



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

GENERAL INFORMATION BULLETIN

September 1, 2018

NO. 108

This bulletin contains important information about legislation enacted during the second session of the 128th Legislature and other recent developments that affect everyone who reports Maine sales, use, and service provider taxes. Please read it carefully. The changes contain a variety of effective dates and apply to sales occurring on or after the applicable effective date.

What you will find in this publication:

NEW

- ✓ Sales tax exemption enacted for sales to certain heating assistance organizations
- ✓ Sales and Service Provider Tax exemptions enacted for certain veterans support organizations
- ✓ Sale price exclusion for Paint Stewardship Program fees imposed on sales of paint
- ✓ Rental of living quarters: room remarketers and transient rental platforms now required to register
- ✓ “Lifeline” telephone service: Federal Universal Service Fund payments not subject to service provider tax

REVISED

- ✓ Exemption for “instrumentalities of interstate and foreign commerce” repealed & replaced
- ✓ Statute governing bonding for retailers expanded to include all sales tax registration types
- ✓ Pine Tree Development Zone sales tax reimbursement program expanded

GUIDANCE

- ✓ Maine Revenue Services has issued guidance for Registration of Remote Sellers

INFORMATIONAL

- ✓ Fall symposia schedule and registration form

ADDITIONAL RESOURCES

Maine Revenue Services’ website: www.maine.gov/revenue

Instructional Bulletins: www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm

Sales tax certificates and affidavits: www.maine.gov/revenue/forms/sales/salesforms.htm

Maine Revenue Services Rules: www.maine.gov/revenue/rules/homepage.html

For general assistance, call (207) 624-9693 or email sales.tax@maine.gov

SALES TO HEATING ASSISTANCE ORGANIZATIONS

NEW EXEMPTION

36 M.R.S. § 1760(102)

EFFECTIVE OCTOBER 1, 2018

Effective October 1, 2018, a sales tax exemption applies to sales to organizations that have been determined by the United States Internal Revenue Service to be exempt from taxation under Section 501(c)(3) of the Code and whose primary purpose is to provide residential heating assistance to low-income individuals. (*PL 2017, c. 399*)

SALES TO CERTAIN VETERANS SUPPORT ORGANIZATIONS

NEW EXEMPTION

36 M.R.S. § 1760(102) & § 2557(39)

EFFECTIVE OCTOBER 1, 2018

Effective October 1, 2018, sales tax and service provider tax exemptions apply to sales to incorporated nonprofit organizations organized for the primary purpose of operating a retreat in the State for combat-injured veterans and their families free of charge. (*PL 2017, c. 445*)

PAINT STEWARDSHIP PROGRAM FEES

NEW SALE PRICE EXCLUSION

36 M.R.S. § 1752(14)(B)(12)

EFFECTIVE DECEMBER 1, 2018

Maine law provides that a “paint stewardship assessment” must be added to the cost of all architectural paint sold to retailers and distributors in the State. Retailers must add the paint stewardship assessment to the consumer’s purchaser price. For retail sales of paint made on or after December 1, 2018, the paint stewardship assessment is excluded from sale price for the purposes of Maine sales and use tax. (*PL 2017, c. 438*)

ROOM REMARKETERS & TRANSIENT RENTAL PLATFORMS

NEW RESPONSIBILITIES

36 M.R.S. § 1754-B(1)(F-1) & (F-2)

EFFECTIVE OCTOBER 1, 2018

Effective October 1, 2018, room remarketers (sometimes known as “online travel companies”) and transient rental platforms are required to register as retailers with Maine Revenue Services. A “room remarketer” is defined in the law as “a person who reserves, arranges for, offers, furnishes or collects or receives consideration for the rental of living quarters in this State, whether directly or indirectly, pursuant to a written or other agreement with the owner, manager or operator of a hotel, rooming house or tourist or trailer camp.” A “transient rental platform” is defined as “an electronic or other system, including an Internet-based system, that allows the owner or occupant of living quarters in this State to offer the living quarters for rental and that provides a mechanism by which a person may arrange for the rental of the living quarters in exchange for payment to either the owner or occupant, to the operator of the system or to another person on behalf of the owner, occupant or operator.” The definition of “sale price” is also amended to include “all consideration received for the rental of living quarters in this State, including any service charge or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the owner, occupant, manager or operator of the living quarters, by a room remarketer, by a person that operates a transient rental platform or by another person on behalf of any of those persons.” Revised versions of Instructional Bulletins 32 (“Rental of Living Quarters”) and 39 (“Sale Price Upon Which Tax is Based”) will be posted prior to October 1, 2018, with more details. (*PL 2017, c. 375, Part A*)

INSTRUMENTALITIES OF INTERSTATE & FOREIGN COMMERCE

EXEMPTION REPEALED AND REPLACED

36 M.R.S. § 1760(41-A)

EFFECTIVE RETROACTIVELY TO JANUARY 1, 2012

The sales tax exemption for certain instrumentalities of interstate and foreign commerce has been repealed and replaced. The new exemption, which is effective retroactively to January 1, 2012, is similar to the old one but does differ from it in several ways, including the following: (1) property dispatched for use in interstate or foreign commerce is considered in use from the date of dispatch through the date it arrives back at its principal place of business, or is dispatched for use in connection with a new bona fide payload, whichever occurs first; (2) any day or portion of a day in which property is used in interstate or foreign commerce is computed as a full day of qualifying use; (3) a full day during which the property in question is being stored, repaired, or maintained is disregarded for purposes of the statutory 80% eligibility computation; and (4) for purposes of the exemption, use of a trailer, semitrailer or tow dolly (as defined in Title 29-A, section 101) pursuant to a written interchange agreement (as described in the Code of Federal Regulations) between the purchaser and an authorized motor carrier is considered use by the purchaser. Maine Revenue Services will be proposing amendments to Rule 318 in order to provide more detailed guidance on the new exemption. *(PL 2017, c. 375, Part I)*

PINE TREE DEVELOPMENT ZONES

SALES TAX REIMBURSEMENT PROGRAM EXPANDED AND EXTENDED

36 M.R.S. § 2016

The statutory provision on reimbursement of sales tax paid by a qualified Pine Tree Development Zone (PTDZ) business has been repealed and replaced. The changes apply to businesses that apply to the Commissioner of the Department of Economic and Community Development (DECD) **on or after January 1, 2019**, for certification as a qualified PTDZ business. The new statute provides that reimbursement will be allowed for taxes paid with respect to the sale or use of tangible personal property and the transmission and distribution of electricity to a qualified business and used directly and primarily in one or more qualified business activities. The repealed provision allowed only for the reimbursement of taxes paid in connection with the sale or use of tangible personal property physically incorporated in, and made a permanent part of, real property owned by or sold to a qualified business and used directly and primarily by that business in one or more qualified business activities. The new law extends the time frame for reimbursements for such “physical attachment” items for three years, from December 31, 2028, to December 31, 2031, and limits reimbursements made in connection with electricity and with non-attached tangible personal property to taxes paid on sales that occur within the period of time between the date on which the qualified PTDZ business is issued a letter of certification by DECD and the date on which the business receives a sales tax exemption from MRS, but in no case may this period extend beyond two years from the date of the DECD certification letter. *(PL 2017, c. 440)*

BONDS

STATUTE AMENDED

36 M.R.S. § 1759

EFFECTIVE AUGUST 1, 2018

Effective August 1, 2018, the statute allowing the State Tax Assessor to require a bond for a retailer as a condition for issuance of a registration certificate or subsequent to the issuance of a registration certificate is amended to apply to all registered retailers. (PL 2017, c. 375, Part H)

“LIFELINE” TELEPHONE SERVICE

36 M.R.S. § 2551(15)(F); 25 M.R.S. § 2927(1-D)

EFFECTIVE JANUARY 1, 2019

Effective January 1, 2019, “Lifeline” telephone services available to income-eligible Maine consumers and supported by federal universal service support funds are not subject to the service provider tax and federal support for such services is not subject to the Prepaid Wireless Fee. (PL 2017, c. 422)

GUIDANCE FOR REMOTE SELLERS

36 M.R.S. § 1951-B(3)

Maine Revenue Services (MRS) provides the following guidance in light of the recent United States Supreme Court ruling in South Dakota v. Wayfair, Inc., et al., issued on June 21, 2018. In Wayfair, the Court held that out-of-state sellers with any substantial nexus with a State can be required to collect and remit sales and use taxes, without regard to physical presence in that State. The Court reversed the longstanding “physical presence” rule that it had established in the 1992 case of Quill v. North Dakota.

Prior to the Wayfair decision, the Maine Legislature enacted a statute (36 M.R.S. § 1951-B) that requires a person selling tangible personal property, products transferred electronically, or services for delivery into Maine to collect and remit sales tax in the same manner as a retailer with a physical presence in Maine. A seller not otherwise required to register under Maine sales tax law meets the requirements of section 1951-B if, during the current or previous calendar year, either its gross revenues from Maine sales of tangible personal property, products transferred electronically, or services that are taxable in Maine exceeds \$100,000, or it sells tangible personal property, products transferred electronically, or services that are taxable by Maine into Maine in at least 200 separate transactions.

This statute will be enforced for sales occurring on or after July 1, 2018, the first monthly filing period after the date of the Wayfair decision.

MRS urges every seller that is subject to section 1951-B and has not already done so to immediately register as a Maine retailer and begin collecting and remitting Maine sales and use tax. Any remote seller that, on or after July 1, 2018, met or meets one, or both, of the nexus thresholds established by section 1951-B, but did not register as a retailer, is subject to assessment for any uncollected or unremitted Maine sales and use taxes.

MRS has established a new web page (<http://www.maine.gov/revenue/salesuse/salestax/Remotesellers.html>) for Remote Sellers, containing links to assist retailers with tax registration and understanding the taxability of the goods and services sold into Maine. Customer assistance is also available through e-mail at sales.tax@maine.gov or by calling (207) 624-9693 Monday-Friday between the hours of 8:00 AM – 5:00 PM EST, holidays excepted.