



MAINE REVENUE SERVICES

SALES/EXCISE TAX DIVISION GENERAL INFORMATION BULLETIN

July 1, 2000

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NO. 90

This bulletin contains important information about recent developments and issues that affect everyone who pays Maine sales and use taxes. Please read it carefully.

CURRENT LEGISLATIVE CHANGES

SALES TAX RATE DECREASES ON JULY 1, 2000

As reported in our last issue, the Governor's supplemental budget bill of 1999 included a sales tax decrease from 5½ % to 5% **effective July 1, 2000**. (It did **not** reduce the 7% nor the 10% rates.) It also repealed the language that would have automatically reduced the rate in the future.

This reduction affects sales occurring on or after July 1, 2000. Ordinarily the invoice date governs the sale date. Sales occurring before July 1 will be subject to the 5.5% rate unless proof can be made that the customer took final delivery on or after July 1. Charges for utility services such as water, electricity, telephone and cable services will be subject to the reduced rate if billed on or after July 1.

Sale	Price	
From	To	Tax
.00	.10	.00
.11	.20	.01
.21	.40	.02
.41	.60	.03
.61	.80	.04
.81	1.00	.05

Where the tax to be paid includes a fraction of one cent, the fraction is not required to be paid where it is less than one-half cent. A full cent, however, must be paid where the fraction is one-half cent or more. For sales of less than \$1.00, the schedule to the right is applicable:

SALES TAX ON SNACK FOODS ELIMINATED EFFECTIVE JANUARY 1, 2001

The sales and use tax imposed on snack foods since September 1, 1991 has been repealed **effective January 1, 2001**. However, retailers are cautioned that some foods regarded as "snack foods" will continue to remain taxable either due to the particular item or due to the establishment from where it is sold.

Specific items that will remain taxable regardless of where sold are: candy and confections, including any bars covered in chocolate or primarily containing candy, such as Twix® bars and Kudo® bars or any "jelly-like" substance primarily containing sugar or corn syrup, such as Gummie Bears® and jelly beans; candied and glazed fruit; chewing gum; breath mints; iced tea; and soft drinks and other carbonated drinks.

Specific items that will be exempt, which prior to September 1991 were taxable, are ice cream novelties and frozen confections.

Sandwich/Pizza Shops take note

Sales of “snack food” items may continue to be taxable when sold from a retail location that ordinarily sells food for immediate consumption or consumption without further preparation or storage. This includes sandwich shops and pizza shops that have a limited grocery line. If a retailer’s sales of food that is ordinarily sold for immediate consumption constitute more than 75% of its total food sales, then all “single-serve” food products are taxable. “Single-serve” food products include, but is not limited to, fruit juices, milk (except quarts or larger), small bags of chips, pretzels, etc., pre-made salads, individually wrapped pastries, ice cream novelties and frozen confections.

For example, a sandwich shop, in addition to selling sandwiches and pizzas, sells soda, beer, individually packaged pastries, potato chips, juices, milk in gallons, quarts and pints, a small line of grocery staples and health and beauty aids. In order to determine if a retailer meets the 75% rule, a comparison must be made between sales of sandwiches, hot food, hot drinks and single-serve items to sales of all food products (these same items plus all other grocery staples). Generally speaking, the smaller the grocery line, the more likely such a retailer will continue to tax the snack items. For more information on this topic, please refer to Instructional Bulletin #27.

Doughnut shops, Bagel Shops, Restaurants and Cafeterias

Sales of “prepared food” from locations that ordinarily sell food for immediate consumption or for consumption without further preparation or storage is taxable. However, bulk sales of food products that are otherwise deemed “grocery staples” are considered to require further preparation or storage and would be exempt. Examples of exempt sales from these types of locations are whole pies, whole cakes, loaves of bread, gallons of milk, bags of coffee beans or grinds, meat, fish, poultry, gallons of ice cream and sales of 6 or more of doughnuts, muffins, cookies, pastries, bagels and the like.

Bakeries

All sales of bakery products from bakeries that do not have seating facilities will become exempt on January 1, 2001. This includes cakes, pies and all sales of doughnuts, cookies, pastries, bagels, etc. Hot food and hot drinks remain taxable.

Vending Machine or Snack Box Sales

Sales of “snack foods” through vending machines and snack boxes will continue to be taxable since such sales are for immediate consumption or for consumption without further preparation or storage.

SUBSTANCE ABUSE FACILITIES RECEIVE EXEMPTION

Substance abuse facilities that are receiving support from the Department of Mental Health, Mental Retardation and Substance Abuse Services are exempt from payment of sales tax on their purchases effective April 14, 2000. Such facilities must apply with MRS in order to receive their certificate of exemption.

The Department of Administrative and Financial Services does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities. This material can be made available in alternate formats.

INTERIM RENTAL CERTIFICATES NO LONGER REQUIRED

The provision in the sales tax law for interim rentals made by a retailer has historically required the retailer to inform MRS of their actions by filing a certificate within 30 days of first renting the item. This provision has been amended, effective April 14, 2000, to no longer require the filing of such a certificate.

The interim rental provision allows a retailer who purchases tangible personal property for resale, to remove from inventory an item that the retailer wishes to rent for a short period of time. In so doing, a retailer would normally be required to pay a use tax on the retailer's cost of the item. In lieu of the use tax, the interim rental provision allows the retailer to charge and collect a sales tax on the rental price of the item.

Although certificates are no longer required, retailer's are cautioned to keep appropriate records for future audit review documenting when the item is withdrawn from inventory, to whom the item is rented, the duration of the rental and the amount of the rental income.

ELECTRICITY SOLD TO FARMERS AND FISHERMEN WILL BE EXEMPT ON JANUARY 1, 2001

Also effective on January 1, 2001, is the sale of electricity to those engaged in commercial agricultural production, commercial fishing and commercial aquacultural production. These entities possess an exemption card issued by Maine Revenue Services. Historically, the use of the exemption card was limited to the purchase of depreciable machinery and equipment, including repair parts. On January 1, 2001, a commercial farmer, commercial fisherman or commercial aquaculturalist will be able to use their exempt card to purchase electricity that will be used directly and primarily in qualifying activities. For more information on this topic, please refer to the following bulletins: #13 – Sales of Fuels and Utilities, #44 – Commercial Fishing, #45 – Commercial Agriculture and #49 – Commercial Aquaculture.

LEASES OF CERTAIN VEHICLES TO NONRESIDENTS FOR IMMEDIATE REMOVAL EXEMPT FOR LIMITED PERIOD OF TIME

Effective August 11, 2000 through June 30, 2001, the lease of motor vehicles, semitrailers, aircraft, truck bodies and trailers manufactured in Maine and camper trailers to nonresidents who will immediately remove them from Maine, are exempt from tax. Previously, only sales to nonresidents of the above-mentioned vehicles were exempt when sold for immediate removal. For more information on this topic, as well as a copy of the appropriate affidavit to use, please refer to Instructional Bulletin #24.

“NONRESIDENTS” CLARIFIED TO INCLUDE BUSINESSES AS WELL AS INDIVIDUALS

The exemption for sales to nonresidents of motor vehicles, semitrailers, aircraft, truck bodies and trailers manufactured in Maine, camper trailers and watercraft who immediately removes the vehicle from Maine, has been amended to clarify that the term “nonresident” means more than an individual. For purposes of these exemptions only, the term “nonresident” includes “an individual, an association, a society, a club, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, a domestic or foreign corporation and any other legal entity”. This clarification applies retroactively to sales made on or after June 5, 1999.

MANUFACTURING FACILITY DOES NOT INCLUDE RETAIL STORE

The exemption for sales of fuel and electricity for use in a manufacturing facility was also amended to clarify that a retail site would not qualify as a manufacturing facility. The intent of the original exemption was to address those entities primarily engaged in production. This amendment clarifies that even though a “retailer” may have a piece of production equipment in their retail store, their store is not considered a “manufacturing facility”.

OTHER NEWS AND INFORMATION

CHANGE IN REPORTING REQUIREMENTS OF ANNUAL FILERS

All annual filers are being requested to file two returns during 2000 because of the tax rate change. The first return, covering the period January 1 to June 30, 2000, will be due and payable on July 17, 2000. All sales subject to the 5.5% rate would be reported on this return. The second return, covering the period July 1 to December 31, 2000, will be due and payable on January 16, 2001. All sales subject to the 5% rate would be reported on this return. Annual filers will revert to filing one return again in 2001.

This allows for a simplified reporting and processing of sales that are subject to differing rates during 2000. Returns will be automatically sent to the affected retailers during the latter part of June and December.

SALES AND USE TAX SYMPOSIUMS

Once again, sales and use tax symposiums have been scheduled across the state. These seminars have been very informative and well received by those attending. Our schedule for this fall is:

October 25	Ramada Inn	Bangor, ME
October 26	Ramada Inn	Bangor, ME
November 1	Doubletree Hotel	Portland, ME
November 2	Doubletree Hotel	Portland, ME

For those in the Augusta area, the Sales and Use Tax Symposium will also be a participant in the Maine Tax Forum to be held on November 8 and 9 at the Augusta Civic Center.

Although no seminars have been schedule for Aroostook County this fall, one may be offered if there is sufficient interest in one. Please call (207) 624-9741 to express your interest.

Retailers who file on a quarterly, semi-annual or annual basis may not receive any additional information about these symposiums but may call the above number to request a registration form. Monthly filers will be sent registration material with their August return.

MORE INFORMATION AVAILABLE AT [HTTP://JANUS.STATE.ME.US/REVENUE](http://janus.state.me.us/revenue)

We continue to make available on our website as much information as possible which historically had only been obtainable by mail. All of our bulletins and most of our affidavits can be found at <http://janus.state.me.us/revenue>. As each of the bulletins mentioned in this publication is amended, the revised bulletin will appear on the website much earlier than the published printed version. If any bulletin is of interest to your business, we advise you to periodically check our website for updated versions.

Additional information about these and other issues you may have should be directed to: Maine Revenue Services, Sales/Excise Tax Division, P. O. Box 1065, Augusta, ME 04333-1065. Tel: (207) 287-2336 TTY: (207) 287-4477.