



# MAINE REVENUE SERVICES

## SALES, FUEL & SPECIAL TAX DIVISION

### GENERAL INFORMATION BULLETIN

September 17, 2005

NO. 95

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

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### ***CURRENT LEGISLATIVE CHANGES***

#### **AGRICULTURAL AND AQUACULTURAL PRODUCTS**

**E**ffective July 1, 2005, the sales tax exemption previously provided for seed, feed, hormones, fertilizer, pesticides, insecticides, fungicides, antibiotics, weed killers, defoliants, litter and medicines was amended. Previously the law exempted these items from sales tax provided they were used in agricultural production or aquacultural production. These items were exempt whether sold to an individual for home use or to a person engaged in a commercial activity.

The change separates the exemption into three categories:

**Products used in aquacultural production and bait.** Sales of feed, hormones, pesticides, antibiotics and medicine for use in aquacultural production and sales of bait to commercial fishermen.

**Products used in commercial agricultural crop production.** Sales of seed, fertilizers, defoliants and pesticides, including, but not limited to, rodenticides, insecticides, fungicides and weed killers, for use in the commercial production of an agricultural crop.

**Products used in animal agriculture.** Sales of breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production. Animal agricultural production includes the raising and keeping of equines.

Retailers selling any of these types of products should take note of two major changes:

- Items used in crop production will only be exempt if used in a commercial activity. No longer will an individual be exempt when purchasing items such as vegetable seeds, garden fertilizer and garden pesticides for noncommercial use.
- The list of exempt items used in animal agriculture has been expanded to include breeding stock, semen and embryos. This category continues to apply both to non-commercial and commercial agricultural use.

Sales of products for use in animal agriculture as listed above will be considered exempt if it is a product that is ordinarily used in, on or for agricultural animals. If an item sold is not ordinarily for agricultural

animals, the retailer must obtain proper documentation from the purchaser certifying that the product(s) will be used in animal agriculture.

Since products for use in agricultural crop production must be for use in a commercial activity in order to be exempt, the retailer must obtain proper documentation from the purchaser that the purchaser is engaged in commercial crop production.

Please refer to Instructional Bulletin #14 at: <http://www.maine.gov/revenue/salesuse/Bull14.pdf> for an acceptable form to use as well as for additional information concerning the sale of products used in agricultural production.

### **CASUAL RENTALS OF LIVING QUARTERS**

**A** person who owns a house, cottage, condominium unit, vacation home, camp or any other place kept, used, maintained, advertised or held out to the public as a place where living quarters are offered for rent to transient guests or tenants is required to register with MRS and collect and remit sales tax on such rentals at the rate of 7% beginning July 1, 2005. A person does not need to register nor collect tax if total rentals are for fewer than 15 days each calendar year.

Previous to this change in law, these rentals were regarded as exempt if the person only rented one property. If the person had placed that property in the hands of a management company or realtor or if the person had owned and operated more than one property, that person should have been collecting the 7% tax.

Rentals in the following situations are not subject to tax:

- Rental to a sales tax exempt organization (governmental agencies or holders of a Maine permanent exemption certificate)
- Continuous rental to a person for more than 28 days when it is the person's primary residence
- Continuous rental to a person for more than 28 days when the person is residing away from that person's primary residence (their home) due to employment or education (statement required from educational institution or employer.)

### **Transition**

All rentals occurring on or after July 1, 2005 will be subject to the 7% tax. Rentals are considered to occur when occupancy is made. Deposits received should not be recorded as sales until such time as the service is rendered or the person has surrendered their deposit on cancelled reservations. If a deposit was received prior to July 1, 2005 for a rental occurring on or after July 1, 2005, the rental is subject to tax even if the entire rental charge was paid prior to July 1, 2005.

For more information regarding tax on rentals of living quarters, see Sales Tax Instructional Bulletin #32 at <http://www.maine.gov/revenue/salesuse/Bull32.pdf> .

### **PINE TREE DEVELOPMENT ZONES**

**T**he Maine Pine Tree Development Zone (PTDZ) Program offers manufacturers, financial service businesses and targeted technology companies the chance to greatly reduce or, in some cases, virtually eliminate state taxes for a period of time that may be up to ten years. Depending on the level of economic activity conducted in the PTDZ, the tax burden of qualified businesses may be reduced through a sales tax exemption for tangible personal property used directly and primarily in qualifying business activities and through a refund provision to contractors of sales tax paid on purchases of tangible personal property to be incorporated into the realty of these qualified businesses. These provisions became effective July 1, 2005.

### **CONSIGNMENT SALES**

**T**he sales tax law was recently amended to clarify that those persons who are selling goods belonging to another person, otherwise known as consignment sales, are responsible for collecting and remitting sales tax on those sales. All retailers, including craft or antique stores, must collect the sales tax on all their sales including sales of goods held on consignment.

### **SATELLITE TELEVISION SERVICE**

**E**ffective October 1, 2005, the taxation of extended cable television service is expanded to include extended satellite television service. All services that are in addition to the minimum service that can be purchased from a satellite television supplier, including rental of associated equipment, will be subject to the service provider tax.

### **NON-MEDICAL SERVICES**

**T**he service provider tax now includes four additional services. These services are community support services, day habilitation services, personal support services and residential training services. All of these services are similar in nature in that they are sold by a provider operating under a contract with the Department of Health and Human Services. The service provider tax on these services was effective July 1, 2005.

### **PRODUCTION OF RADIO AND TELEVISION SIGNALS**

**T**he effective date of the exemption for sales of machinery and equipment used in the generation of radio and television signals was postponed from July 1, 2005 to July 1, 2007.

### **EDUCATIONAL FORUMS**

**S**ales and use tax symposiums will be held in Portland on October 18th at Keeley the Katerer and in Augusta on November 2nd at the Augusta Civic Center. Check our website for dates, locations and registration forms.

**T**he Maine Tax Forum will be held on November 2nd and 3rd at the Augusta Civic Center.

## ***OTHER TAXES AFFECTING RETAILERS***

### **CIGARETTE TAX**

**T**he cigarette tax will increase from \$1 per pack of 20 cigarettes to \$2 per pack effective September 19, 2005. Any retailer with an inventory of cigarettes will be required to report to Maine Revenue the inventory on the morning of September 19, 2005 and pay the additional \$1 tax. This is customarily referred to as the Floor Stock Tax. Informational letters have been sent to all retailers holding a license from the Department of Health and Human Services to sell tobacco products. Floor Stock returns will be mailed around the first of September. If you sell cigarettes and have not received any information prior to this bulletin, please contact our office.

### **MILK HANDLING FEES**

**E**ffective August 1, 2005, there is a fee imposed on the handling of milk in this State. The fee is generally imposed on the handler and most retailers will not be required to make any reports to Maine Revenue. However, if a retailer is the first handler in Maine (such as with products produced and purchased outside of Maine), the retailer is required to register and report the fee. For more information regarding the milk handling fee, see [www.state.me.us/revenue/othertaxes](http://www.state.me.us/revenue/othertaxes).

## ***FOLLOW UP TO NEWS IN LAST ISSUE***

### **RESALE CERTIFICATES**

**L**ast August, Maine Revenue Services (MRS) began issuing a new *Annual Resale Certificate* to retailers provided the retailer was active and had reported annual gross sales of \$10,000 or more. Retailers reporting annual gross sales of less than \$10,000 were **not** issued an *Annual Resale Certificate*, and were required to pay sales tax when they purchased items for resale and claim a credit on their sales tax return for items actually sold.

Legislation was introduced this spring to change the renewal period from one to three years and to reduce the \$10,000 threshold to \$3,000. However, the legislation was **not** passed but was carried forward to the next regular legislation session, which will occur during the spring of 2006.

Maine Revenue Services will be reviewing all active accounts in October to determine which retailers are eligible to receive new resale certificates effective for the calendar year 2006. These new certificates are expected to be mailed to the retailers around the first of November in order to provide sufficient time for retailers to provide copies to their suppliers and/or provide sufficient time for retailers to obtain them from their customers.

Retailers must collect new certificates from customers to support making exempt sales for resale on or after January 1, 2006. These certificates must be kept on file to support exempt sales for resale.

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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.