual gross sales of less than \$3,000 will **not** be issued a resale certificate. They must pay sales tax when they purchase items for resale and may claim a credit on the next sales tax return that they file for the amount of tax paid to the vendor.

If a customer makes similar purchases for resale on a continuous basis, the customer is not required to supply a copy of the resale certificate for each individual sale. Instead, the customer can use its current valid resale certificate on file with the supplier as a blanket certificate to cover all subsequent purchases for resale, as long as the certificate remains valid. In other cases, a separate resale certificate should be obtained with each order. Even when selling to a customer who has provided a resale certificate, the seller should treat every sale as taxable unless the purchaser specifies in the order that the purchase is for resale.

The resale certificate will protect the seller only if it is taken in good faith. The good faith of the seller will be questioned if the seller has knowledge of facts that would lead to a reasonable inference that the purchaser does not intend to resell the property or service, such as knowledge that a purchaser of particular merchandise is not engaged in the business of selling that kind of merchandise. **Sales to manufacturers, contractors, wholesalers, or retailers are taxable retail sales if the items purchased will be used by the purchaser, rather than resold to someone else.** Purchasers who avoid payment of tax through deliberate misuse of resale certificates are subject to prosecution.

**SERVICES GENERALLY; AS PART OF THE SALES PRICE.** There is no tax on the sale of services in general, such as personal services (e.g., haircuts and massages), personal property

services (e.g., dry cleaning and pet grooming), and real property services (e.g., carpentry, landscaping, and house cleaning). However, the sale of certain services is specifically subject to sales tax or service provider tax as mentioned at the beginning of this document.

Services that are sold in connection with the sale of tangible personal property *are* considered part of the taxable sale price of the tangible personal property, even if stated separately on the invoice to the customer. For example, a customer purchases a watch and asks to have an inscription engraved on the back. The taxable sale price includes the selling price of the watch and the amount charged for the engraving.

There are certain situations where services that are separately stated are properly excluded from the sale price. Charges for application, installation or repair services (other than installation or repair to telecommunications equipment) *are not* part of the taxable sales price if separately stated, even when sold as part of a sale of tangible personal property. For example, if the repair of an automobile is billed to the customer as \$80.00 repair labor and \$120.00 repair parts, tax would be computed only on the \$120.00 for repair parts. If the two amounts are not separately stated and the invoice is for a \$200.00 repair, the full \$200.00 is taxable because the exempt portion was not separately stated.

Shipping charges *are not* part of the taxable sales price when all three of the following conditions are met: (1) the product is shipped directly to the customer; (2) the shipment is made through a common or contract carrier or the U.S. mail; and (3) the shipping cost is stated separately from the cost of the property or any other charges, like handling fees.

**There is no Maine sales tax or service provider tax on a sale or service where delivery is made by the seller to a point outside of Maine, or where the seller arranges for delivery by common carrier, contract carrier, or the United States mail to a point outside of Maine.**

For a complete explanation of “sale price,” see Instructional Bulletin No. 39 (“Sale Price Upon Which Tax is Based”).

**EXEMPTIONS.** The Sales and Use Tax Law provides exemptions for sales to certain types of organizations, and sales of certain kinds of tangible personal property. All of the same exemptions apply to the recycling assistance fee and to the service provider tax, unless otherwise indicated.

**A. Exempt organizations.** Sales to the United States government, the State of Maine, and political subdivisions of the State of Maine (such as counties, cities, and towns), or to any agency of any of the above governments, are exempt from tax. Also exempt from tax are sales to:

- ◆ incorporated hospitals;
- ◆ incorporated nonprofit medical clinics whose sole mission is to provide free medical care to the indigent or uninsured;
- ◆ regularly organized churches;
- ◆ incorporated nonprofit monasteries and convents (only for tangible personal property used in the operation and maintenance of the monastery or convent) (**NOT EXEMPT FROM SERVICE PROVIDER TAX**);

- ◆ incorporated nonprofit church-affiliated organizations that operate a residential home for adults;
- ◆ schools;
- ◆ incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia;
- ◆ certain incorporated nonprofit educational organizations that are receiving, or have received, funding from the Department of Education and that provide educational programs specifically designed for teaching young people how to make decisions about drugs, alcohol and interpersonal relationships at a residential youth camp setting;
- ◆ certain libraries;
- ◆ nonprofit collaboratives of academic, school and special libraries that provide support for library resource sharing, promote quality library information services and support the cultural, educational and economic development of the State;
- ◆ incorporated nonprofit fire departments;
- ◆ incorporated nonprofit ambulance services;
- ◆ air ambulance services that are limited liability companies whose members are nonprofit organizations;
- ◆ incorporated volunteer nonprofit search and rescue organizations;
- ◆ incorporated nonprofit veterans' memorial cemetery associations;
- ◆ incorporated nonprofit organizations organized for the purpose of providing direct supportive services in Maine to veterans and their families living with post-traumatic stress disorder or traumatic brain injury;
- ◆ an organization that provides services to veterans and their families that is chartered under 36 U.S.C., Subtitle II, Part B and that is recognized as a veterans' service organization by the U.S. Department of Veterans Affairs (**NOT EXEMPT FROM SERVICE PROVIDER TAX**);
- ◆ incorporated nonprofit Vietnam veterans registries;
- ◆ incorporated nonprofit organizations organized for the primary purpose of operating a retreat in the State for combat-injured veterans and their families free of charge;
- ◆ nonprofit corporations incorporated for the sole purpose of conducting medical research;
- ◆ incorporated nonprofit corporations operating educational television or radio stations;
- ◆ certain community mental health, adult developmental services, and substance use disorder facilities;
- ◆ incorporated nonprofit hospice organizations which provide a program or care for the physical and emotional needs of terminally ill patients;
- ◆ incorporated private nonprofit residential child care facilities that are licensed by the Department of Health and Human Services as residential child care facilities;
- ◆ certain nonprofit youth organizations whose primary purpose is to provide athletic instruction in a nonresidential setting;
- ◆ councils and local units of incorporated nonprofit national scouting organizations;
- ◆ incorporated nonprofit dental health centers;
- ◆ incorporated nonprofit nursing homes licensed by the Department of Health and Human Services;

- ◆ incorporated nonprofit residential care facilities licensed by the Department of Health and Human Services;
- ◆ incorporated nonprofit assisted housing programs for the elderly licensed by the Department of Health and Human Services;
- ◆ incorporated nonprofit home health care agencies certified under the United States Social Security Act of 1965;
- ◆ incorporated nonprofit organizations organized for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology and ecology;
- ◆ incorporated nonprofit rural community health centers;
- ◆ incorporated nonprofit federally-qualified health centers and “look-alikes”;
- ◆ regional planning commissions and councils of government established pursuant to Title 30-A;
- ◆ incorporated nonprofit historical societies and museums;
- ◆ incorporated nonprofit memorial foundations that primarily provide cultural programs free to the public;
- ◆ licensed incorporated nonprofit child care centers;
- ◆ community action agencies designated in accordance with Title 22, section 5324;
- ◆ incorporated nonprofit child abuse and neglect prevention councils as defined in Title 22, section 3872, subsection 1-A;
- ◆ statewide organizations that advocate for children and that are memberse of the Medicaid Advisory Committee;
- ◆ incorporated nonprofit organizations that provide free temporary emergency shelter or food for underprivileged individuals in this State;
- ◆ incorporated nonprofit organizations providing temporary residential accommodations to pediatric patients suffering from critical illness or disease such as cancer or who are accident victims, to adult patients with cancer or to the families of the patients;
- ◆ incorporated nonprofit organizations providing temporary residential accommodations, or food, or both, to hospital patients or to the families of hospital patients;
- ◆ incorporated nonprofit organizations whose sole purpose is to fulfill the wishes of children with life-threatening diseases;
- ◆ local branches of incorporated international nonprofit charitable organizations which lend medical supplies and equipment to persons free of charge;
- ◆ incorporated nonprofit animal shelters (only for goods used in the operation of the shelter or in the care of the animals) (**NOT EXEMPT FROM SERVICE PROVIDER TAX**);
- ◆ incorporated nonprofit organizations engaged primarily in providing support systems for single-parent families for the development of psychological and economic self-sufficiency;
- ◆ nonprofit organizations whose primary purpose is to develop housing for low-income people;
- ◆ local branches of incorporated nonprofit organizations whose purpose is to construct low-cost housing for low-income people;
- ◆ incorporated nonprofit organizations whose primary purposes are to promote public understanding of hearing impairment and to assist hearing-impaired persons through



the dissemination of information about hearing impairment to the general public and referral to and coordination of community resources available to hearing-impaired persons;

- ◆ incorporated 501(c)(3)-designated nonprofit organizations providing residential heating assistance to low-income individuals;
- ◆ credit unions that are organized under the laws of this State;
- ◆ qualified Pine Tree Development Zone businesses (**ONLY FABRICATION SERVICES ARE EXEMPT FROM SERVICE PROVIDER TAX**)
- ◆ nonprofit organizations whose primary purpose is to obtain, medically evaluate and distribute eyes for use in corneal transplantation, research and education; and
- ◆ centers for innovation as described in Title 5, section 13141.

Except in the case of sales to government agencies, the retailer should collect the tax unless the purchaser provides an exemption certificate issued by MRS as provided in Rule No. 302 (“Sales to Government Agencies and Exempt Organizations”).

**B. Exempt products.** Sales of the following kinds of tangible personal property are exempt from sales tax:

- ◆ grocery staples for human consumption;
- ◆ prescription medicines for humans (does not include medical marijuana);
- ◆ prosthetic or orthotic devices sold by means of an order issued by a licensed health care practitioner;
- ◆ crutches and wheelchairs for the use of sick, injured or disabled persons and not for rental;
- ◆ diabetic supplies used in the diagnosis or treatment of human diabetes;
- ◆ positive airway pressure equipment and supplies sold or leased for personal use;
- ◆ tangible personal property leased to air ambulance services that are limited liability companies all of whose members are nonprofit organizations;
- ◆ goods essential for the care of seeing eye dogs;
- ◆ automobiles sold to qualified amputee veterans;
- ◆ adaptive equipment for installation in or on a motor vehicle to make the vehicle operable or accessible by a person with a disability;
- ◆ gasoline and other motor vehicle fuels subject to Maine excise tax;
- ◆ jet fuel;
- ◆ fuels used for home cooking or heating (except gas and electricity);
- ◆ gas and water for residential use;
- ◆ the first 750 kWh per month of electricity for residential use;
- ◆ fuels for use in burning blueberry fields;
- ◆ fuel oil or coal, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale;
- ◆ tree seedlings for use in commercial forestry;
- ◆ feed, hormones, pesticides, antibiotics and medicines used in aquacultural production;
- ◆ seed, fertilizer, pesticides, insecticides, fungicides, weed killers, and defoliant used in commercial production of an agricultural crop;

- ◆ breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production and sales of antiseptics and cleaning agents used in commercial animal agricultural production, including the raising and keeping of equines;
- ◆ organic bedding material for farm animals;
- ◆ hay;
- ◆ bait sold to commercial fishermen;
- ◆ parts and supplies for use in the operation, repair or maintenance of a windjammer;
- ◆ certain depreciable machinery and equipment, and repair parts for such equipment, when purchased or leased for commercial use by farmers, nurseries, greenhouses, fishermen, or wood harvesters who have been issued a certificate of exemption;
- ◆ electricity and fuel purchased for commercial use by farmers, nurseries, greenhouses, fishermen, aquaculture operators or wood harvesters who have been issued a certificate of exemption;
- ◆ tangible personal property that becomes an ingredient or component part of, or that is consumed or destroyed or loses its identity directly and primarily in, either the production of tangible personal property for later sale or lease, other than lease for use in this State, or the production of tangible personal property pursuant to a contract with the United States Government or an agency thereof;
- ◆ machinery and equipment used directly and primarily in either the production of tangible personal property for later sale or lease or the production of tangible personal property pursuant to a contract with the United States Government or any agency thereof;
- ◆ machinery and equipment for use by the purchaser directly and exclusively in research and development in the experimental and laboratory sense;
- ◆ machinery, equipment, instruments and supplies for use by the purchaser directly and primarily in biotechnology applications;
- ◆ returnable containers;
- ◆ plastic bags sold to and used by a redemption center to sort, store or transport returnable beverage containers;
- ◆ containers and packaging and shipping materials when sold for packing or shipping tangible personal property either sold by the shipper or packaged and transported by the shipper;
- ◆ railroad track materials purchased and installed on railroad lines located within the boundaries of the State;
- ◆ cabin, deck, engine supplies and bunkering oil to ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce;
- ◆ vehicles, rolling stock, or watercraft, to be placed in use by the purchaser as an instrumentality of interstate commerce within 30 days and used by the purchaser in interstate commerce at least 80% of the time for the next two years. See Rule 318 (“Instrumentalities of Interstate or Foreign Commerce”) for more information on qualifying vehicles and required documentation;
- ◆ motor vehicles (including snowmobiles and ATVs), semitrailers, and camper trailers sold or leased to non-residents for immediate removal from Maine;

- ◆ motor vehicles (not including snowmobiles and ATVs) sold or leased to a Maine business for immediate removal from this state and used exclusively in the business's out of state business activity;
- ◆ watercraft sold to non-residents for removal within 30 days of delivery from Maine (exemption reduced to 60% of the sales price if the watercraft remains in Maine for more than 30 days during the first 12 months following delivery);
- ◆ sales, use or lease of aircraft and sales of repair and replacement parts exclusively for use in aircraft or in the significant overhauling or rebuilding of aircraft or aircraft parts or components until June 30, 2033;
- ◆ snowmobiles and snowmobile trail grooming equipment sold to snowmobile clubs incorporated under the provisions of Title 13-B and used directly and exclusively for grooming trails;
- ◆ automobiles purchased by automobile dealers registered under section 1754-B that will be equipped with dual controls and loaned or leased to public or private secondary schools without consideration or for a consideration of not more than one dollar per year and used exclusively by those schools in driver education programs;
- ◆ loaner vehicles sold to new vehicle dealers;
- ◆ camper trailers or motor homes sold to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers;
- ◆ meals served by schools to students and faculty;
- ◆ meals sold by a nonprofit auxiliary organization of the American Legion in connection with a fund-raising event sponsored by the auxiliary organization;
- ◆ meals served by youth camps licensed by Department of Health and Human Services;
- ◆ meals served by a retirement facility to its residents when participation in the meal program is a condition of occupancy or the cost of the meals is included in or paid with a comprehensive fee that includes the right to reside in a residential dwelling unit and meals or other services;
- ◆ meals served by hospitals to patients;
- ◆ meals sold to certain area agencies on aging for providing meals to the elderly;
- ◆ meals to residents of certain incorporated nonprofit church-affiliated congregational housing facilities;
- ◆ prepared food sold by civic, religious or fraternal organizations, including an auxiliary of such an organization, at a public or member-only event, except when alcoholic beverages are available for sale at the event; **(THIS EXEMPTION IS LIMITED TO THE FIRST 24 DAYS DURING WHICH SALES ARE MADE IN A CALENDAR YEAR AND DOES NOT APPLY TO SALES MADE AT PRIVATE FUNCTIONS SUCH AS WEDDINGS)**
- ◆ tangible personal property and taxable services sold by elementary or secondary schools and by student organizations sponsored by those schools, including booster clubs and student or parent-teacher organizations, as long as the profits from the sales are used to benefit those schools or student organizations or are used for a charitable purpose;
- ◆ goods and services sold by a civic, religious, or fraternal organization that is not a registered retailer at a bazaar, fair, rummage sale, picnic, or similar event;
- ◆ self-help literature on alcoholism sold to alcoholics anonymous groups;

- ◆ tangible personal property used by funeral directors in connection with funeral services;
- ◆ air or water pollution control facilities certified by the Department of Environmental Protection;
- ◆ any materials for the construction, repair or maintenance of animal waste storage facilities;
- ◆ used manufactured housing;
- ◆ new manufactured housing to the extent of all costs, other than materials, included in the sale price, that do not exceed 50% of the sale price;
- ◆ tangible personal property to be physically incorporated into and become a part of a portable classroom for lease to schools;
- ◆ construction materials sold to contractors for incorporation into realty of exempt organizations;
- ◆ products for internal human consumption sold through coin-operated vending machines by a person more than 50% of whose gross receipts from retail sales of tangible personal property are from sales through vending machines;
- ◆ items purchased with federal food instruments distributed by the Department of Health and Human Services;
- ◆ 95% of the sale price of fuel and electricity purchased for use at a manufacturing facility;
- ◆ 95% of the sale price of fuel used at a greenhouse facility occupying at least 1,000,000 square feet of indoor space operated by an agricultural employer that employs at least 100 employees and is engaged in the year-round commercial production of fruits and vegetables through December 31, 2019;
- ◆ electricity sold to net energy billing customers for which no money is paid to the electricity provider;
- ◆ off-peak residential electricity used for space heating or water heating by means of an electric thermal storage device;
- ◆ advertising or promotional materials printed on paper and purchased for the purpose of subsequently transporting such materials outside the State for use by the purchaser outside the State;
- ◆ publications purchased for distribution without charge as a free publication;
- ◆ printed paper materials, including advertising flyers and promotional materials, purchased for inclusion in a publication; and
- ◆ goods and services sold by a nonprofit free public lending library that is funded in part or wholly by the State, any political subdivision of the State, or the federal government, or sold by a nonprofit corporation organized to support such a library, provided the proceeds from the sales are used to benefit the library.

**C. Exempt services.** Sales of the following services are exempt from sales tax:

- ◆ 95% of the sale price of the transmission and distribution of electricity purchased for use at a manufacturing facility; and
- ◆ rentals of certain living quarters: (1) at camps entitled to exemption from property tax as benevolent and charitable or literary and scientific institutions; (2) in hospitals and nursing homes; (3) to any student when necessitated by attendance at a school; (4) to

any person who has resided continuously for 28 days at any one hotel, rooming house, or tourist or trailer camp if the person does not maintain a primary residence at some other location or is residing away from his or her primary residence in connection with employment or education; and (5) to any person that rents living quarters for 28 or more consecutive days, when the living quarters are used by the person's employees in connection with their employment. Any tax paid during the initial 28 day period must be refunded by the retailer.

Sales of the following services are exempt from the service provider tax:

- ◆ fabrication services sold to a construction contractor or its subcontractor that are to be physically incorporated in, and become a permanent part of, real property for sale to any organization or government agency provided exemption under section 2557, except as otherwise provided by section 2560;
- ◆ fabrication services if a sale to the consumer of the tangible personal property being produced would be exempt or otherwise not subject to tax under sales tax;
- ◆ 95% of the sale price of fabrication services for the production of fuel for use at a manufacturing facility as defined in section 1752, subsection 6-A;
- ◆ international and interstate telecommunications service sold to a business for use directly in that business; and
- ◆ prepaid calling service (the sale of which is subject to sales tax, and not to be confused with prepaid wireless).

**TRADE-IN CREDIT.** Tax on the sale or use of motor vehicles, watercraft, chain saws, special mobile equipment, trailers, and truck campers is levied at the same rate (5.5%) as on other property. But when any one of the above items is traded in toward the sale price of another item of the same kind, the tax is charged only on the difference between the sale price and the amount allowed for trade-in. This credit does not apply to any other type of property or to similar property exchanged between dealers from inventory.

**RETURNS.** Sales and Use Tax and Service Provider Tax Returns are required to be filed by retailers each month, except that those retailers whose total tax liability normally is less than \$600 per month may request authorization to file on a less frequent basis. Tax returns are due on the 15th of the month following the reporting period. If the 15th of the month falls on a weekend or holiday, the return is due on the next business day.

Rule No. 104 (“Electronic Filing of Maine Tax Returns”) requires electronic filing of Sales, Use, and Service Provider Tax Returns. To file electronically, go to [www.maine.gov/revenue/](http://www.maine.gov/revenue/) and click on “Electronic Services.”

Taxpayers unable to file using the internet may request a waiver. Taxpayers with waivers from electronic filing will receive paper returns from MRS that must be filed on or before the 15th day of the month following the end of the reporting period, **whether or not any tax is due.**

Persons who are not required to be registered as retailers, but who make purchases subject to Maine use tax on a regular basis, are required to file use tax only returns in those periods in which tax is due.

**REPORTING EXEMPT SALES.** The following should be included on the exempt sales line of your sales tax return and/or service provider tax return:

- ◆ Sales of exempt property and/or services;
- ◆ Sales for resale;
- ◆ Sales to exempt organizations;
- ◆ Sales of property or services delivered or shipped by the retailer to a location outside of Maine;
- ◆ Certain sales on which tax was previously reported, such as sales cancelled for a full refund after tax had been reported; sales or rentals determined to be exempt after tax had been reported; discounts taken after tax had been reported; and other allowable credits.

**BAD-DEBT CREDITS.** The amount eligible for the sales tax bad-debt credit should be deducted from gross sales on the “Bad Debt Credit” line. This credit applies to certain sales that the retailer originally reported as taxable and on which it remitted sales tax to the State, but later charged off the related account as worthless on its books. See Instructional Bulletin No. 29 (“Deduction for Bad Debts”) for instructions on how to claim this credit.

**PAYMENT.** Payment of the amount due must be made when the return is filed.

Sales and use taxes collected from customers are deemed to constitute a special fund in trust for the Assessor. Intentional failure to collect, truthfully account for and pay over trust fund taxes at the time required by law is a Class D crime (in the case of a person who has a prior conviction, a Class C crime). A person who is responsible as an officer, director, member, agent, or employee for collection or payment of a business’s trust fund taxes is subject to prosecution under this statute and can also be held personally liable for the unpaid taxes. Furthermore, if collected sales taxes are not paid over to the State and are treated by the retailer as the retailer’s own funds, then the retailer may be charged with theft. Theft of property in excess of \$5,000 is a Class B crime.

Each retailer and/or service provider may be required to make electronic tax payments. Rule No. 102 (“Electronic Funds Transfer (EFT)”) requires any person who has a combined liability to the State during the prior calendar year that meets certain thresholds to remit all Maine tax payments electronically. This can be accomplished by using either the **ACH credit method** (when a taxpayer initiates a transfer of funds from the taxpayer’s bank to the State of Maine for a specific payment amount) **or ACH debit method** (where MRS will initiate an electronic transfer of funds at the taxpayer’s instruction to withdraw funds from the taxpayer’s designated bank account for a specific payment amount). For more information on electronic tax payments please refer to our website at: [www.maine.gov/revenue/rules](http://www.maine.gov/revenue/rules).

**INTEREST.** Any person who fails to pay any tax on or before the due date will be charged interest on the unpaid tax. An extension of time for filing a return does not extend the time for payment of the tax. A listing of current and past interest rates is available at [www.maine.gov/revenue/incomeestate/Interest.htm](http://www.maine.gov/revenue/incomeestate/Interest.htm).

**PENALTIES.** Maine law provides civil penalties for failure to file a return, for failure to pay taxes when due, and for filing a false return.

**A. Failure to file return.** Any person who fails to file a return on or before the due date or if the return is not filed but the tax due is assessed by the Assessor, the person may be charged a penalty of \$25.00 or 10% of the tax due, whichever is greater. If the return is not filed within 60 days after the person receives a formal demand that the return be filed, the penalty is \$25.00 or 25% of the tax due.

**B. Failure to pay tax.** Any person who fails to pay any tax on any return or any assessment on or before the due date may be charged a penalty of 1% of the unpaid tax for each month or fraction thereof during which the failure continues, up to a limit of 25% of the unpaid tax. Any person who fails to pay a tax assessment for which no further administrative or judicial review is available may be charged an additional penalty of 25% of the tax due if payment of the tax due is not made within 10 days after the person receives a demand for payment.

**C. Negligence, fraud, or false return.** Any person who files a return that results in an underpayment of tax, any portion of which is attributable to negligence or intentional disregard of the law or of any rule of the Assessor, may be charged a penalty of \$25.00 or 25% of the deficiency, whichever is greater. Any person who files a return that results in an underpayment of tax, any portion of which is attributable to fraud with intent to evade the tax, may be charged a penalty of \$75.00 or 75% of the deficiency, whichever is greater.

**D. Substantial understatement.** Any person who files a return that results in an underpayment of tax, any portion of which is attributable to a substantial understatement of tax, is liable for a penalty of \$5.00 or 1% of the portion of the underpayment, whichever is greater, for each month during which the failure to pay that portion of the underpayment continues, up to a maximum in the aggregate of \$25.00 or 25% of the underpayment, whichever is greater.

There is a substantial understatement of the tax if the amount of the understatement on the return or returns for the period covered by the assessment exceeds 10% of the total tax required to be shown on the return or returns for that period or \$1,000.00, whichever is greater.

**RECORDS.** Each retailer and/or service provider must keep adequate records, in a format accessible to the Assessor's authorized representative, to determine:

**Sales/Use Return Records:**

1. Gross sales. This is the total amount of revenue generated by the business for the reporting period and includes: taxable sales and services, exempt sales and services, and out of state sales.
2. Deductions allowed by law and claimed in filing returns. This includes: sales for resale; sales to exempt organizations; sales made outside of Maine; nontaxable labor charges; bad debts properly charged off as worthless on the books of the seller; and sales of services that are reported on a separate service provider tax return.

3. The total amount of sales of prepared food (taxed at 8%).
4. The total amount of rentals of living quarters (taxed at 9%). “Living quarters” includes, but is not limited to accommodations in or at a hotel, motel, rooming house, apartment, apartment house, single-family house, multi-unit home, cottage, camp, condominium unit, vacation home, tourist camp, trailer camp, motor court, trailer court, watercraft, vehicle, or campground.
5. The total amount of rentals of automobiles on a short-term basis (taxed at 10%) and long-term basis (taxed at 5.5%).
6. The purchase price of all tangible personal property and taxable services purchased for resale and of all tangible personal property and taxable services purchased for use in Maine.
7. The number of tires and lead-acid batteries sold and the amount of fees collected.
8. The total amount of premiums due on sales of motor vehicle oil sold or distributed in Maine.
9. The value of prepaid wireless fees charged and collected.

**Service Provider Return Records:**

1. Gross services. This includes all services required to be reported on the Maine Service Provider Tax return.
2. Exempt services. This includes services for resale; services to exempt organizations and; services sold to out of state customers.
3. The total taxable amount of services of: cable television and satellite services; radio services; fabrication services; video rentals and rental of video equipment; rentals of rent-to-own furniture, audio media, and audio equipment; telecommunication services; private nonmedical institution services; community support services for persons with mental health diagnoses; community support services for persons with intellectual disabilities or autism; home support services; and group residential services for persons with brain injuries.

**All records must be retained for six years.** See Rule No. 103 (“Recordkeeping and Retention”) for more details concerning recordkeeping requirements.

**TAX AS SHOWN IN ADVERTISEMENTS AND BILLS.** A retailer may **NOT** advertise that no sales tax will be charged on otherwise taxable items or that no sales tax will be charged on certain days or period of time (otherwise known as a “tax holiday”). It is illegal for any retailer to advertise or hold out or state to the public or to any consumer that the sales tax or any portion of it will not be collected, or will be absorbed by the retailer, or that if collected it will be refunded. If the retailer does not state the amount of the tax separately from the sale price of tangible personal property or taxable services, the retailer shall include a statement on the sales slip or invoice presented to the purchaser that the stated price includes Maine sales tax. Service provider taxes shown on a customer invoice or bill must be separately stated and labeled as “service provider tax” and cannot be combined with sales taxes, even on the same invoice.



**AUTOMATED SALES SUPPRESSION DEVICES (“ZAPPERS”).** A retailer may not knowingly manufacture, sell, transfer, possess, purchase, own, or install any automated sales suppression device or phantom-ware, commonly known as “zappers.” An automated sales suppression device is a computer software program that may be stored on magnetic or optical media, accessed through the Internet or by other means, designed or used to falsify the electronic records of an electronic cash register or other point-of-sale system, including, but not limited to, transaction data and transaction reports.

Knowingly possessing, purchasing or owning any automated sales suppression device or phantom-ware is a Class D crime. Knowingly manufacturing, selling, installing or transferring any automated sales suppression device or phantom-ware or possessing, purchasing or owning with the intent to sell, install or transfer any automated sales suppression device or phantom-ware is a Class C crime.

**PURCHASE OF BUSINESS.** Any person purchasing a business or the stock-in-trade in bulk of a business should make sure that the previous owner has paid in full all sales and use taxes owed by the business. If the person selling the business has not paid those taxes, the person purchasing the business is required to withhold the amount of the unpaid taxes, interest, and penalties from the purchase price. If the purchaser fails to do this, the purchaser is jointly and severally liable for the unpaid taxes, interest, and penalties and the Assessor may make an assessment against the purchaser.

Any person contemplating the purchase of a business who does not have certain knowledge that the sales and use tax liability of the business has been paid should request the seller to obtain a tax clearance letter from the Compliance Division of MRS.

## **RULES.**

The following rules have been adopted and can be viewed and downloaded at [www.maine.gov/revenue/rules/homepage.html](http://www.maine.gov/revenue/rules/homepage.html):

- No. 102 Electronic Funds Transfer
- No. 103 Recordkeeping and Retention
- No. 104 Filing of Maine Tax Returns
- No. 110 Requests for Advisory Rulings
- No. 301 Sales for Resale and Sales of Packaging Materials
- No. 302 Sales to Government Agencies and Exempt Organizations
- No. 303 Sales to Industrial Users
- No. 304 Sales Tax Returns and Payments
- No. 308 Direct Payment Permits
- No. 318 Instrumentalities of Interstate or Foreign Commerce
- No. 321 Meals Provided in the Wild
- No. 323 Commercial Agricultural Production, Commercial Aquacultural Production, Commercial Fishing, and Commercial Wood Harvesting
- No. 401 Service Provider Tax - Return and Payment of Tax

**INSTRUCTIONAL BULLETINS.** The following Instructional Bulletins have been prepared covering specific areas of the Law and can be viewed and downloaded at [www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm](http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm):

- No. 1 Service Stations and Auto Repair Shops (Other than Vehicle Dealers)
- No. 2 Funeral Directors
- No. 3 Photographers and Photofinishers
- No. 4 Contractors and Subcontractors
- No. 9 Casual and Infrequent Sales
- No. 12 Retailers of Food Products
- No. 13 Sales of Fuel and Utilities
- No. 14 Seed, Feed, Fertilizer and Other Items Used in Agricultural and Aquacultural Production
- No. 15 Auctioneers
- No. 17 Printers and Publishers
- No. 20 Lease and Rental Transactions
- No. 21 Florists
- No. 22 Manufacturers
- No. 23 Packing, Packaging and Shipping Materials
- No. 24 Vehicle Dealers
- No. 27 Sales of Prepared Food
- No. 29 Deduction for Bad Debts
- No. 31 Sales of Manufactured Housing
- No. 32 Rentals of Living Quarters
- No. 36 Exempt Organizations and Government Agencies
- No. 38 Advertising Agencies and Graphic Designers
- No. 39 Sale Price Upon Which Tax is Based
- No. 41 Medicines, Medical Equipment and Prosthetic Devices
- No. 42 Original Registration of Vehicles - Taxable/Exempt
- No. 43 Registration of Out-of-State Sellers
- No. 46 Fabrication Services
- No. 47 Original Registration of Watercraft, Snowmobiles, and All-Terrain Vehicles
- No. 51 Veterinarians
- No. 52 Pine Tree Development Zones
- No. 53 Repairs and Warranties
- No. 54 Resale Certificates
- No. 55 Service Provider Tax
- No. 56 Telecommunications
- No. 57 Motor Vehicle Oil Premiums
- No. 59 Commercial Agricultural Production, Commercial Aquacultural Production, Commercial Fishing and Commercial Wood Harvesting
- No. 60 Sales of Medical Marijuana and Related Products

**GENERAL INFORMATION BULLETINS.** From time to time a General Information Bulletin, covering matters of current interest to sellers, is published by MRS. These bulletins contain important information about the rights and obligations of persons registered under the

Sales and Use Tax Law. Please read them carefully. They are available on our website at [www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm](http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm).

**QUESTIONS.** If you have any questions about Sales, Use or Service Provider Tax Law as it relates to your business, please contact us at Maine Revenue Services, Sales, Fuel and Special Tax Division, PO Box 1060, Augusta, Maine 04332-1060. Walk-in taxpayer assistance is available in our main office at 51 Commerce Drive in Augusta. Our telephone number is (207) 624-9693. You can reach us by email at [sales.tax@maine.gov](mailto:sales.tax@maine.gov).

The Department of Administrative and Financial Services does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities. This material can be made available in alternate formats.

Printed Under Appropriation 01037