



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

GENERAL INFORMATION BULLETIN

July 25, 2002

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NO. 92

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

CURRENT LEGISLATIVE CHANGES

MOBILE PHONE SERVICE IS TAXABLE IN STATE OF PRIMARY USE

Two years ago, an act entitled the "Mobile Telecommunications Sourcing Act" was passed in Congress. That act required every state to amend their statutes and conform by August 1, 2002 to standardized sourcing rules. Those rules, which have now been enacted by the Maine Legislature, impose sales tax only on those mobile telephone services provided to a customer whose place of primary use is in Maine. A customer's "place of primary use" is the customer's residential street address or primary business street address located within the home service provider's licensed service area. Previously, Maine would tax any mobile telephone service that originated and terminated within Maine, regardless of where the customer resided.

If you are a seller of mobile telecommunications services, you will be receiving a more detailed informational bulletin describing the law, its changes and effect in Maine.

If you are a user of mobile telephone services, please make sure that your provider has your accurate residential or business street address.

LEASES OF VEHICLES TO NONRESIDENTS

Effective July 1, 2003, leases of motor vehicles, semitrailers, aircraft, truck bodies and trailers manufactured in Maine and camper trailers, including truck campers, to a nonresident for immediate removal from Maine will be exempt from sales tax. This exemption had been in effect from August 11, 2000 through June 30, 2001. Due to a statutory sunset date on the exemption, these leases have been taxable since June 30, 2001.

Vehicles dealers are reminded to check Instruction Bulletin #24 for details on this exemption.

CERTAIN EQUIPMENT TO PRODUCE RADIO AND TELEVISION SIGNALS TO BECOME EXEMPT IN 2003

The sales and use tax exemption provided to manufacturing machinery was extended to include machinery and equipment used in the generation of radio and television signals. The exemption, however, takes effect in two parts. The first, from March 1, 2003 through June 30, 2003, applies to that machinery and equipment used in the generation of "digital television broadcast signals" only. The second, from July 1, 2003 onward, applies to machinery and equipment used in the generation of all "radio and television broadcast signals".

MACHINERY & EQUIPMENT USED IN PRODUCTION

*I*n another manufacturing-related change, the definition of “primarily” was amended to define the period of time that a piece of machinery or equipment must be used more than 50% of the time in production. A two-year period has been established, which will now allow the manufacturer sufficient time to demonstrate the equipment’s use. Previous to this, determinations were being made based on the amount of time that had lapsed from the date of purchase to the date of review. In some cases, manufacturers had a short period of time to prove primary use in production. Although enacted on April 1, 2002, this legislation is effective for any period that is still open for purposes of administrative or judicial review.

STREAMLINED SALES TAX PROJECT

*M*aine has been involved in an effort by state governments nationwide to simplify and modernize sales and use tax administration for all types of commerce. The Streamlined Sales Tax Project began in early 2000 as an initiative by state governments with input from local governments and the private sector. This simplified system will incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. The focus of the project is to improve sales and use tax collection and administration systems for both Main Street retailers, remote sellers, and for states.

Legislation passed this session ensures Maine’s full participation in this project. This legislation has no effect on how Maine taxes are administered currently. Retailers will be informed as further developments occur in this project.

PREVIOUS LEGISLATION NOW TAKING EFFECT

*S*ome sales tax related exemptions were enacted during last year’s legislative session but do not take effect until 2002.

- Effective July 1, 2002: Sales to memorial foundations that primarily provide cultural programs free to the public.
 - Effective October 1, 2002: Use tax is not imposed on the donation of merchandise by a retailer from inventory to an organization if sales to that organization are exempt from sales tax.
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OTHER NEWS AND INFORMATION

SALES TO STATE AGENCIES, MUNICIPALITIES AND THEIR EMPLOYEES

*P*eriodically a topic previously discussed needs to be brought to the forefront. One of those topics is with respect to sales made to employees of exempt agencies, such as state agencies, municipalities and sales tax exempt organizations. Occasionally we receive reports that these employees are attempting to make purchases without paying Maine sales tax, on the basis that they are engaged in government business or that they will be reimbursed for the cost of the purchases by the exempt agency. These are not necessarily exempt transactions.

*R*etailers are cautioned that when making exempt sales proper documentation is needed to ascertain that the **sale is to** the exempt agency and that **payment is from** the exempt agency. This is best accomplished when the exempt agency is direct billed by the retailer since the invoice would indicate the exempt agency. However, when payment is made at the time of purchase, an invoice is not always produced and it may be unclear whether or not payment is coming directly from the exempt agency. In this instance further documentation is necessary.

*I*n order for the transaction to be exempt, the payment must clearly indicate that the exempt agency is making the payment. A check in the exempt agency’s name or a cash purchase accompanied with a purchase order from the exempt agency would be sufficient proof. Payment with credit cards add another level of difficulty. The exempt agency must be the one receiving the billing on the credit card, not the individual. The difficulty is that in many instances, an individual’s name is included on the credit card along with the exempt agency. Since it is difficult for the retailer to determine taxable or exempt on the face of the card, the retailer needs further information from the exempt agency.

(To aid in this area, MRS has issued letters to those agencies that have proven to MRS that a specific credit card is directly billed to the agency. A copy of this letter, accompanying the credit card mentioned in the letter, would provide the retailer with sufficient proof to exempt the transaction.)

Purchases by an employee of any exempt agency with cash, personal check or personal credit card are taxable transactions. Nothing in the statute extends the exemption to such employees, **even in those situations where the employee is reimbursed for the expense.** Retailers will be held responsible for collecting and remitting the sales tax on sales to government officials and employees.

PURCHASES MADE WITH VOUCHERS

Another topic in need of discussion is the use of payment vouchers by individuals. These vouchers are often issued by state agencies, municipalities and non-profit organizations, such as Red Cross and Salvation Army, as a means to assist persons with financial needs. The voucher is issued, in lieu of cash, and allows the person to purchase certain goods and/or services from participating vendors. The vendor then submits these vouchers to the respective agency for reimbursement.

MRS treats these sales as sales to the individual making the purchase, not to the organization who issued the voucher. As a result, sales tax would apply on these transactions, unless a sales tax exemption for the product exists. These types of transactions are not exempt as sales to the state, municipality or exempt organization.

Example 1: Individual uses a voucher to purchase clothing at a department store. The transaction is taxable.

Example 2: Individual uses a voucher to purchase home heating oil from an oil dealer. The transaction is exempt, since home heating oil is exempt from sales tax.

The only exception to the above is the use of federal food stamps or WIC food instruments distributed by the Maine Department of Human Services. The sales tax statute provides an exemption for items purchased with these "vouchers".

SHORT FORM IS BACK

A sales tax short form can be used by any retailer reporting only the 5% sales tax rate, since it eliminates the lines associated with the 7% and 10% rates, as well as lines associated with rentals. The short form was revived in March after having a six month suspension due to a rate change in October 2001. During that time, accounts were reanalyzed to determine those who could continue to use the short form. Those that qualified were notified and converted. If you are filing a long form and think that you qualify for the short form, feel free to contact us at (207) 624-9693.

FILING FREQUENCY CHANGES

In December 2001, many retailers were informed that their frequency of filing sales and use tax returns had changed. This was due to an administrative change by MRS to reduce the amount of paper being processed annually and to update thresholds established many years ago. The new thresholds are as follows:

- Monthly – average monthly tax liability of \$600 or more
- Quarterly – average monthly tax liability of at least \$100, but less than \$600
- Semi-Annual – average monthly tax liability of less than \$100

MRS had eliminated the annual filing frequency in an effort to administer law changes more effectively. However, due to widespread dissatisfaction with this policy, MRS will be reinstating the annual frequency for those retailers whose annual sales and use tax liability is less than \$50. This frequency will be added to the review that will take place in December 2002, but will be effective for filings beginning in 2003.

INTERNET FILING CHANGES

A few enhancements have been made to the sales tax internet filing.

- No longer will paper returns be mailed to those accounts who have successfully filed two consecutive internet returns.
- E-mail messages will be sent to 1) welcome first time filers, 2) warn a two-consecutive filer that paper returns will be turned off and 3) to remind internet filers to file.
- Internet filers can now postpone their ACH debit payments to a date not later than the due date. For instance, a return that is filed on the 5th of the month will normally have its debit payment withdrawn

from the bank within 3 business days of filing. An internet filer can now indicate to not take that payment until a specified date if they wish, but not later than the 15th.

SALES AND USE TAX SYMPOSIUMS

In an effort to provide education more often throughout the year, we will be offering the following sales and use tax symposiums monthly beginning in July, rotating them among Augusta, Bangor and Portland. Even more are intended for 2003. Seminars will be scheduled in Aroostook County on an as needed basis.

July 24	Senator Inn Outer Western Avenue, Augusta, ME	www.senatorinn.com
August 22	Spectacular Event Center 395 Griffin Rd, Bangor, ME	www.spectaculareventcenter.com
September 26	Keeley the Katerer 178 Warren Avenue, Portland, ME	www.keeleythekaterer.com
October 30	Augusta Civic Center Civic Center Drive, Augusta, ME	www.augustaciviccenter.org
November 19	Spectacular Event Center 395 Griffin Rd, Bangor, ME	www.spectaculareventcenter.com
December 5	Keeley the Katerer 178 Warren Avenue, Portland, ME	www.keeleythekaterer.com

The Maine Tax Forum will be held on October 30 and October 31 at the Augusta Civic Center.

All retailers should have received registration information with their June sales tax return. Registration forms and information are also available on our website.

MORE INFORMATION AVAILABLE AT [HTTP://WWW.STATE.ME.US/REVENUE](http://www.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://www.state.me.us/revenue>. As a bulletin 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, Fuel and Special Tax Division, P. O. Box 1065, Augusta, ME 04333-1065. Tel: (207) 624-9693 TTY: (207) 287-4477.

Printed Under Appropriation 010371
