



# MAINE REVENUE SERVICES

## SALES, FUEL & SPECIAL TAX DIVISION

### GENERAL INFORMATION BULLETIN

August 16, 2012

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NO. 102

*This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine tax law. It contains important information about recent developments and issues that affect everyone who reports Maine sales, fuel and special taxes. Please read it carefully. For more specific information, consult our informational bulletins located at <http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm>.*

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### RECENT LEGISLATIVE CHANGES

#### POSITIVE AIRWAY PRESSURE EQUIPMENT AND SUPPLIES EXEMPT FOR PERSONAL USE

**P**ositive airway pressure equipment (commonly known as CPAP and BIPAP machines) and supplies sold or leased for personal use are now exempt from sales tax. Purchases of equipment for rental or lease for personal use are also exempt. This new law applies retroactively to sales made on or after January 1, 2012. (*Chapter 655*)

#### RESIDENTIAL COOKING AND HEATING WOOD PELLETS AND CORD WOOD PRESUMPTION EXPANDED

**S**ales of wood when bought for cooking and heating in residential buildings are exempt from sales tax. The law has been amended until September 30, 2013, to provide that the sale of less than 1,000 pounds of wood pellets or 100% compressed wood product intended for use in a wood stove or fireplace is presumed to meet the requirements of this exemption. Previously, retailer affidavits or logs were required to support the claim that the wood products sold in quantities of more than 200 pounds would be used for residential heating or cooking purposes. Unless the wood is delivered to a residential customer, an affidavit or log signature will still be required for purchases of greater than 1,000 pounds per transaction. Sales of less than one cord of wood are also presumed to meet the exemption. These changes apply to sales made on or after May 21, 2012. Beginning October 1, 2013, a purchase of any amount of wood pellets is presumed to meet the requirements of the exemption.

Note: This change in the presumption language in the law is designed to reduce the documentation burden for the retailer. If a purchaser actually uses the wood products for a non-residential purpose, the purchaser will be liable for use tax. (*Chapter 670*)

## INTERSTATE COMMERCE EXEMPTION EXPANDED FOR CERTAIN BUSES

**E**ffective August 30, 2012, the sales and use tax exemption for certain instrumentalities of interstate or foreign commerce includes a bus with a capacity of at least 47 passengers engaged in transporting a bona fide payload of travelers within the State. The travelers must have been on an interstate or foreign cruise that originates and terminates outside the State. The transportation must be provided pursuant to a contract between the interstate or foreign cruise provider and the person providing the transportation. (*Chapter 501*)

## BAN ON “ZAPPERS”

**E**ffective August 30, 2012, a person may not knowingly manufacture, sell, transfer, possess, purchase, own, or install in this State any automated sales suppression device or phantom-ware, commonly known as “zappers”. An automated sales suppression device, commonly known as a “zapper”, is a computer software program that may be stored on magnetic or optical media, accessed through the Internet or any other means, that is 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. (*Chapter 526*)

## CAMPER TRAILER AND MOTOR HOME RENTALS TAXABLE AT 5%

**E**ffective October 1, 2012, rentals of camper trailers and motor homes are subject to sales tax at the rate of 5%. Camper trailers and motor homes purchased for the purpose of being rented or leased by the purchaser are exempt from sales tax. (*Chapter 684*)

## PARTS AND SUPPLIES FOR WINDJAMMERS EXEMPT OCTOBER 1, 2012

**A** sales tax refund is available for the purchase of parts and supplies used primarily and directly in the operation, repair or maintenance of a windjammer that is based in Maine and used primarily for providing overnight passenger cruises along the Maine coast for a fee. The new law applies to purchases made on or after October 1, 2012. Windjammer operators may apply to receive an exemption card to provide to vendors when purchasing parts and supplies, eliminating the need to request a refund. Claims for refund and purchases made with the exemption card are subject to audit. An exemption card application is available on the web at <http://www.maine.gov/revenue/forms/sales/salesforms.htm>. (*Chapter 425*)

## USE TAX COMPLIANCE PROGRAM ESTABLISHED

**T**he 2012 Maine Use Tax Compliance Program begins October 1, 2012. The program provides taxpayers an opportunity to resolve all prior use tax obligations by reporting and paying the three highest annual use tax liability amounts resulting from taxable purchases made during the six-year period from January 1, 2006 through December 31, 2011. Only unreported and unassessed use tax liabilities qualify for the program.

To participate in the program, taxpayers must file an application reporting all previously unreported and taxable purchases made each tax year during the six-year target period. The three highest annual use tax amounts during that period must be paid, or an acceptable payment plan must be established, during the application period in order to qualify for program benefits. A participating taxpayer that timely submits the Special Use Tax Return with no material misrepresentations or material omissions and that timely pays the entire use-tax liability is absolved from further liability for unreported and unassessed use tax

incurred prior to January 1, 2012, and is also absolved from liability for criminal prosecution and civil penalties related to those taxes for those years. Any material misrepresentations or material omissions will disqualify a taxpayer from this program.

The application period for the program is October 1, 2012 through November 30, 2012. All applications and payment plan requests must be submitted to Maine Revenue Services postmarked no later than November 30, 2012. Payment plan requests must be approved by the State Tax Assessor and payments under a payment plan are subject to interest charges. Payment plans will not be extended beyond May 31, 2013.

For details on this program or to download application forms, call (207) 624-9595 or visit the Maine Revenue Service web site at [www.maine.gov/revenue/compliance](http://www.maine.gov/revenue/compliance) . (*Chapter 657, Part Q*)

## OTHER LEGISLATIVE CHANGES

**A** sales tax exemption has been enacted for the purchase of off-peak residential electricity that is used for space or water heating using an electric thermal storage device. Applies to sales made on or after May 21, 2012. (*Chapter 673*)

**A** special hospital assessment will be imposed on Maine hospitals at the rate of 0.39% of the hospital's audited net operating revenue for the fiscal year ending during calendar year 2008. The assessment is payable in installments on September 30, 2012 and March 30, 2013. The new law became effective February 23, 2012. (*Chapter 477*)

**P**ersons that rent or lease temporary retail space file monthly informational returns with Maine Revenue reporting the names, addresses and sales tax registration certificate numbers of those who had rented space during the previous month. Effective August 1, 2012, these persons are no longer required to file the monthly report but are still required to maintain the information previously reported on the informational returns. (*Chapter 644*)

**E**ffective August 30, 2012, retailers are no longer required to conspicuously display the Maine Revenue Service Retailer's Certificate. The certificate must be kept at the place of business, however, for inspection by the assessor, the assessor's representatives and agents or authorized municipal officials. If the retailer does not have a fixed place of business and makes sales from one or more motor vehicles, each motor vehicle is deemed to be a place of business. (*Chapter 535*)

**T**he law provides a use tax exemption for property brought into the state by an out-of-state business or individual during a declared state disaster or emergency, for certain use in conducting activities directly related to disaster relief. The use tax exemption became effective on April 12, 2012. (*Chapter 622*)

## OVERVIEW OF THE RECONSIDERATION PROCESS - KNOW YOUR RIGHTS

**A** variety of amendments have been made to the law regarding a taxpayer's right to request reconsideration of assessments, denials of refunds, or other determinations by Maine Revenue Services ("MRS"). The request must be in writing and be either post-marked or hand-delivered to MRS within 60 days of receipt of the assessment or determination. MRS will review the request and issue a decision to the taxpayer, usually within 90 days of receipt of the request. During the 90-day period, MRS may attempt to resolve issues with the taxpayer through informal discussion and settlement negotiations. It is important that the taxpayer provide any additional information it wants MRS to consider as soon as possible during this process in order to provide adequate time for MRS to make an informed decision.

If the decision on reconsideration is adverse to the taxpayer, the taxpayer will have 60 days to appeal it. If the amount in dispute is \$5,000 or more, an appeal may be made to either the Maine Superior Court or the Maine Board of Tax Appeals. If the amount in dispute is less than \$5,000, the appeal must be made

directly to the Superior Court. The Board of Tax Appeals is a new independent, 3-member board appointed by the Governor. Taxpayers have the right to request a conference and may present argument, testimony, or evidence in support of their position. Decisions by the Board may be appealed to the Superior Court.

## ELECTRONIC FILING MANDATES

All sales, use and service provider accounts must file returns electronically using EITHER the Internet or a touch-tone telephone. Go to <http://www.maine.gov/revenue> to file over the Internet. Choose Electronic Services and Sales/Use I-File or Service Provider I-File. Contact Maine Revenue Service at (207) 624-9693 to register to use the TeleFile system or to request a waiver from electronic filing. Waivers are available for undue hardship in situations where retailers cannot file using either the internet or the telephone.

## \*\*\*LEGISLATION EFFECTIVE IN 2013\*\*\*

### PREPAID WIRELESS FEES CHANGE EFFECTIVE JANUARY 1, 2013

A prepaid wireless fee is applied to purchases of prepaid wireless service from a wireless service provider and on any prepaid wireless service sold by a retailer, such as in the form of a prepaid wireless card. The current E-9-1-1 surcharge of 45 cents per transaction is collected by the seller from the prepaid wireless consumer on each retail transaction occurring in this State. The amount of the prepaid wireless fee must be separately stated to the prepaid wireless consumer by the seller. The amount of the fee is under review by the Public Utilities Commission and, in addition to the E-9-1-1 surcharge, will include the fees required to be contributed to the state universal service fund and the telecommunications education access fund. The Commission will be releasing a Rule no later than October 1, 2012 that establishes a new rate effective January 1, 2013. (*Chapter 600*)

### EXEMPTION FOR DEPRECIABLE MACHINERY AND EQUIPMENT EXPANDED FOR COMMERCIAL AGRICULTURAL AND COMMERCIAL WOOD HARVESTING EFFECTIVE JULY 1, 2013

Certain depreciable machinery and equipment qualifies for a sales tax exemption or refund if used directly and primarily in commercial agricultural production, commercial fishing, or commercial aquacultural production. Effective July 1, 2013, the definition of commercial agricultural production will be expanded and a new category, commercial wood harvesting, will be added to the list of qualifying activities.

Commercial agricultural production will be expanded to include the production of “crops, plants, trees, compost and livestock.” The expansion primarily affects machinery and equipment used in greenhouse and nursery products operations.

Commercial wood harvesting will become a qualifying activity. Commercial wood harvesting is defined as the commercial severance and yarding of trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud wood, poles, pilings, biomass or fuel wood or other products commonly known as forest products.

Additional information on how to apply for an exemption card will be available in the Spring of 2013. (*Chapter 657*)