



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

GENERAL INFORMATION BULLETIN

July 12, 2010

NO. 100

This bulletin contains important information about recent developments and issues that affect everyone who reports Maine sales, fuel and special taxes. Please read it carefully.

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TAX REFORM UPDATE

Although not yet certified by the Maine Secretary of State at the time this bulletin was developed, preliminary results indicate that the Maine "tax reform" law enacted in 2009 has been repealed by a majority of those voting at the June 8, 2010 referendum. If the People's Veto results are confirmed by the Secretary of State, the changes made by the tax reform law, including those related to income taxes, sales taxes and the Maine Residents Property Tax Program, previously scheduled to go into effect in 2010, 2011 and 2012 and apply thereafter, will not go into effect.

ELECTRONIC FILING MANDATES

Effective January 1, 2011 all sales, use and service provider accounts that report on a semi-annual basis will be required to file their returns electronically. This is the third of four dates based on account filing frequency as provided in Rule 104 requiring the electronic data submission of tax returns. Rule 104 can be viewed at <http://www.maine.gov/revenue/rules/homepage.html>. Monthly accounts were subject to this requirement beginning April 1, 2009 and quarterly accounts beginning January 1, 2010. Annual accounts will be added in 2012.

PLEASE NOTE: Waivers are available for retailers that cannot file using either the internet or via the telephone. Maine Revenue Services ("MRS") realizes that not all retailers may have a computer and/or internet access. There is no requirement that a retailer make any purchases of additional equipment. If you do not have a computer and/or internet access, a TeleFile system is in place to accept sales tax returns over the telephone.

Semi-annual accounts were mailed information with the June 2010 return and will receive follow-up information with their December 2010 return. The January-June 2011 return due on July 15, 2011, will be the first return affected by this change. See also, "Other Items of Interest" below.

RECENT LEGISLATIVE CHANGES

Sales, Use and Service Provider Taxes

WATERCRAFT SOLD TO NONRESIDENTS

The sale of watercraft to a nonresident has been exempt from sales tax but the exemption required the nonresident to remove the watercraft from Maine within 30 days of delivery by the seller. If the craft was present in Maine for more than 30 days, the 5% use tax applied to the full purchase price. The law has now been amended to apply a 60% exemption in the event the watercraft remains in Maine beyond 30 days. As a result, nonresidents who keep their craft in Maine longer than 30 days will be subject to a sales/use tax of 5% on 40% of the purchase price. This change is effective for transactions occurring on or after August 1, 2010. Dealers of watercraft are advised to use the revised affidavit, form ST-P-19AE, which can be found on our forms webpage at <http://www.maine.gov/revenue/forms/sales/salesforms.htm>. (*Chapter 620*)

PRODUCTS USED IN COMMERCIAL ANIMAL AGRICULTURAL PRODUCTION

The exemption for certain agricultural products was expanded to include sales of antiseptics and cleaning agents used in commercial animal agricultural production. Effective July 12, 2010, sales of these products will be exempt from sales tax when sold to a person who is engaged in a commercial activity, such as a dairy farmer. (*Chapter 632*)

TIRE DISPOSAL FEES

The definition of sale price was amended to exclude “any amount charged for the disposal of used tires” from the taxable sale price of other products included in a transaction. For instance, when a customer purchases a new tire, a retailer may charge the customer a small fee to dispose of the customer’s used tire. This disposal fee had been considered by Maine Revenue Services to be part of the sale price of the new tire on which a sales tax was imposed. This amendment to the law now exempts that disposal fee retroactively to January 1, 2009. (*Chapter 625*)

SALES OF MEDICAL MARIJUANA

The law was amended to clarify that the exemption for prescription medicine does not apply to the sale of marijuana pursuant to Title 22, chapter 558-C (the Maine Medical Marijuana Act). Effective July 12, 2010, such sales are subject to the 5% sales/use tax. . (*Chapter 625*)

SALES OF WOOD PELLETS AND OTHER 100% COMPRESSED WOOD PRODUCTS

Sales of wood when bought for cooking and heating in residential buildings are exempt from sales tax. The law has been amended effective July 12, 2010 to provide that the sale of 200 pounds or less of wood pellets or of any 100% compressed wood product intended for use in a wood stove or fireplace is presumed to meet the requirements of this exemption. Previously affidavits or logs were required to support the claim that the wood would be used for residential heating or cooking purposes. As an example, the amendment allows a customer to purchase up to five 40lb bags of pellets in one transaction exempt from sales/use tax without providing an affidavit or signing a log. Unless the wood is delivered to a residential customer, an affidavit or log signature will still be required for purchases of greater than 200 pounds per transaction. (*Chapter 625*)

Motor Fuel Taxes

NO CHANGE TO FUEL EXCISE TAX RATES

Motor fuel excise tax rates are indexed annually on July 1. However, no change will occur if the inflation index is less than one. Since the change in the consumer price index reflected a minor negative value, there was no impact on the excise tax rates this year. The excise tax rate for gasoline remains at 29.5¢ per gallon. The excise tax rate on diesel fuel remains at 30.7¢ per gallon.

For a complete listing of all the fuel tax rates see <http://www.maine.gov/revenue/fueltax/fueltaxrates.htm>.

Other Special Taxes and Fees

E-9-1-1 SURCHARGE ON SALES OF PREPAID WIRELESS

The 37¢ surcharge applied to purchases of prepaid wireless service from a wireless service provider and on any prepaid wireless service sold by a retailer increased to 45¢ on July 1, 2010. (*Chapter 617*)

INITIATOR OF DEPOSITS

On April 1, 2010, legislation was enacted that allows the Department of Agriculture, Food and Rural Resources to remove from sale a beverage that is sold or distributed in the State by an initiator of deposit who is not in compliance with the reporting and remittance requirements if the department is notified by the State Tax Assessor of that noncompliance. This means that the Department of Agriculture can remove a beverage from the shelves of retailers across the state if the initiator of deposit for that beverage has not filed or paid to the State the associated abandoned deposits. (*Chapter 592*)

OTHER ITEMS OF INTEREST

TELEFILE SYSTEM LAUNCHED IN APRIL 2010

In April 2010, a new Telefile system was launched to allow retailers to file their sales and use tax returns through the use of their telephone. This system provides the ability for a retailer to file and pay electronically in the event they do not have a computer or internet access. A retailer that wishes to use this system must pre-register in order to receive more detailed information including instructions. For more information, contact our office at 624-9693.

BULLETIN CHANGES

Instructional bulletins on a variety of topics are available on our website at <http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm>. Many of these bulletins will be revised in the next few months. If you have relied on such bulletins in the past, it is suggested that a check on the website for updated versions be done periodically.

RULE 302 – SALES TO EXEMPT ENTITIES

Rule 302 was amended effective June 13, 2010 to address the documentation needed when sales are directly billed to an exempt entity, are paid for with cash, personal check or personal credit/debit card or are paid for with the exempt entity's check or credit/debit card. Rule 302 establishes administrative rules regarding tax-exempt sales and explains the circumstances under which a retailer will be relieved of its burden of proving that sales to a governmental or nonprofit entity, including an agency or instrumentality of the Federal Government or of the State of Maine, are exempt from Maine Sales and Use Tax. Failure by a retailer to retain the proper documentation may result in assessment. Rule 302 can be viewed at <http://www.maine.gov/revenue/rules/homepage.html>.

NEED TO FILE AN AMENDED SALES TAX RETURN?

When a retailer discovers that a previously filed return needs to be amended, the retailer should simply print off a regular sales tax return, write "AMENDED" at the top of the form, fill it out as it should have been completed, place the previously paid amount on the "Credit Carry Forward From Prior Period" line, and mail it to the address located at the end of this bulletin. If an additional amount is due, a check should accompany the return. If a credit/refund is due, a letter of explanation should also accompany the return. Copies of returns can be obtained at <http://www.maine.gov/revenue/salesuse/returnlink.htm>. A similar process can be used for any of the returns administered by the Sales, Fuel and Special Tax Division.

CORRECT REPORTING OF BAD DEBTS ON SALES TAX RETURN

When taking credit for an amount that has been charged off as uncollectible, the retailer must report the taxable amount charged off on the "Bad Debts" line of the return. The amount to be deducted must actually be charged off as uncollectible on the books of the retailer. The deduction may be made only with respect to taxable sales that were originally reported as taxable by the retailer, and on which tax has been paid by the retailer to the State. If a retailer subsequently collects any account that has been charged off as worthless, and for which credit has been taken, the amount collected must be included in the return filed for the period in which the collection occurred. Additional information, including how to determine the amount to be deducted when the amount charged off represents both taxable and nontaxable items, is discussed in Instructional Bulletin 29 and can be viewed on our website at <http://www.maine.gov/revenue/salesuse/Bull29.pdf>.

UPCOMING EDUCATIONAL FORUMS

Sales and use tax symposiums are being planned for the Bangor, Augusta and Portland areas later this year. Check our website at www.maine.gov/revenue for dates and locations.

This bulletin is provided as a taxpayer service by Maine Revenue Services and is only a summary of recent legislative developments. Taxpayers are urged to review Maine statutory law to determine the actual effect of the changes described herein, as this bulletin has no legal or precedential effect. To find the chapters referenced in this bulletin, go to <http://www.mainelegislature.org/ros/LOM/LOMDirectory.htm> under 2009 Laws of Maine as enacted by the 124th Legislature" (when available). Additional questions about these and other issues you may have should be directed to: Maine Revenue Services, Sales, Fuel and Special Tax Division, P. O. Box 1065, Augusta, ME 04333-1065. Tel: (207) 624-9693 TTY: NexTalk 1-888-577-6690.