



# MAINE REVENUE SERVICES

## SALES, FUEL & SPECIAL TAX DIVISION

### GENERAL INFORMATION BULLETIN

August 23, 2006

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NO. 96

*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***

#### **MAINE USE TAX COMPLIANCE PROGRAM**

The Maine Use Tax Compliance Program began on July 1, 2006. The program provides Maine taxpayers an opportunity to resolve all prior use tax obligations by reporting and paying the 3 highest annual use tax liability amounts resulting from taxable purchases occurring from January 1, 2000 through December 31, 2005. Only unreported and unassessed use tax liabilities qualify for the program.

To participate in the program, taxpayers must file an application reporting all previously unreported taxable purchases made each tax year during the period January 1, 2000 through December 31, 2005. The 3 highest annual use tax amounts during that period must be paid, or an acceptable payment plan must be established, during the application period in order to qualify for program benefits. All other unreported and unpaid use tax liabilities for transactions prior to January 1, 2006 are forgiven. Eligible taxpayers are also absolved from criminal prosecution and civil penalties and interest related to any taxes forgiven or paid under the Maine Use Tax Compliance Program. Material misrepresentations or omissions will result in disqualification from the program.

The application period for the program is July 1, 2006 through December 31, 2006. All applications and payment plan requests must be submitted to Maine Revenue Services ("MRS") no later than December 31, 2006. Payment plan requests must be approved by the State Tax Assessor and payments under a payment plan are subject to interest charges.

For more information or to download application forms, call (207) 624-9595 or visit the MRS web site at [www.maine.gov/revenue/Compliance/MaineUseTaxComplianceProgram.htm](http://www.maine.gov/revenue/Compliance/MaineUseTaxComplianceProgram.htm). (*Chapter 519, Part TT*)

### ***UPCOMING EDUCATIONAL FORUMS***

Sales and use tax symposiums are being planned for the Bangor, Augusta and Portland areas this fall. When dates and locations are finalized, they will be posted to our website and announcements will be included in your sales tax return.

The Maine Tax Forum will be held on November 1<sup>st</sup> and 2<sup>nd</sup> at the Augusta Civic Center.

## **RESALE CERTIFICATES**

Effective March 29, 2006, the criteria for issuing resale certificates was changed. To qualify for a resale certificate, the minimum annual gross sales threshold was decreased from \$10,000 to \$3,000. Accounts with annual gross sales of less than \$3,000 do not qualify for a resale certificate. Maine Revenue Services reviewed all sales tax accounts this spring and issued resale certificates to those retailers that qualified under the reduced threshold.

In addition to reducing the threshold value, the legislation increased the duration that the resale certificates are valid from one year to three years. Later this year, MRS will review all accounts and reissue certificates to those who qualify. Any retailer with a resale certificate that is valid through December 31, 2006 and who continues to qualify for a resale certificate, will automatically receive a new resale certificate valid through December 31, 2009. (*Chapter 519, Part 000*)

## **FORFEITED ROOM DEPOSITS & CANCELLATION FEES**

Legislation was enacted to address the taxation of forfeited room deposits and cancellation fees charged by those engaged in the lodging industry, such as hotels, motels, B&Bs, rooming houses, tourist and trailer camps.

When a patron rents a room, it is customary for the establishment to require a deposit to hold the room. If the patron cancels or fails to show up on the date of arrival, the deposit, or a portion of the deposit, is forfeited by the patron. The statute has been clarified to distinguish between amounts which are deemed to be rentals of living quarters and those amounts which are deemed cancellation fees.

Effective August 23, 2006, if a patron cancels his or her reservation on or prior to the scheduled date of arrival and the establishment retains a "cancellation fee", the fee is not subject to Maine sales tax. However, if the patron fails to show on the scheduled date of arrival, any amount forfeited to the establishment is treated as rental of living quarters and is subject to the 7% tax.

This legislation also contained a retroactivity clause that provides for the application of this change to January 1, 2001 except that any establishment that has applied tax to those transactions which would now be considered exempt must remit the tax and there is no refund for taxes that have already been remitted. (*Chapter 675*)

## **AIRCRAFT**

Two pieces of legislation were enacted affecting the taxation of aircraft in Maine.

- The sale or lease of turbojet aircraft weighing more than 6,000 pounds will be exempt from sales tax beginning January 1, 2007. (*Chapter 519, Part EE*)
- Also effective on January 1, 2007, an aircraft purchased and used outside of Maine but subsequently used in Maine will be exempt from use tax provided the aircraft is not present in Maine for more than 20 days during the 12 months following its purchase. Any time during which the aircraft is present in Maine for major alterations, major repairs or preventive maintenance is not counted against those 20 days. (*Chapter 519, Part EE*)

## **COMMERCIAL AGRICULTURAL PRODUCTION**

The exemption/refund program for persons engaged in commercial agricultural production has been expanded to include two additional operations.

Effective October 1, 2006, the production of livestock also includes the removal and storage of manure from that livestock. As a result, depreciable machinery and equipment used in the removal and storage of manure will qualify for exemption/refund when purchased by a person engaged in commercial agricultural production. (*Chapter 519, Part QQQ*)

Effective August 23, 2006, depreciable machinery and equipment used in an agricultural composting operation, as defined in Title 17, section 2805, qualifies for the sales tax exemption/refund program. (*Chapter 638*)

## **COMMUNITY WIND POWER GENERATORS**

Effective August 23, 2006, a reimbursement is allowed to a contractor or subcontractor with respect to sales and use tax paid on tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified community wind power generator. (*Chapter 646*)

## **CONNECTME ZONES**

There is also a reimbursement allowed for sales and use tax paid by a person with respect to machinery and equipment purchased for use by that person to develop an advanced communications technology infrastructure in a qualifying ConnectME zone. The effective date of this provision is unknown since it requires the final adoption of certain rules. The effective date will be July 1, 2007 if the rule(s) are in place by that date. Otherwise, the date of final adoption of the rule(s) will be its effective date. (*Chapter 665*)

## **TRUCK BODIES AND TRAILERS MANUFACTURED IN MAINE**

As we reported in GIB #94 issued on July 1, 2004, the exemption for sales or leases to nonresidents of truck bodies and trailers manufactured in the State for immediate removal from the State was determined to be facially unconstitutional and the exemption was no longer valid. Legislation this spring finally repealed this exemption and removed this language from the statute. (*Chapter 618*)

## ***FILE AND PAY YOUR RETURNS ELECTRONICALLY***

Service Provider Tax returns recently joined the Sales Tax and Use Tax returns as capable of being filed electronically. Check it out at <http://www.maine.gov/revenue/netfile/gateway2.htm>.

## ***OTHER ITEMS OF INTEREST***

### **REVIEW OF RULES AND BULLETINS**

Our rules and bulletins are constantly being reviewed. If you have a copy of one or more of our rules or bulletins, please periodically monitor our website to confirm if your version is the most current version.

### **NEW BULLETIN - MAINTENANCE AND REPAIRS**

A new sales tax instructional bulletin is being created to address warranties, service contracts and maintenance contracts. Generally, when an item is repaired and the repair labor is separately stated from the sale of parts, the repair labor is exempt and the repair parts are taxable, assuming the sale of the parts to the customer is not otherwise exempt. When there is a warranty, service contract or maintenance contract, the customer is often not billed for parts used in the performance of the contract. This bulletin discusses, among other things, the taxability of parts used in those transactions. We anticipate that the bulletin will be completed by the time this notice is mailed. Once finalized, it will be available on our website at <http://www.maine.gov/revenue/salesuse/salestax/Bulletins.htm>.

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

### **TOBACCO PRODUCTS TAX**

A tobacco products tax is imposed at the distributor level on all smokeless tobacco, at the rate of 78% of the wholesale price, and on cigars, pipe tobacco and other tobacco intended for smoking at the rate of 20% of the wholesale price. Recent legislation clarified that if a retailer purchases tobacco products from a distributor who is not licensed as a distributor in Maine, the retailer is considered a distributor and is required to license, report and remit the tax. For more information on this tax as well as licensing, reporting and remitting requirements, please call (207) 624-9609 or refer to our tobacco products bulletin on our website at <http://www.maine.gov/revenue/othertaxes/tobacco/tobacco.htm>. (*Chapter 627*)

This bulletin is provided as a taxpayer service by Maine Revenue and is only a summary of recent legal developments. Taxpayers are urged to review Maine statutory law to determine the actual effect of the changes described herein, as this bulletin has no legal or precedential effect. Go to <http://janus.state.me.us/legis/ros/lom/LOM122nd/LOM122Directory.htm> under "Second Regular Session" to find the chapters referenced in this bulletin. Additional questions 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: NexTalk 1-888-577-6690.