



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 47

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## REGISTRATION OF WATERCRAFT, SNOWMOBILES AND ALL-TERRAIN VEHICLES

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This bulletin is written in a relatively informal style and is intended to address issues commonly faced by municipal agents and employees of the Department of Inland Fisheries and Wildlife while assisting taxpayers in the registration of vehicles. Taxpayers are responsible for complying with all applicable tax statutes and rules. Although Maine Revenue Services (“MRS”) bulletins do not have the same legal force and effect as rules, justifiable reliance upon this bulletin will be considered in mitigation of any penalties for any underpayment of tax due. This bulletin is current as of the last revision date shown at the end of the document.

The Sales and Use Tax Law is found in Part 3 of MRSA (“Maine Revised Statutes Annotated”), Title 36. Both Title 36 and all MRS rules may be seen by clicking on “laws and rules” on the MRS website.

For the purposes of this Bulletin, **the term “vehicle” means watercraft, snowmobiles and all-terrain vehicles.** For information regarding registration of motor vehicles and trailers, please refer to Instructional Bulletin No. 42.

The purchaser or other person seeking to register a vehicle must pay Maine sales and use tax, at the time and place of registration unless the dealer has already collected the tax in full. In the case of watercraft, snowmobiles, and all-terrain vehicles, the tax must be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as provided by 12 MRSA §§ 13002-13005. (See 36 MRSA § 1952-A).

To facilitate this collection, the applicant for the original registration of the above vehicles must present a properly completed bill of sale or Use Tax Certificate (Form S.T.M.V. 6U) to the appropriate registering agency. Unless the purchase of the vehicle was exempt from tax, the bill of sale provides the documentation for receipt of sales tax paid to a dealer; completion of the Use Tax Certificate requires that the use tax be paid to the Commissioner prior to the issuance of registration.

### 1. MAINE DEALER SALES

Maine vehicle dealers must provide their customers with a properly completed bill of sale showing either that the sales tax due on the vehicle to be registered has been collected by the dealer, or that the sale or lease of the vehicle is exempt or otherwise not subject to tax. The bill of sale must then be presented by the person registering the vehicle as a prerequisite to any original registration.

It is the responsibility of Maine vehicle dealers to collect and report the sales and use tax on all taxable sales or leases of vehicles made in this state, unless the purchaser qualifies for one of the tax exemptions discussed in Section 5 below. A Maine vehicle dealer does not have the option of allowing its customers to pay the use tax directly to the Commissioner at the time of registration. The dealer will be held accountable for the tax on all taxable transactions. Maine dealers should refer to Instructional Bulletin No. 24 “Vehicle Dealers” for more complete information on administering sales tax in their businesses.

**A. Bill of Sale.** The registration agent must review the bill of sale to ascertain that sales tax was charged or that the sale or lease was exempted from sales tax. The agent may proceed with the registration if 1) the sales tax is listed on the bill of sale or 2) the sales tax line on the bill of sale contains the word “EXEMPT.” The bill of sale should be returned to the person registering the vehicle. A copy of the bill of sale does **not** need to be forwarded to MRS.

If the bill of sale does not list the sales tax and does not contain the word “EXEMPT,” the person registering has two options. The person should either return to the dealer to obtain a properly completed bill of sale or complete a Use Tax Certificate (Form S.T.M.V. 6U) and either pay the appropriate tax or claim a valid exemption.

In the event a bill of sale is presented from a dealer located outside of Maine, any tax shown on the bill of sale should not be assumed to be a Maine tax. If the dealer is registered with Maine, the dealer has been asked to clearly indicate their Maine sales tax number on the bill of sale. If that number is not present on the bill of sale, see the discussion in Section 2 below and complete Form S.T.M.V. 6U.

**B. Other Documentation.** Although no other documentation is needed for a sale by a Maine dealer, it is important that the registration application be completed accurately.

**C. Vehicles registered for dealer’s own use.** If a dealer registers a vehicle for its own use, the vehicle is generally subject to use tax based on the cost of the vehicle to the dealer. A dealer should complete a Use Tax Certificate (discussed in Section 2) and either pay the appropriate use tax or explain on the certificate that use tax is being accrued under its sales tax registration number. In the latter case, the dealer’s sales tax number must be clearly identified on the Use Tax Certificate.

A dealer that purchased a vehicle for resale and then rents the vehicle as an interim rental under 36 MRSA § 1758 may elect to collect sales tax on each rental payment. In this situation, no use tax is due, and the dealer may register the vehicle without payment of tax. The space marked “Other” on the Use Tax Certificate should be checked, with an appropriate explanation made on the reverse side.

## **2. USE TAX CERTIFICATE (S.T.M.V. 6U)**

If a sale is made by someone other than a Maine registered dealer, the person registering the vehicle must complete a Use Tax Certificate (Form S.T.M.V. 6U). Unless the transaction falls under one of the exemptions listed in Section 5 below, use tax is due as a prerequisite to registration.

**A. Sales by Out-of-State Dealers.** Vehicles purchased or leased from dealers located outside the State of Maine for use in this State are subject to Maine’s use tax. A person who registers a vehicle in this State must complete a Use Tax Certificate and submit it to the Commissioner, along with any use tax due, as a prerequisite to any original registration. Note: Some bills of sale may indicate that a sales tax was collected. In some cases, the tax represents the tax of the state where the sale occurred. In this instance, refer to Section 7.C. later in this document to apply credit for taxes paid in another jurisdiction. In other cases, the sales tax on the bill of sale may represent Maine’s use tax due since the purchaser requested that the tax be included in the financed amount. In this instance, the registrant remains responsible for payment of the use tax at the time of registration and may in fact have a check in hand for that purpose.

**B. Casual Sales.** A casual sale is a sale between two persons when the seller is not in the business of selling at retail. Section 1764 imposes a use tax on casual sales of the following items:

- (1) Snowmobiles and all-terrain vehicles other than those sold to nonresident individuals; (snowmobiles and all-terrain vehicles as defined in Title 12, section 13001 are included in the sales tax definition of “motor vehicles”) (See 36 MRSA § 1752(7).)
- (2) Watercraft; (any type of vessel, boat, canoe or craft designed for use as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, which are customarily used in the operations of the watercraft) (See 36 MRSA § 1752(24).)

Any purchaser of these items at casual sale is required to file a Use Tax Certificate with the Commissioner and pay any use tax due as a prerequisite to any original registration of the vehicle.

**C. Casual Sale Exceptions.** A transfer **to** a corporation, partnership, trust, limited liability company or limited liability partnership is not treated as a taxable casual sale when the seller is the owner of 50% or more of the common stock of the corporation or of the ownership interests in the partnership, trust, limited liability company, or limited liability partnership. In this situation, the space marked “Other” on the Use Tax Certificate should be checked with an appropriate explanation made on the reverse side.

Note: A transfer **from** a corporation, partnership, trust, limited liability company or limited liability partnership **to** another party, including one of its shareholders or owners, is generally taxable as a casual sale if the shareholder, owner or employee provides payment or other bargained-for consideration for the transfer. As the tax treatment of these transactions will be determined by the particular facts, questions regarding specific situations should be directed to MRS for a determination.

**D. Transfers of equity.** In transactions involving transfers of equity, a sale still occurs though cash may not change hands.

- i. **Assuming loan balances.** When a person takes possession of a vehicle from another person and assumes payment of the balance remaining on the other person's loan, the transaction is a taxable casual sale. Use tax is owed by the new owner based on the amount being assumed. The new owner's assumption of the loan pays off the prior owner's debt and constitutes part of the sale price. If there was additional value paid to the former owner by the new owner, that value also must be included as part of the sale price. Similarly, when a lease-in-lieu of purchase or a T.R.A.C. lease is being assumed and the original lessee is relieved of the legal liability for making the lease payments, the lease assumption transaction is a taxable casual sale.
- ii. **Transfer of ownership interest.** When a vehicle is jointly owned by two or more persons and one owner's interest is transferred to one or more of the other owners, the transaction is a taxable casual sale. Use tax is owed by the remaining owner or owners. The sale price will include the value transferred by the other owners. The fact that the owners are family members or are husband and wife does not change the fact that a taxable sale has occurred. (See Section 7 "Special Situations" later in this bulletin for exceptions.)

### 3. SALE PRICE

**A. Retail sales.** The statutory definition of "sale price" includes "any consideration for services that are part of a retail sale." (See 36 MRSA § 1752(14)(A) and Instructional Bulletin No. 39 "Sale Price Upon Which Tax Is Based.") Based on this provision of the law, all charges imposed by a dealer for services that are part of the sale occurring prior to passage of title of the vehicle are considered part of the sale price of the vehicle and are subject to the sales tax.

(1) **"Sale price" includes:**

- "Processing fees" or "documentation fees".
- Dealer prep charges.
- Incoming Freight (shipping charges to the location of the dealer).
- Shipping charges to the location of the purchaser (unless the charges are separately stated and shipment was made by a common or contract carrier).
- Manufacturers' and importers' excise taxes.
- Rustproofing, protection packages, installation of accessories and other additional work performed on the vehicle prior to the customer taking delivery and prior to passage of title. In contracts for the sale of a vehicle, title is deemed to pass when the customer accepts delivery.
- Manufacturer's rebates. No deduction is allowed from the sale price for manufacturer's rebates. The fact that the rebate is assigned by the purchaser to the dealer does not change the tax treatment.

**(2) “Sale price” does not include:**

- Discounts allowed by the dealer and taken on sales, including dealer rebates. Note: No deduction is allowed from the sale price for manufacturer’s rebates.
- Services provided after the customer takes delivery and after passage of title.
- Federal Luxury Tax and other retailers’ excise taxes.
- Any charge, deposit, fee or premium imposed by a law of this State, such as:
  - Title or encumbrance fees.
  - State Inspection Fees.
  - “Lemon law” arbitration and consumer mediation service fees.
- Finance charges.
- Optional extended warranties on items other than automobiles and trucks.
- Credit life insurance and GAP Insurance. (See 36 §1752(14)(B).)

**B. Casual Sales.** The items mentioned above are usually associated with “retail sales.” Generally the sale price of a casual sale will be the negotiated amount paid by the purchaser to the seller. However the amount paid, or “consideration,” involves not only cash but also could involve the exchange of property without any further cash payment or the transfer of property in exchange for services rendered. In these situations, the sale price is the value of the exchange as negotiated by the seller and buyer. If that value is not documented or otherwise established, the sale price of the property subject to use tax at casual sale would be its fair market value.

**4. TRADE-INS**

When one or more of the items listed in Section 1765 of the Sale and Use Tax Law are traded in toward the sale price of another item of the same kind ( e.g., snowmobile traded for a snowmobile, watercraft for watercraft, etc.), the sales or use tax is levied only on the difference between the sale price of the purchased item and the trade-in value allowed for the item or items taken in trade, except for transactions between dealers involving the exchange of property from inventory.

If any item of one kind is traded in toward the sale price of an item of another kind (a snowmobile is traded in toward the sale price of watercraft, or a camper trailer is traded in toward the sale price of a watercraft), no credit for trade-in is allowed and the tax applies to the entire sale price. No credit for trade-ins is allowed on leased vehicles (unless the lease is a lease in lieu of purchase). See Section 6 for more information on leases.

If any other property is traded towards one of the items listed in Section 1765, tax applies to the entire sale price, including any allowance for trade-in. For example, if a refrigerator is traded in towards the purchase of an all-terrain vehicle, no trade-in credit is allowed, and the tax is based on the entire sale price of the all-terrain vehicle.

## **A. Motor Vehicles**

All-terrain vehicles and snowmobiles are included within the definition of “motor vehicles.” Thus trade-in credits are allowed among the various vehicles making up the larger category of “motor vehicles” (e.g., a motorcycle for an all-terrain vehicle, a car for a snowmobile, or an all-terrain vehicle for a snowmobile.)

## **B. Trailers**

Trade-in credits are allowed for trailers but, since “trailer” is a separate category, the allowance is only toward the sale price of another trailer. (See 36 §1752(19-A) for definition of “trailer.”) If a person is registering a watercraft and the transaction included a trade of another watercraft, the sale price for use tax purposes can be reduced but only by the value of the watercraft. If a boat trailer was included in this transaction, the value of the trailer is not considered in determining the use tax of the watercraft. If a watercraft qualifies for the 60% exemption mentioned below, the exemption applies only to the watercraft and not to the trailer.

## **5. TAX EXEMPTIONS**

Listed below are various sales and use tax exemptions that could apply to transactions involving watercraft, snowmobiles and all-terrain vehicles. Included within each category is an explanation of how the exempt sale should be documented on the Use Tax Certificate.

**A. Government Agencies and Exempt Organizations.** Sales made directly to the Federal government, the State of Maine or any political subdivision of this State, or to any unincorporated agency of the above, are exempt from sales or use tax. In addition to counties, cities, towns or plantations in the State of Maine, this exemption covers sales to:

- School districts in Maine;
- Water, power, parking, sewer and other districts in Maine, established by legislative act as quasi-municipal corporations;
- Village corporations; and
- The Maine Turnpike Authority.

An exemption number is not ordinarily issued to the above agencies of government. The name of the exempt agency and the signature of an authorized individual must be included on the Use Tax Certificate.

The Sales and Use Tax Law also provides exemptions for purchases by various organizations, including hospitals, certain schools, and regularly organized churches or houses of religious worship. To be entitled to purchase and register vehicles free of tax, the organization must have been issued a certificate of exemption by Maine Revenue Services. Sales to organizations that do not hold and provide an exemption certificate are taxable. The organization should list its 5-digit exemption number in the appropriate box on the Use Tax Certificate. The organization should not list its federal identification number or sales tax number.

**Please note that this exemption does *not* apply to sales to clergy or to staff members or employees of exempt organizations; it applies to sales to the organizations.**

For more information on sales to governmental agencies and exempt organizations, see Rule 302 and Instructional Bulletin 36 “Exempt Organizations.”

**B. Vehicles Used in Interstate Commerce.** A vehicle that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days (90 days with good cause) after the sale and that is used by the purchaser not less than 80% of the time for the next two years as an instrumentality of interstate or foreign commerce may be registered by the owner without payment of use tax. **The exemption does not apply to a leased vehicle or to a vehicle that is operating under an Interstate Operating Authority Number issued by the Federal Motor Carrier Safety Administration to a person other than the purchaser.** (See 36 MRSA § 1760(41).) A person registering a qualifying vehicle may do so without payment of use tax. The space marked “Other” on the Use Tax Certificate should be checked, with an appropriate explanation made on the reverse side.

**C. Sale or lease of watercraft to a nonresident.** Maine sales tax does not apply to watercraft purchased in Maine by a person that is not a resident of Maine if it is intended to be driven or transported outside the State immediately upon delivery by the seller. If the purchaser keeps the watercraft in Maine or, subsequent to removing it from Maine, returns to Maine and uses the watercraft in Maine for more than 30 days within the first 12 months after the purchase date, the person seeking registration is liable for use tax on the basis of 40% of the original purchase price. (See 36 MRSA § 1760(25).)

**D. Snowmobiles and all-terrain vehicles sold to or used by a nonresident.**

Retail sales made in Maine to nonresident individuals are exempt provided that the purchaser removes the snowmobile or all-terrain vehicle from Maine “immediately upon delivery”; but if the item is subsequently registered for use in Maine within 12 months of the date of purchase, the individual seeking registration is liable for use tax based on the original purchase price. Retail sales made in Maine to a nonresident corporation or other business entity are taxable.

Effective October 15, 2015, all casual sales in Maine of snowmobiles and ATVs to nonresident individuals are exempt from tax, even if the item is not immediately removed from Maine (for casual sales, see Section 2B above).

Snowmobiles and ATVs purchased and used outside of Maine by nonresident individuals, and then used in Maine, are exempt from use tax. (See 36 MRSA §§ 1760(25-A), (25-B) & 45(A-2).)

**E. Snow Grooming Equipment.** Maine sales tax does not apply to snowmobiles and snowmobile trail grooming equipment used directly and exclusively for the grooming of snowmobile trails when sold to snowmobile clubs incorporated under the provisions of Title 13-B. (See 36 MRSA § 1760(90).)

## **F. Prior Use Outside the State of Maine.**

**i. Watercraft sold to Nonresident.** The purchase of a watercraft outside the State of Maine by a nonresident and used outside of Maine for more than 12 months prior to registering for use in Maine, is exempt from Maine's use tax. Proof of out-of-state registration for the watercraft must be entered on the appropriate line of the Use Tax Certificate. If the purchaser uses the watercraft in Maine for more than 30 days within the first 12 months after the purchase date, the person seeking registration is liable for use tax on the basis of 40% of the original purchase price. (See 36 MRSA § 1760(25)(B).)

**ii. Maine resident.** A snowmobile, all-terrain vehicle or watercraft purchased outside of Maine by a Maine resident but now being registered for use in Maine may under certain circumstances qualify for exemption from use tax. If the person registering any of the above is claiming exemption based on prior use outside of Maine, the person should indicate in the appropriate box on the Use Tax Certificate the original registration information from the other state and attach a detailed explanation supporting the claimed exemption. (See 36 MRSA § 1760(45).)

## **6. LEASES**

Applicants for registration of leased vehicles must pay any tax due, or prove that the tax is not owed, as a prerequisite to registration. With respect to a true lease and a lease with an option to purchase, the basis of the tax is the purchase price of the vehicle to the lessor. With respect to a lease in lieu of purchase, the basis of the tax is the total of the lease payments. (See Instructional Bulletin 20 "Lease and Rental Transactions" for additional information about leases.)

As with other applicants, if sales tax was paid to a Maine dealer, a bill of sale should be presented to the Commissioner at the time of registration. If sales tax was not paid to a Maine dealer, a Use Tax Certificate should be filed and any tax due paid by the applicant as a prerequisite to registration.

Lessors are responsible for the payment of use tax on leased equipment. Where the lessee does not provide documentation to show that the lessor has paid the tax, the lessee will be held responsible for the use tax at the time of registration. When an option to purchase a leased vehicle is exercised by the lessee, the transaction is a "sale." Tax is due on the option price paid by the lessee.

## **7. SPECIAL SITUATIONS**

**A. Sales by Estates.** Sales of vehicles by personal representatives of estates are generally taxable. However, the transfer of a vehicle to a beneficiary of a decedent pursuant to a will is not taxable because the transaction is not treated as a sale.

**B. Transfer of equity in a divorce.** A transfer of equity from a husband or wife to the other spouse pursuant to a court-ordered divorce decree is not taxable because the transaction is not treated as a sale.

**C. Credit Allowed for Sales Tax Paid to Other Taxing Jurisdictions.** Credit is allowed for any sales or use tax paid to other taxing jurisdictions against any Maine use tax that may be due on a vehicle. The space marked “Sales Tax Paid Elsewhere” on the Use Tax Certificate should be checked. In addition, a copy of the bill of sale, invoice, or receipt for payment of tax to the other state must be attached to the certificate. If the amount of tax paid to the other jurisdiction is equal to or is greater than the use tax due in Maine, the registrant should indicate “0” on line 4. Otherwise, place the difference on line 4 after subtracting the amount of tax paid to the other jurisdiction from Maine’s use tax. (See 36 MRSA § 1862.)

**D. Sales for Resale.** Under the Sales and Use Tax Law, a sale of a vehicle for resale (except for resale as a casual sale) is not a taxable transaction if no use is made of the vehicle other than demonstration or display. However, registration of a vehicle is considered evidence that use other than demonstration or display is being made of the vehicle, and the registrant will be required to pay the use tax as a prerequisite to registration. For this reason, “sale for resale” is not allowable as a valid exemption on a Use Tax Certificate.

**E. Gifts.** A true gift to a person is not a taxable transaction. A true gift does not require the recipient to pay any consideration, whether in cash, property in trade, or services rendered. For instance if a father gifts his daughter a car, it is a nontaxable transaction. However, if the daughter assumes the loan balance, the daughter has paid consideration for the car and the transaction is taxable.

## **8. REVIEW OF PURCHASE PRICES AND EXEMPTIONS**

Purchase prices and exemptions claimed are subject to audit or investigation by Maine Revenue Services. If it is determined that the purchase price was understated or that an exemption was claimed improperly, an assessment of the appropriate use tax along with applicable interest and penalty charges will be made against the purchaser.

## **9. ADDITIONAL INFORMATION**

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law as it applies to the original registration of vehicles. It is not intended to be all inclusive. Guidance for specific situations can be obtained by calling the sales tax staff at (207) 624-9693.

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