



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

GENERAL INFORMATION BULLETIN

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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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Note: These changes contain a variety of effective dates and apply to sales occurring on or after the applicable effective date.

SALES TAX RATES TEMPORARILY INCREASED

Sales tax rates have been temporarily increased from October 1, 2013, through June 30, 2015. The general sales tax rate of 5% will increase to 5.5%. The 7% tax rate on the rental of living quarters, sales of prepared food, and sales of liquor sold on premises will increase to 8%. The 10% tax rate on short term rentals of automobiles remains unchanged.

For transition purposes, semiannual and annual filers are required to file two returns for the reporting period ending December 31, 2013, to account for the change in tax rates. Sales made through September 30, 2013, will be reported on a return due October 15, 2013. Sales made after September 30, 2013, will be reported on a return due January 15, 2014.

Retailers making an adjustment to sales previously reported under the 5% or 7% tax rates must amend the prior period return to account for the sale at the correct tax rate. For example, if a taxable item was sold and reported in September 2013 at the 5% tax rate and the product was returned for a full refund in October 2013 when sales are being reported at the 5.5% tax rate, the September 2013 return must be amended to reverse the original sale.

Retailers claiming a bad debt credit for sales tax collected under the 5% or 7% tax rates should contact Maine Revenue Service for specific instructions for reporting those adjustments. (Chapter 368)

The Service Provider Tax **did not** change and remains at 5%. Pending legislation dealing with the service provider tax will be addressed immediately after the return of the legislature in January.

NEW TAXABLE SALES AND SERVICES

EXTENDED SERVICE CONTRACTS ON TRUCKS

Effective October 9, 2013, the sale of an extended service contract on a truck that entitles the purchaser to specific benefits in the service of the truck for a specific duration is a new taxable service subject to sales tax. "Truck" is defined as a self-propelled motor vehicle with at least 4 wheels designed and used primarily to carry property, not designed to run on tracks and having a gross vehicle weight

rating greater than 10,000 pounds. A truck includes such a vehicle that may be used to tow trailers or semitrailers. (Chapter 156)

GROUP RESIDENTIAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Effective June 26, 2013, group residential services for persons with brain injuries, defined as services provided to adults with acquired brain injuries, including direct assistance with eating, bathing, dressing, personal hygiene, and other activities of daily living provided by designated agencies under a contract with the Department of Health and Human Services, are subject to the *Service Provider Tax*. Providers should contact the Department of Health and Human Services with questions regarding this new service. (Chapter 368)

REPEALED EXEMPTIONS

REGULARLY ISSUED PUBLICATIONS

Effective October 1, 2013, the sales tax exemption for publications regularly issued at average intervals not exceeding 3 months is repealed. Sales of such publications will become subject to a 5.5% sales tax, regardless of the method of delivery, including those purchased at a retail location, home-delivered, or delivered electronically to customers.

Publications include items such as magazines, newspapers, comic books, puzzle books, tabloids, advertising inserts, and business newsletters.

A sale occurs when there is a transfer of a product or service for consideration. With in-person transactions, these actions occur simultaneously. Publications are often sold on a subscription basis, with payment (or a promise to pay) and delivery occurring at different times.

For transition purposes, Maine Revenue Services will treat the first date of the subscription period as the sale date. If the first issue of a new subscription is prior to October 1, 2013, the sale is exempt from tax. If the first issue of a new subscription is on or after October 1, 2013, the sale price of the subscription will be taxable. When a subscription renews, each renewal period is considered a new transaction and taxed accordingly. (Chapter 368)

NEW EXEMPTIONS

COMMERCIAL AGRICULTURAL PRODUCTION COMMERCIAL WOOD HARVESTING

Effective July 1, 2013, the sales tax law was expanded to provide a refund and exemption for sales of electricity and depreciable machinery and equipment to businesses engaged in commercial wood harvesting, commercial nurseries, and commercial greenhouses.

The definition of “commercial agricultural production” was expanded to include the commercial production of plants and trees.

“Commercial wood harvesting” was defined to mean the commercial severance and yarding of trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, or other products commonly known as forest products.

Retailers making tax exempt sales to those engaged in these commercial activities must obtain a copy of the purchasers’ exemption certificate and an exemption affidavit. The sales invoice must also be clearly marked as tax exempt.

Persons engaged in commercial agricultural production or commercial wood harvesting may apply to Maine Revenue Services for an exemption certificate.

The application for an exemption certificate and the exemption affidavit are both available on the MRS web site at: <http://www.maine.gov/revenue/forms/sales/salesforms.htm>. (PL 2011, Chapter 657)

NONPROFIT FREE PUBLIC LENDING LIBRARIES

Effective October 9, 2013, sales by nonprofit free public lending libraries that are funded in part or wholly by the State, any Maine political subdivision, or the federal government are exempt. Sales by a nonprofit corporation organized to support those libraries are also exempt as long as the proceeds from the sales are used to benefit the library. (Chapter 420)

REVISED EXEMPTIONS

SNOWMOBILES AND ATVs SOLD TO NON-RESIDENTS

Effective October 1, 2013, snowmobiles and ATVs purchased in Maine by non-residents are no longer exempt from sales tax unless the purchaser immediately removes the vehicle from the State. If the vehicle is registered for use in Maine within 12 months of the date of purchase, use tax is due on the original purchase price at 5.5%. (Chapter 86)

AIRCRAFT AND AIRCRAFT PARTS

The exemption for the sale, use, or lease of aircraft and sales of repair and replacement parts exclusively for use in an aircraft has been extended from June 30, 2015, to June 30, 2033. (Chapter 379)

CASUAL SALE EXCEPTION

Tax is imposed on the casual sale of trailers, truck campers, motor vehicles, special mobile equipment, watercraft, and aircraft. These transactions are exempt if the transfer is **to** a corporation, partnership, limited liability company, or limited liability partnership and the seller is the owner of **at least 50%** of the common stock of the corporation or of the ownership interests in the partnership, limited liability company, or limited liability partnership. These transfers previously required majority ownership to be exempt. This change is effective on October 9, 2013. (Chapter 331)

RESIDENTIAL COOKING AND HEATING WOOD PELLETS PRESUMPTION EXPANDED

As explained in last year's bulletin, the sale of less than 1,000 pounds of wood pellets intended for use in a wood stove or fireplace is presumed to meet the requirements of the sales tax exemption for wood when bought for cooking and heating in residential buildings. Beginning October 1, 2013, a purchase of any amount of wood pellets is presumed to meet the requirements of the exemption.

This change in the presumption language in the law is designed to reduce the documentation burden for the retailer. Effectively, for sales on or after October 1, 2013, a retailer may sell any amount of wood pellets exempt from sales tax without the need for exempt documentation. Note: If a purchaser actually uses the wood products for a non-residential purpose, the purchaser will be liable for use tax.

UPDATED REGISTRATION REQUIREMENTS

Maine tax law requires a seller located out of state to register to collect and remit sales tax when it has a place of business in Maine, makes or solicits sales by means of salespersons or other agents in Maine, leases property in Maine, or otherwise has a sufficient physical presence in Maine.

As a result of recently enacted legislation, a set of presumptions have been added to the registration provisions that require the out of state retailer to register in Maine unless the retailer submits proof affirmatively rebutting the presumption. Registration is presumptively required if a person

affiliated with the seller has a “substantial physical presence” in this State, or if any person with a substantial physical presence in the State conducts the following activity in the State:

- Selling a similar line of products as the seller, under the same/similar business name as the seller.
- Maintaining a physical business location like an office, warehouse, or storage facility where property or services are delivered to the seller’s customers.
- Using trademarks or trade names that are the same/similar to those used by the seller.
- Delivering, installing, assembling or performing maintenance services for the seller’s customers.
- Facilitating delivery of the seller’s property to customers. This does not include delivery by common carriers.
- Conducting any other activities within Maine that are significantly associated with the seller’s ability to establish and maintain a market.

The registration requirements have also been amended to presumptively require an out of state retailer to register if the retailer enters into an agreement with a person under which the person, for a commission or other consideration, while within the State directly or indirectly refers potential customers, whether by a link on an Internet website, by telemarketing, by an in-person presentation or otherwise, to the seller where the cumulative gross receipts from all referred sales under these types of agreements are greater than \$10,000 during the prior 12 months.

The law continues to provide a defined set of “safe harbor” activities that, when conducted in Maine, will not by themselves establish a presence in Maine sufficient to require registration. Those activities are:

- Soliciting business through catalogs, flyers, telephone or electronic media when goods are delivered by the US mail or an interstate 3rd party common carrier.
- Attending trade shows, seminars or conventions.
- Holding a meeting of a corporate board of directors or shareholders.
- Holding a company retreat or recreational event.
- Maintaining a bank account or banking relationship.
- Using a vendor for printing. Note: this last “safe harbor” no longer includes “drop shipping” or telemarketing services.

See Sales Tax Instructional Bulletin 43 at <http://maine.gov/revenue/salesuse/salestax/bulletinssales.htm> for more information. (Chapter 200)

OTHER LEGISLATIVE CHANGES

PRODUCTS TRANSFERRED ELECTRONICALLY

Products transferred electronically are subject to sales tax. This amendment, effective June 26, 2013, clarifies the longstanding Maine Revenue Services interpretation of the sales tax law that a product is subject to sales tax, whether provided to the customer in a tangible or electronic form. For example, a paperback book and an e-book are treated the same for tax purposes. This clarification affects only products that are taxable when sold in their tangible form, such as music, books, and movies. (Chapter 368)

RESALE CERTIFICATES

Maine Revenue Services annually identifies registered retailers that either do not have a valid resale certificate or have a valid resale certificate that is set to expire at the end of the current calendar year. Those reporting at least \$3,000 in gross sales during the 12- month period prior to this review will

be issued a resale certificate valid for the next 5 years. Retailers that do not meet the threshold are notified that they do not qualify for a resale certificate at that time.

Retailers may make a written request to Maine Revenue Services for a modified review of their account if they have met the threshold in a more current 12- month period or if they are able to explain why temporary extraordinary circumstance caused gross sales for the period used to be less than \$3,000. (Chapter 331)

HOSPITAL TAX

Hospital tax assessments for fiscal years beginning on or after July 1, 2013, will be based on the hospital's fiscal year that ended during calendar year 2012. (Chapter 368)

BLUEBERRY TAX

Blueberry tax law has been updated to clarify that the first processor to handle unprocessed wild blueberries or the shipper transporting unprocessed wild blueberries to a point outside the state of Maine is the entity responsible for reporting and paying the full blueberry tax to the State. (Chapter 331)

APPEALS

Taxpayers receiving an assessment or notice of determination from Maine Revenue Services have the right to have that assessment or determination reconsidered by the division of origin. If the reconsideration is not favorable, the taxpayer has the right to file a small claim request in Superior Court. For claims of \$1,000 or more (previously \$5,000), the taxpayer also has the right to appeal to the Maine Board of Tax Appeals. The new threshold became effective on April 22, 2013. (Chapter 45)

TAXPAYER CONFIDENTIALITY

Taxpayer confidentiality laws were amended to allow:

- the monthly listing of the number of taxable gallons sold by each gasoline distributor and special fuel supplier licensed in the State. This information will be publicly available on the Maine Revenue Services web site. (Chapter 25) and
- to allow disclosure of potato tax information to the Maine Potato Board after March 27, 2013. (Chapter 10)

INITIATORS OF DEPOSIT

Small manufacturers bottling, canning, or otherwise placing beverages in containers for sale to distributors or dealers are excused from the Initiator of Deposit unclaimed deposits requirements during the year if they produce no more than 50,000 gallons of product during that calendar year. (Chapter 259)