



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

GENERAL INFORMATION BULLETIN

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

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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 7th and 8th at the Augusta Civic Center.

RECENT LEGISLATIVE CHANGES

Sales, Use and Service Provider Taxes

PREMIUMS IMPOSED ON MOTOR VEHICLE OIL CHANGES

Effective October 1, 2007 a premium is imposed on all motor vehicle oil changes sold at retail in this State in the amount of \$1 per oil change (if the vehicle's gross weight is under 10,000 lbs), \$2 per oil change (if the vehicle's gross weight is 10,000 lbs to 25,999 lbs) and \$3 per oil change (if the vehicle's gross weight is 26,000 lbs or more). Any person who owns a fleet of vehicles (defined as 3 or more registered to the same person) and who performs their own oil changes is also subject to the premium. All premiums must be paid monthly to the State Tax Assessor and are dedicated to the Waste Motor Oil Revenue Fund.

A "motor vehicle oil change" is defined as "the changing of any lubricating oil classified for use in an internal combustion engine, transmission, gearbox, differential or hydraulics in a motor vehicle." A "motor vehicle" is defined as "a self-propelled vehicle not operated exclusively on tracks but does not include ... a snowmobile ... an all-terrain vehicle ... and a motorized wheelchair or an electric personal assistive mobility device." (*Chapter 464*)

If you are engaged in the service of providing changes of any of the above-mentioned lubricating oils, the premium must be charged, collected and remitted to the State Tax Assessor. The sales tax return (Form ST-7) will be modified, beginning with the October return, to add an additional line to report

these premiums. The use tax return (Form ST-7-U) will also be modified for use in reporting premiums by those persons who own a fleet of vehicles on which they perform their own oil changes.

SALES OF EXTENDED WARRANTIES ON AUTOMOBILES SUBJECT TO SALES TAX

Effective September 20, 2007, sales tax applies to the sale of an extended service contract on an automobile that entitles the purchaser to specific benefits in the service of the automobile for a specific duration. Prior to this date, the sale of an extended warranty was a nontaxable service and any parts associated with subsequent repairs were taxable. This legislation reverses the taxability of this transaction. The sale of the extended warranty will be taxable, while the parts used in subsequent repairs will be exempt. (*Chapter 410*)

Note that this change applies to the sale of extended warranties on **automobiles** only. The sale of extended warranties on any other property continues to be exempt. Changes will be made to Instructional Bulletins #24 “Vehicle Dealers” and #53 “Warranties, Service Contract and Maintenance Agreements”. For updated bulletins, please refer to our website at <http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm>.

VALUE OF SHORT TERM RENTALS OF AUTOMOBILES CLARIFIED

For a number of years a 10% sales tax has applied to the short-term rental of an automobile. Recent legislation clarified that the value of the rental means the total rental charged, including, but not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner’s estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees. In summary, the total amount of the rental is subject to the 10% sales tax without any deduction for any separately itemized charges. (*Chapter 444*)

TRADE-IN CREDITS ALLOWED ON ALL TRAILERS

Effective September 20, 2007, all trailers are allowed trade-in credits when traded in toward the sale price of another trailer. Previously, only livestock trailers, including horse trailers, and camper trailers were eligible for this credit.

“Trailer” is defined as a “vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks. ‘Trailer’ includes a camper trailer...” Property qualifying as a trailer would include utility trailers, recreational vehicle trailers, camper trailers, livestock trailers, horse trailers, and boat trailers.

Allowances provided when a trailer is traded-in toward the sale price of another trailer reduces the sale price subject to sales tax. Note, however, that although one type of trailer can be traded in toward a different type of trailer, the trade-in credit does not apply if the trailer is traded for a different class of property. For instance, no credit would be provided if the trailer was traded against the purchase of an automobile.

In addition, this legislation imposes the 5% use tax on the casual sale of a trailer. (*Chapter 375*)

NEW EXEMPTIONS

The following exemptions were enacted during the recent legislative session:

- Effective October 1, 2007, sales to incorporated nonprofit medical clinics whose sole mission is to provide free medical care to the indigent or uninsured. (*Chapter 416*)
- Effective September 20, 2007, sales and leases to air ambulance services that are limited liability companies whose members are nonprofit organizations. (*Chapter 419*)
- Effective October 1, 2007, sales to incorporated nonprofit snowmobile clubs of snowmobiles and snowmobile trail grooming equipment used directly and exclusively for grooming trails. (*Chapter 429*)
- Effective September 20, 2007, sales of loaner vehicles to new vehicle dealers. See Instructional Bulletin #24 for more details on this exemption. (*Chapter 410*)
- Effective September 20, 2007, the sale or lease of a motor vehicle to a Maine business if the vehicle is intended to be used exclusively in the business' out of state business activities. The business must conduct business from a fixed location outside the State. See Instructional Bulletin #24 for more details on this exemption. (*Chapter 410*)
- Effective June 7, 2007, diesel fuel purchased between July 1, 2007 and June 30, 2008 for use in a commercial groundfishing boat. (*Chapter 240*)
- Effective June 30, 2007, the sale of machinery and equipment for use directly and primarily in the production of television broadcast signals by a broadcast station regulated under 47 Code of Federal Regulations, Part 73. This was passed in a prior legislative session but with a future effective date occurring in 2007.

TELECOMMUNICATIONS EQUIPMENT DEFINITION CLARIFIED

The service provider tax applies to the installation, maintenance and repair of telecommunications equipment. Legislation recently clarified that the definition of "telecommunications equipment" includes any wiring, other than electrical wiring, capable of transmitting or receiving telecommunications signals, regardless of the actual use of the wiring. The definition was amended to keep current with the industry's use of optical fiber, data wire, and coaxial cable, all of which are capable of providing transmission service. (*Chapter 437*)

USE TAX REPORTING ON INCOME TAX RETURN

Since the 1990s, Maine has placed a line on the individual income tax return for persons to report their use tax liability on taxable purchases. If a person had not kept receipts, the person could opt to report their liability using a percentage of their Maine adjusted gross income. This percentage, .04%, had remained unchanged until now. The percentage has been increased to .08% effective January 1, 2008 for the 2008 Income Tax Return to reflect the increase that has occurred since the 1990s in purchasing from out-of-state retailers through catalogs and the internet. (*Chapter 240*)

ELECTRONIC FILING MANDATE

Legislation extended the authority of the State Tax Assessor to require electronic filing of tax returns to include additional taxes and reduces the thresholds above which a person may be required to file tax returns electronically, using a phased-in approach. It is initially the intent of the Assessor to require the filing of sales, use or service provider tax returns electronically in 2008 from those retailers who remit more than \$200,000 annually. This threshold would be reduced to \$100,000 in 2009 and to \$50,000 in subsequent years. A rule is in the process of being created on this issue. When the rule is finalized, affected accounts will be notified. (*Chapter 437*)

FILE AND PAY YOUR RETURNS ELECTRONICALLY

If you haven't tried Maine's easy way to file returns electronically, check out MRS' website at <http://www.maine.gov/revenue/netfile/gateway2.htm>. While there, also check out EZ Pay; Maine's easy way to pay any tax debt. .

OTHER ITEMS OF INTEREST

ERRONEOUS COLLECTIONS OF TAX

The sales and use tax law provides that when a retailer erroneously collects sales tax from a person, the amount collected is a tax liability of the retailer that must be reported and paid to the State, except an over-collection that has been returned or credited to the person from whom it was collected. For example, if a retailer erroneously imposes a sales tax on the sale of newspapers, the sales tax collected must be remitted to the State even though sales of newspapers are exempt from tax. If a customer approaches the retailer about this error and the retailer refunds the customer, the retailer is allowed a refund from the State.

There may have been occasions in the past where a retailer has been allowed to offset erroneous collections against under-collections. This practice is not supported by the statute. Erroneous collections can only be refunded back to the customer who made the overpayment.

With regards to certain leasing transactions, MRS has also been in error by allowing on occasions the offset of erroneous collections against the use tax liability of a lessor. For instance, a lessor who has improperly collected sales tax on lease payments but should have paid use tax on the cost of the leased property, has had, on audit, the over-collection offset the use tax liability but only up to the use tax amount. This practice is also not supported by the statute. Lessors should take note that on future audits MRS will no longer be offsetting these amounts.

MAILING OF RETURNS

Effective with the October mailing, persons filing sales tax or use tax returns will no longer find a "taxpayer copy" included with their returns. Instructions will be printed on the reverse side of the return. If you wish to make a copy of your return, you are encouraged to photocopy or scan your completed return. Filers of the service provider tax return will see a similar change in the near future.

RECENT LEGISLATIVE CHANGES

Cigarette and Tobacco Taxes

FIRE-SAFE CIGARETTES

New fire safety standards have been established for cigarettes sold in Maine. Beginning on January 1, 2008, all cigarettes sold in Maine will have to meet those safety standards. Cigarette manufacturers will be required to mark cigarette packaging to indicate the packaging is in compliance with the fire-safety standards. Civil fines will be imposed on any manufacturer, distributor or retailer who knowingly sells products that do not meet the fire-safety standards. Existing inventory of non-compliant cigarettes can be sold after January 1, 2008 if it can be demonstrated that the cigarettes were affixed with the state tax stamps prior to that date. (*Chapter 253*)

HARD SNUFF

Hard snuff may not be furnished, given away, sold or offered for sale in Maine after September 19, 2007. Hard snuff is defined as a “smokeless, dissolvable tobacco product in lozenge, bit or tablet form that contains as an ingredient compressed, powdered tobacco with nicotine, that is intended for human consumption and that is not regulated as a food or drug or approved as nicotine replacement therapy”. (*Chapter 467*)

FLAVORED CIGARETTES AND CIGARS

Flavored cigarettes and cigars cannot be sold in Maine after June 30, 2009. Existing stock can be sold off between July 1, 2009 and December 31, 2009 provided it can be demonstrated that the product was purchased prior to July 1, 2009. Flavored means any component part that contains a constituent that imparts a distinguishable taste or aroma to the tobacco or tobacco smoke prior to or during consumption other than the taste or aroma from tobacco, menthol, clove, coffee, nuts, or peppers. (*Chapter 467*)

SHIPMENT TO LICENSED RETAILERS LIMITED

Cigarette distributors may no longer sell cigarettes to retailers that do not hold a current retail tobacco license issued by the Department of Health and Human Services. (*Chapter 172*)

RECENT LEGISLATIVE CHANGES

Motor Fuel Taxes

FUEL EXCISE TAX RATES CHANGE

Motor fuel excise tax rates are indexed annually on July 1. Effective July 1, 2007 the excise tax rate for gasoline increased to 27.6 ¢ per gallon. The excise tax rate on diesel fuel increased to 28.8 ¢ per gallon. On September 20, 2007, the special tax differential on bio-diesel expires and the excise tax will increase from 20.0¢ per gallon to 28.8¢ per gallon. For administrative purposes, Licensed Special Fuel Suppliers may wait to recognize the change in the bio-diesel tax rate on their October 2007 monthly tax returns.

NEW FILING STATUS AVAILABLE

Gasoline Distributors may qualify for a new filing status – Registered Gasoline Distributor. Distributors that meet the requirements will be exempted from filing a monthly return with Maine Revenue Services. To qualify, a business must:

- Qualify as a distributor as defined in Title 36, section 2902, subsection 1: any person "importing into the State, or producing, refining, manufacturing or compounding within the State, or purchasing within the State, *principally for resale to others in bulk*, internal combustion engine fuel as defined" [emphasis added]; and
- Pay the Maine excise tax on all purchases of internal combustion engine fuel (gasoline) at the time of purchase from a Maine Licensed Gasoline Distributor; and
- Register with the State of Maine as a Registered Gasoline Distributor and relinquish any Maine Gasoline Distributor licenses currently held by the business. Applications for registration can be obtained on the Maine Revenue Services website at www.maine.gov/revenue/fueltax or by calling 207-624-9609 weekdays between the hours of 8-5. (*Chapter 407*)

NEW GASOLINE TAX DEFINITIONS

The statute has been clarified to state that gasoline distributors are required to report inventories in gross gallons; this has always been Maine Revenue Services policy. "Gross gallons" means the "actual measured gallons of internal combustion engine fuel received, sold or used, without adjustment for temperature or barometric pressure".

The term "retail dealer" is used throughout the Gasoline Tax laws with respect to inventory tax and allowances for shrinkage, but was not previously defined in the Statute. A definition has been enacted to provide clarity. A retail dealer is defined as "a person that operates in this State a place of business from which internal combustion engine fuel is sold at retail and delivered directly into the fuel tanks of motor vehicles or watercraft. A distributor or wholesaler is a retail dealer only with respect to internal combustion engine fuel delivered into a retail storage tank operated by that distributor or wholesaler or into a retail storage tank of a consignee or commission agent." (*Chapter 438*)

PENALTY IMPOSED FOR EXCESSIVE REFUND CLAIMS

Any person making a claim for refund or reimbursement for excise tax paid on motor fuels may now be subject to a penalty for substantially overstating the amount of the refund. A refund is considered to be substantially overstated if the amount received exceeds \$1,000 or 10% of the actual refund allowable, whichever is greater. The penalty is the greater of \$5 or 1% of the excess amount received, for each month or fraction of a month that the overpayment received is not repaid by the claimant. (*Chapter 437*)

FUEL SOLD FOR USE IN COMMERCIAL GROUND FISHING BOATS

An exemption is allowed for sales tax on diesel fuel purchased and used in a commercial groundfishing boats between July 1, 2007 and June 30, 2008. To qualify for the exemption, the boat must be permitted by the Federal Government to harvest northeast multispecies AND the commercial fisherman must have a valid Maine commercial fishing license. The purchaser is required to complete a *Diesel Fuel Used in a Commercial Groundfishing Boat* Sales Tax Exemption Affidavit. Copies of the Affidavit are available by calling Maine Revenue Services at 207-624-9609 weekdays between the hours of 8-5 or on the web at <http://www.maine.gov/revenue/fueltax/refund%20programs/off%20highway/Offhighway.htm>. (*Chapter 240*)

RECENT LEGISLATIVE CHANGES

Milk Handling Fees

The fee structure for milk handlers has changed effective for the fee period of July 1, 2007-July 28, 2007. The fee is established based on the basic price of a hundredweight of milk and computed on a per gallon container basis.

NEW FEE SCHEDULE:

<u>Basic price of milk per hundredweight</u>	<u>Fee in cents per gallon</u>
\$24.00 and above	0
\$23.00 to \$23.99	2
\$22.00 to \$22.99	4
\$21.00 to \$21.99	6
\$20.00 to \$20.99	8
\$19.00 to \$19.99	10
\$18.00 to \$18.99	12
\$17.50 to \$17.99	16
\$17.00 to \$17.49	20
\$16.50 to \$16.99	24
\$16.00 to \$16.49	28
\$15.50 to \$15.99	32
\$15.00 to \$15.49	36

Below \$15.00 per hundredweight: For each 50¢ decrease in the basic price, the rate of the milk handling fee increases by 6¢ per gallon.

For example: If the basic price falls to \$14.00, the fee would be 48¢ per gallon. (*Chapters 240 & 269*)

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/lomdirectory.htm> under "Laws of Maine as enacted by the 123rd Legislature" 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.
