



# MAINE REVENUE SERVICES

## SALES, FUEL & SPECIAL TAX DIVISION

### GENERAL INFORMATION BULLETIN

August 1, 2011

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NO. 101

*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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### ELECTRONIC FILING MANDATES

Effective January 1, 2012 all sales, use and service provider accounts that report on an annual basis will be required to file returns electronically. This is the final group of retailers affected by 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, quarterly accounts beginning January 1, 2010 and semi-annual accounts beginning January 1, 2011. Effectively, all sales, use and service provider accounts will now be required to file electronically.

*PLEASE NOTE: Waivers are available for undue hardship, such as situations where retailers 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 (see below).

Annual accounts were mailed information with their December 2010 return and will receive follow-up information with their December 2011 return. The January-December 2012 return due on January 15, 2013, will be the first annual return affected by this change.

### TELEFILE SYSTEM TO EXPAND TO USE TAX AND SERVICE PROVIDER TAX

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 allows a retailer to file and pay electronically in the event it does not have a computer or internet access. Work is in process to upgrade this system to accept Use Tax returns and Service Provider Tax returns with a goal date of January 2012. 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.

## **RECENT LEGISLATIVE CHANGES**

### ***Sales, Use and Service Provider Taxes***

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#### **SALES OF AIRCRAFT AND REPAIR PARTS EXEMPT FROM JULY 1, 2011 TO JUNE 30, 2015**

A new sales tax exemption was enacted to exempt all aircraft and repair parts for aircraft for the period of July 1, 2011 through June 30, 2015. It exempts all aircraft (regardless of the type of propulsion) sold to or used by all persons (resident or nonresident; individual or corporation; purchaser or lessor). Previously, limited exemptions were available for sales to and use by nonresident owners, sales of certain jet aircraft and sales of repair parts for use in an aircraft used by a scheduled airline.

Sales of repair and replacements parts must be for exclusive use in aircraft in order to be exempt. Repair or replacement parts that have no other use but in an aircraft, will be considered exempt without any supporting documentation provided the retailer is able to justify that claim upon audit. For over-the-counter sales of repair and replacement parts that can be used for other purposes (such as in other vehicles), the purchaser will need to sign an affidavit of exemption form. This affidavit can be found at <http://www.maine.gov/revenue/forms/sales/salesforms.htm>. (*Chapter 380*)

#### **FUEL FOR USE IN COMMERCIAL FISHING VESSELS EXEMPT BEGINNING OCTOBER 1, 2011**

The sales tax exemption/refund available to commercial fishermen for electricity and depreciable machinery and equipment has been expanded to include fuel for use in a commercial fishing vessel. This exemption will apply to all purchases made on or after October 1, 2011. The affidavit of exemption used by commercial fishermen when making exempt purchases will be modified prior to October 1st and will be found on our website at <http://www.maine.gov/revenue/forms/sales/salesforms.htm>. Retailers selling fuel to commercial fishermen should obtain a copy of the fisherman's valid exemption card and obtain a signed affidavit. Retailers do not need to obtain an affidavit on each sale. One affidavit is sufficient to cover subsequent purchases as long as the card remains active. This exemption/refund provision is only for fuel used in a commercial fishing vessel. Watercraft used in aquacultural activities, for instance, is not included in this amendment. For more information on sales to commercial fishermen, please refer to Bulletin 44 available at <http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm>. (*Chapter 380*)

#### **CERTAIN PLASTIC BAGS USED BY REDEMPTION CENTERS EXEMPT RETROACTIVE TO JANUARY 1, 2004**

A new sales tax exemption was enacted to exempt plastic bags sold to local bottle redemption centers when the bags are used to sort, store or transport returnable beverage containers. The exemption was enacted retroactively applying the exemption back to January 1, 2004. MRS has contacted known suppliers of these bags about this change. However, if you are a "redemption center" and your supplier is charging sales tax on your purchases of these plastic bags, please contact your supplier to correct this error. (*Chapter 380*)

**MEALS SERVED TO RESIDENTS OF RETIREMENT FACILITIES  
ARE EXEMPT RETROACTIVE TO JANUARY 1, 2010**

**A** new sales tax exemption was enacted to exempt meals served by a retirement facility to its residents when participation in the meal program is a condition of occupancy or the meals are included in a comprehensive fee for residing in the facility. This exemption was enacted retroactively to January 1, 2010. (*Chapter 380*)

**CERTAIN SHORT-TERM RENTALS OF PICKUPS AND VANS  
SUBJECT TO 10% RENTAL TAX BEGINNING OCTOBER 1, 2011**

**A** new taxable service beginning October 1, 2011 is the short-term (less than one year) rental or lease of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds but only when the rental or lease is by a person primarily engaged in the business of renting automobiles. Previously, the 10% short-term rental tax only applied to pickup trucks and vans that were included in the definition of an “automobile” (4-wheels, primarily designed to carry passengers, and registered gross vehicle weight of 6,000 pounds or less). The short-term rental tax may now apply to certain cargo vans and dual-rear wheel pickup trucks. It is important to note that this change only applies to those businesses primarily engaged in the business of renting automobiles. Rentals of pickups and vans by moving companies or truck leasing companies are not affected by this legislation. Additionally, this change only applies to how the 10% is applied to short-term rentals of pickups and vans. It does not impact how pickups and vans are treated elsewhere in the sales tax law. For instance, sales of an extended warranty on an automobile continues to apply only to those pickups and vans included in the “automobile” definition (which has also been amended; see below). (*Chapter 209*)

**AUTOMOBILE RENTALS TO CERTAIN SERVICE CUSTOMERS  
EXEMPT FROM SALES TAX**

**A** short-term automobile rental to a service customer of a new vehicle dealer will be exempt beginning October 1, 2011 provided the rental is pursuant to a manufacturer’s or new vehicle dealer’s warranty and the rental fee is paid by the new vehicle dealer or warrantor. Currently, a new vehicle dealer with a fleet of loaner vehicles is exempt both on the purchase and use of the loaner vehicle when used for the purpose stated above, but if a dealer utilized the services of an automobile rental company, the rentals were taxable. This change provides the same benefit regardless of the source of the rental vehicle. If you are a new vehicle dealer, you will need to provide to your auto rental company an affidavit to confirm that the rental meets the requirements of the exemption. An affidavit will be available on or near October 1, 2011 and can be found at <http://www.maine.gov/revenue/forms/sales/salesforms.htm>. (*Chapter 209*)

**DEFINITION OF AUTOMOBILE AMENDED**

**T**he sale of an extended warranty of an automobile is a taxable service subject to the 5% sales tax. “Automobile” is defined as including pickup trucks and vans but only those with a registered gross vehicle weight of 6,000 pounds or less. Effective September 28, 2011, the definition of “automobile” will be amended by increasing the 6,000 pounds to 10,000 pounds. Note that this amended definition does affect the term “automobile” wherever it is found in the sales tax law. (*Chapter 296*)

## **SALES OF ELECTRICITY TO PINE TREE ZONE BUSINESSES**

Sales of tangible personal property to a qualified Pine Tree Development Zone business are exempt from sales tax but sales of taxable services to such businesses are generally taxable. With respect to sales of electricity, electricity qualifies as tangible personal property but the charges for transmission and distribution of electricity is a taxable service. Recent legislation expanded the exemption to include the transportation and distribution of electricity. Effective September 28, 2011, the law will exempt both the sale of the electricity as well as the transmission and distribution. (*Chapter 285*)

## **MOTOR OIL PREMIUMS**

Motor vehicle oil has been subject to a premium of either 35¢ or \$1.10 per gallon depending on the type of motor vehicle oil. With respect to motor vehicle oil other than gasoline and diesel engine crankcase oil (such as transmission or hydraulic fluid), the rate of 35¢ per gallon had been applied to containers of 5 gallons or less. Recent legislation amended the law and increased the 5 gallon container size to 16 gallons effective July 1, 2011.

“Diesel engine crankcase oil” continues to be subject to a premium of 35¢ per gallon, regardless of container size. “Gasoline engine crankcase oil” in containers of 5 gallons or less continues to be subject to a premium of 35¢ per gallon. “Gasoline engine crankcase oil” in containers larger than 5 gallons continues to be subject to a premium of \$1.10 per gallon.

A further amendment to this law allows a motor oil dealer to request reimbursement for premiums paid on motor vehicle oil that is exported by the dealer for sale or distribution out of state. Motor oil dealers responsible for the remittance of this premium were sent a notice in June explaining the changes and procedures for requesting refunds. If you are remitting this premium and did not receive our notice, please contact our office at (207) 624-9693. (*Chapter 211*)

## **OTHER LEGISLATIVE CHANGES**

- ▶ The time period in which to request a reconsideration of a decision by the assessor was increased from 30 days to 60 days. Effective June 20, 2011. (*Chapter 380*)
- ▶ Sales tax should be disclosed and shown separately on an invoice. In those situations where a retailer wishes to include the sales tax in the retail price, the invoice must include a statement that the tax is included. Otherwise the presumption will be that tax was not charged on the transaction. Effective September 28, 2011. (*Chapter 285*)

### ***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](http://www.maine.gov/revenue) for dates and locations.

## *Motor Fuel Taxes*

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### **REPEAL OF FUEL TAX INDEXING**

**M**otor fuel excise tax rates have been indexed annually on July 1. Effective July 1, 2011, the fuel tax rates increased .005 cents per gallon. The excise tax rate for gasoline increased from 29.5¢ per gallon to 30¢ per gallon. The excise tax rate on diesel fuel increased from 30.7¢ per gallon to 31.2¢ per gallon.

Recent legislation repealed the annual indexing of the fuel taxes effective January 1, 2012. As a result, the increase on July 1, 2011 will be the last increase that is associated with indexing under current law.

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

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 2011 Laws of Maine as enacted by the 125<sup>th</sup> 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.