



# MAINE REVENUE SERVICES

## SALES, FUEL & SPECIAL TAX DIVISION

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

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Revised November 1, 2017

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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; 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; 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 Items withdrawn from inventory for use by the retailer are subject to use tax.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 (except 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. However, the provider may pass this tax through to the consumer, in which case it must be identified by the provider on the invoice or bill 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 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 seller 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 its collection. The amount of the fee is set by rule by the Public Utilities Commission. For the current rate, please visit our website at [www.maine.gov/revenue/salesuse/salestax/salestax.html](http://www.maine.gov/revenue/salesuse/salestax/salestax.html) or call (207) 624-9693.

**REGISTRATION.** 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 makes rentals of living quarters in Maine, including casual rentals of a cottage, condominium unit or vacation home.
6. Every person who makes rentals or leases of automobiles, camper trailers, or motor homes in Maine.
7. Every person who makes consignment sales.
8. Every lessor engaged in the leasing of tangible personal property located in Maine who makes retail sales to purchasers from Maine.
9. Every person engaged in the transmission and distribution of electricity.
10. Every person that holds a wine direct shipper license.
11. Every person required to register as a condition of doing business in Maine.
12. Effective November 1, 2017, every person selling tangible personal property, products transferred electronically, or 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.
13. Effective November 1, 2017, every person selling tangible personal property, products transferred electronically, or 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 important information about other circumstances where an out-of-state retailer may be required to register.

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

1. Every person who furnishes telecommunications service or ancillary services in Maine.
2. Every person who furnishes cable or satellite television service in Maine.
3. Every person who furnishes radio service in Maine.
4. Every person who makes rentals of video media, video games, or video equipment in Maine.
5. Every person who makes sales of fabrication services in Maine.
6. Every person who makes rentals of furniture, home electronic devices, audio media or audio equipment.
7. Every person who installs, maintains, or repairs telecommunications equipment.
8. Every person engaged in providing 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. The retailer certificates have no expiration date and (unlike the 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 seller is liable to the State for the sales tax and fees on taxable sales, rentals, and services sold during that period, whether or not they have been collected from the customer.

Effective January 1, 2018, the seller must compute the amount of sales tax due using conventional rounding method, carried to the 3<sup>rd</sup> decimal place. 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 one, 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 pass the tax on, the tax must be identified on the statement or invoice 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 seller 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. 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 purchases items 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 goods are 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, 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 (haircuts, massages), personal property services (dry cleaning, pet grooming), and real property services (carpentry, landscaping, 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 by the retailer; (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 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;
- ◆ monasteries and convents (**NOT EXEMPT FROM SERVICE PROVIDER TAX**);
- ◆ certain church-affiliated residential homes;
- ◆ 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;
- ◆ 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 fire departments;
- ◆ incorporated nonprofit ambulance services, and 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;
- ◆ nonprofit corporations incorporated for the sole purpose of conducting medical research or operating educational television or radio stations;
- ◆ certain community mental health, adult developmental services, and substance abuse facilities;
- ◆ incorporated nonprofit hospice organizations;
- ◆ incorporated private nonprofit residential child care facilities licensed by the Department of Health and Human Services;
- ◆ certain nonprofit youth organizations;
- ◆ incorporated nonprofit dental health centers;
- ◆ incorporated nonprofit nursing homes licensed by the Department of Health and Human Services;
- ◆ incorporated nonprofit residential care facilities and 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 biological and ecological research laboratories;
- ◆ incorporated nonprofit rural community health centers;
- ◆ incorporated nonprofit federally-qualified health centers and "look-alikes";
- ◆ regional planning commissions;
- ◆ 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;
- ◆ incorporated nonprofit child abuse and neglect councils;
- ◆ statewide organizations that advocate for children;
- ◆ incorporated nonprofit emergency shelter and feeding organizations;
- ◆ incorporated nonprofit residential facilities for medical patients and their families;
- ◆ 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 providers of certain support systems for single-parent families;
- ◆ nonprofit housing development organizations;
- ◆ nonprofit home construction organizations;
- ◆ incorporated nonprofit organizations providing certain services for hearing-impaired persons;
- ◆ state-chartered credit unions;
- ◆ qualified Pine Tree Development Zone businesses (**ONLY FABRICATION SERVICES ARE EXEMPT FROM SERVICE PROVIDER TAX**);
- ◆ eye banks; and
- ◆ centers for innovation.

Except in the case of sales to government agencies, the seller 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;
- ◆ goods essential for the care of seeing eye dogs;
- ◆ automobiles sold to 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;
- ◆ 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 defoliants 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, and repair parts for qualifying machinery and equipment;
  - ◆ machinery and equipment used directly and exclusively in research and development;
  - ◆ returnable containers;
  - ◆ plastic bags 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;
  - ◆ cabin, deck, and engine supplies for ships engaged 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;
  - ◆ 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 dealers that will be furnished for use to driver education programs without consideration or for a consideration of not more than one dollar per year;
- ◆ 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 congregate housing facilities;
- ◆ certain meals sold by civic, religious or fraternal organizations;
- ◆ goods and services sold by elementary or secondary schools and school-sponsored organizations;
- ◆ 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;
- ◆ 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 portable classrooms leased 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 stamps 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;

- ◆ 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; (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 (but the sale of prepaid calling service is subject to sales tax).

**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 registrants each month, except that those registrants 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.

Some tax returns are subject to a mandatory electronic filing. Rule No. 104 (“Electronic Filing of Maine Tax Returns”) requires electronic filing of Sales, Use, and Service Provider Tax Returns.

Sales, Use, and Service Provider Tax returns may be filed electronically through the internet. 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 sellers, but who make purchases subject to Maine use tax on a regular basis, are required to file returns only in those periods in which tax is due.

**DEDUCTIONS FROM GROSS RECEIPTS.** The following should be included on the exempt sales line of your sales tax return:

1. Sales of exempt commodities.
2. Sales for resale.
3. Sales to exempt organizations.
4. Sales of property or services delivered or shipped by the seller to a location outside of Maine.
5. 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; cash discounts taken after tax had been reported; and other allowable credits.
6. Bad-debt credits. The amount eligible for the 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 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 and are treated by the retailer as the retailer’s own, then the retailer may be charged with theft. Theft of property in excess of \$5,000 is a Class B crime.

Each seller 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. For a listing of current and past interest rates, see [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. 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 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 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, whichever is greater.

**RECORDS.** Each seller 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 food prepared by the retailer (taxed at 8%).
4. The total amount of rentals of living quarters, including casual rentals, as well as rentals in hotels, rooming houses, tourist or trailer camps (taxed at 9%).
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 seller 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 seller 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 passed on to the customer 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 seller 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 may be held liable for the unpaid taxes, interest, and penalties.

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 Return 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
- 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 Farming, Fishing & 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).

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