



# MAINE REVENUE SERVICES

## SALES, FUEL & SPECIAL TAX DIVISION

### GENERAL INFORMATION BULLETIN

August 1, 2016

NO. 106

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*This bulletin contains important information about legislation enacted during the 127<sup>th</sup> Legislature and other recent developments that affect everyone who reports Maine sales, use, and service provider taxes. Please read it carefully. The changes contain a variety of effective dates and apply to sales occurring on or after the applicable effective date.*

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#### ***New Information:***

- New and expanded sales tax exemptions enacted – various effective dates

#### ***Reminders of prior session changes affecting 2016:***

- Certain food products became taxable January 1, 2016
- Sales tax on lodging increased to 9% January 1, 2016
- Fall seminar information

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#### **ADDITIONAL RESOURCES**

Instructional Bulletins can be found at [www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm](http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm).

Maine Revenue Services Rules can be found at [www.maine.gov/revenue/rules/homepage.html](http://www.maine.gov/revenue/rules/homepage.html).

Maine Revenue's website can be found at [www.maine.gov/revenue](http://www.maine.gov/revenue).

For general assistance, please call (207) 624-9693 or email us at [sales.tax@maine.gov](mailto:sales.tax@maine.gov).

## **NEW AND EXPANDED EXEMPTIONS**

### **VETERANS' SERVICE ORGANIZATIONS**

**EFFECTIVE AUGUST 1, 2016**

*A* new sales tax exemption was enacted for sales to an organization that provides services to veterans and their families and that is chartered under 36 U.S.C., Subtitle II, Part B and recognized as a veterans' service organization by the United States Department of Veterans Affairs. The exemption extends to posts or local offices of such an organization.  
*(PL 2015, c. 465, §C-1)*

### **PROSTHETIC AND ORTHOTIC DEVICES**

**EFFECTIVE OCTOBER 1, 2016**

*The* existing sales tax exemption for "prosthetic aids" has been amended. For sales occurring on or after October 1, 2016, the exemption will apply to sales of "prosthetic or orthotic devices" sold by prescription. A prosthetic or orthotic device is defined as a replacement, corrective, or supportive device worn on, in, or next to the body. The device must artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. Repair and replacement parts are included in the exemption, and crutches and wheelchairs are still included. The term prescription is defined as an order, formula, or recipe issued by a licensed health care practitioner. Instructional Bulletin No. 41 "Medicines, Medical Equipment and Prosthetic Devices" will soon be updated on the MRS website with further details.  
*(PL 2015, c. 495, §§1-4)*

### **FEDERALLY QUALIFIED HEALTH CENTERS**

**EFFECTIVE AUGUST 1, 2016**

*The* existing sales and service provider tax exemptions for incorporated nonprofit rural health centers have been expanded to include incorporated nonprofit health centers qualified to receive funding under Section 330 of the federal Public Health Service Act, 42 U.S.C., Section 254b, as well as federally qualified health center "look-alikes" that meet the requirements of Section 254b.  
*(PL 2015, c. 510, §§1, 2)*

### **FUEL USED IN COMMERCIAL FARMING, COMMERCIAL FISHING, COMMERCIAL AQUACULTURE, AND COMMERCIAL WOOD HARVESTING**

**EFFECTIVE JANUARY 1, 2017**

*The* sales tax exemption for products used in certain commercial activities has been expanded. As of January 1, 2017, all fuel purchased for use in commercial agricultural production, commercial fishing, commercial aquacultural production, or commercial wood harvesting is exempt from sales tax. Instructional Bulletins No. 44 "Commercial Fishing", 45 "Commercial Agricultural Production", 49 "Commercial Aquacultural Production", and 58 "Commercial Wood Harvesting" have now been combined into new Instructional Bulletin No. 59 "Farming, Fishing and Wood Harvesting." The new combined bulletin is currently available on the MRS website. A revised version of the bulletin and updated exemption affidavits will be posted to the website in December 2016 to reflect the expanded exemption going into effect in January.  
*(PL 2015, c. 481, §§B-1, B-2)*

**CERTAIN FOOD PRODUCTS  
ARE NO LONGER EXEMPT AS GROCERY STAPLES**

**EFFECTIVE JANUARY 1, 2016**

“Grocery staples” are defined in Maine sales tax law as “food products ordinarily consumed for human nourishment.” (*36 M.R.S. §1752, sub-§3-B*) Grocery staples are not subject to sales tax. However, certain food products are excluded from the definition of grocery staples, and are therefore subject to sales tax.

For periods prior to January 1, 2016, the following food products were excluded from the grocery staples exemption and were subject to tax: spirituous, malt, or vinous liquors; soft drinks, iced tea, and sodas; medicines, tonics, vitamins, and dietary supplements, except when sold on prescription; water and ice; dietary substitutes; candy and confections; and prepared food.

Effective January 1, 2016, the food products listed below that are sold for consumption without further preparation are also excluded from the grocery staples exemption and therefore are now subject to sales tax, even when sold in bulk quantities. These products are in addition to those listed above, which continue to be subject to tax.

- Confectionery spreads, such as marshmallow fluff and crème, and chocolate spreads;
- Powdered and liquid drink mixes except powdered milk, infant formula, coffee, and tea;
- Salads (not prepared by the retailer);
- Supplemental meal items such as corn chips, potato chips, crisped vegetable or fruit chips, potato sticks, pork rinds, pretzels, crackers, popped popcorn, cheese sticks, cheese puffs, and dips;
- Fruit bars, granola bars, trail mix, breakfast bars, rice cakes, popcorn cakes, bread sticks, and dried sugared fruit;
- Nuts and seeds that have been processed or treated by salting, spicing, smoking, roasting, or other means (does not include peanut butter);
- Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, cakes, pies, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat pudding, gelatins, and dessert sauces; and
- Meat sticks, meat jerky, and meat bars.

New statutory definitions have also been provided for the terms “candy” and “soft drinks”:

Candy is “a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.” (*36 M.R.S. §1752, sub-§3-B*)

Soft drinks are “nonalcoholic beverages that contain natural or artificial sweeteners. ‘Soft drinks’ does not include beverages that contain milk or milk products; that contain soy, rice or similar milk substitutes; or that contain greater than 50% vegetable or fruit juice by volume.” (36 M.R.S. §1752, *sub-§14-F*)

For those engaged in selling prepared food, the bulk sale of certain food products was affected by this change. Because bakery items, ice cream, and salads are no longer “grocery staples,” the sale of whole pies, whole cakes, six or more doughnuts, muffins, cookies, or pastries, quarts of ice cream, ice cream cakes, potato salad, macaroni salad, and coleslaw will no longer be exempt from sales tax.

Instructional Bulletins No. 12 “Retailers of Food Products” and 27 “Sales of Prepared Food” contain more details on this subject.

## **SALES TAX RATE ON LODGING INCREASED TO 9%**

### **EFFECTIVE JANUARY 1, 2016**

All rentals of living quarters occurring on or after January 1, 2016 are subject to sales tax at the rate of 9%. Persons engaged in this industry are reminded that a sale occurs when there is a transfer of a service for payment. Rate increases apply to transactions occurring on or after the effective date. A contract for a future purchase or a deposit received toward a future purchase is not a sale until the service is delivered and the seller receives payment or a promise of payment (receivable). The rate in effect when the service is delivered applies, not when the contract is negotiated or when a deposit is made. If reservations were received or contracts were negotiated in 2015 for lodging on or after January 1, 2016, the 9% rate will apply even if the deposit was for the entire amount due. Deposits received in 2015 should not have been reported as sales in 2015. For example, if a deposit was received in November 2015 for a stay in July 2016, the sale is not reported until it occurs in July 2016, at which time the 9% sales tax applies.