



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 56

TELECOMMUNICATIONS

This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine tax law. It is written in a relatively informal style and addresses issues commonly faced by taxpayers with respect to telecommunications. Taxpayers are responsible for complying with all applicable tax statutes and rules. Although bulletins issued by Maine Revenue Services (MRS) 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 Service Provider Tax Law is found in Part 4 of Title 36 of the Maine Revised Statutes Annotated (“M.R.S.A.”). The Sales and Use Tax Law is found in Part 3. Both Title 36 and all MRS rules may be seen by clicking on “Laws and Rules” at the left side of the MRS website: www.maine.gov/revenue/.

Telecommunication services are subject to the Maine Service Provider Tax, as are ancillary services and the installation, maintenance, or repair of telecommunications equipment. This Bulletin not only applies to those persons engaged in providing telephone service, but also anyone engaged in the provision of other telecommunications services, and anyone engaged in the installation of telecommunications equipment. (NOTE: This includes many contractors and electricians.)

1. TELECOMMUNICATIONS SERVICES & ANCILLARY SERVICES

A. Generally; “telecommunications services” defined. The Maine Service Provider Tax is imposed on the value, among other things, of telecommunications services and ancillary services sold in this state. Value is measured by the sale price, which includes any services that are part of a sale.

Sales of telecommunications services to another telecommunications service provider for *resale* are exempt from tax.

36 M.R.S.A. § 2551(20-A) defines “telecommunications services” as follows:

“Telecommunications services” means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point or between or among points. “Telecommunications services” includes transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether the service is referred to as “Voice over Internet Protocol” services or is classified by the Federal Communications Commission as enhanced or value added. “Telecommunications services” does not include:

- A. *Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser when the purchaser's primary purpose for the underlying transaction is to obtain the processed data or information;*
- B. *Installation or maintenance of wiring or equipment on a customer's premises;*
- C. *Tangible personal property;*
- D. *Advertising, including, but not limited to, directory advertising;*
- E. *Billing and collection services provided to 3rd parties;*
- F. *Internet access service;*
- G. *Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of those services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service as defined in 47 United States Code, Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers as defined in 47 Code of Federal Regulations, Section 20.3;*
- H. *Ancillary services; or*
- I. *Digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ringtones.*

Under the definition of “telecommunications services,” the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point or between or among points, are subject to the Service Provider Tax. This includes basic monthly telephone service as well as long-distance telephone service. The statutory definition makes it clear that “VOIP” service and other computer-processed telecommunications modalities are subject to the Service Provider Tax. (For more on VOIP service, see Paragraph F below.) The statute also makes it clear that the medium by which the information or signal is delivered has no bearing on taxability; therefore, telephone service provided through cable or via satellite is subject to the Service Provider Tax. Mobile telecommunications services are taxable only to customers whose place of primary use is within the State of Maine. (See Section 4 below.)

Note: While the definition of “telecommunications services” excludes the “installation or maintenance of wiring or equipment on a customer’s premises,” the installation, maintenance or repair of telecommunications equipment is separately listed as a taxable service subject to the Maine Service Provider Tax. (See Section 3 below.) The *sale* of telecommunications equipment is subject to Maine Sales Tax, and this may include services that are a part of the sale, such as engineering or design services; see Instructional Bulletin No. 39 (“Sale Price Upon Which Tax is Based”).

B. Taxable ancillary services. While “ancillary services” are excluded from the definition of “telecommunications services,” they are not exempt from the Service Provider Tax. This is because they are listed separately in the statute as a taxable service. “Ancillary service” is defined in part by the statute as “a service that is associated with or incidental to the provision of telecommunication services....” 36 M.R.S.A. § 2551(1-C). Taxable ancillary services include, but are not limited to, the following:

- (1) Conference bridging service. This is a type of vertical service (defined below) that links two or more participants in an audio or video conference call and may include the provision of a telephone number. "Conference bridging service" does not include the telecommunications services used to reach the conference bridge.
- (2) Detailed telecommunications billing service. This means the service of separately stating information pertaining to individual calls on a customer's billing statement.
- (3) Directory assistance. This means the service of providing telephone number or address information, or both, to customers.
- (4) Vertical service. This means a service offered in connection with one or more telecommunications services and offers advanced calling features that allow customers to identify caller and to manage multiple calls and call connections. "Vertical service" includes conference bridging service.
- (5) Voice mail service. This means a service that enables the customer to store, send or receive recorded messages. "Voice mail service" does not include a vertical service that the customer may be required to have in order to use the voice mail service.

C. Taxable itemized charges. All services and/or charges that are part of the sale of telecommunications services are included in the sale price, without deduction for associated costs. Itemized charges that may appear on invoices provided to customers by telephone companies and other telecommunications providers are subject to the Maine Service Provider Tax. Taxable itemized charges include, but are not limited to:

- (1) Call blocking, forwarding & waiting
- (2) Caller ID
- (3) Conference calling
- (4) Local calling surcharge
- (5) Operator assisted calls
- (6) Paging
- (7) Pay-per-call service (900 and some 800)
- (8) Private network charge
- (9) Local Number Portability charge
- (10) Roaming charge
- (11) Data transfer charge
- (12) Service initiation charge (sometimes called "installation" charge)
- (13) State of Maine subscriber line charge or end-user common line charge, sometimes called the "FCC Ordered Access Charge" or some other term (allowed by FCC to enable local telephone companies to recover a portion of their costs of completing long-distance calls on their local networks)
- (14) Primary Interexchange Carrier ("PIC") charge
- (15) Speed dialing

- (16) Teleconferencing
- (17) Three-way calling
- (18) Touchtone service
- (19) Voice messaging
- (20) Text messaging (see Section 4, Paragraph D below)
- (21) Early termination fee
- (22) Single bill fee (monthly fee charged for combining local and long distance charges onto one bill)
- (23) Any other charge by the provider used to recoup the providers' expenses that are part of the sales price of telecommunications services, and that are not expressly listed below as a "nontaxable service and charge."

D. Nontaxable services and charges. The following separately identified services, charges and fees are not subject to the Maine Service Provider Tax:

- (1) Internet access charges
- (2) Long-distance access charges from one carrier to another in order to purchase telecommunications for resale
- (3) Certain "bundled" charges related to internet access and covered by the Internet Tax Freedom Act (see Paragraph E below)
- (4) Directory advertising services (yellow pages, etc.)
- (5) Sale of unbundled network elements for use in the provision of telecommunications services (generally these are sales between telecommunication companies)
- (6) Late payment charges and returned check fees
- (7) Lease of telecommunications equipment (lease/rental payments)
- (8) Lifeline surcharge (billed to recover costs of providing Lifeline service to certain low-income consumers)
- (9) Mobile telecommunications services provided by a home service provider to a customer whose place of primary use is not within this State (see Section 4 below)
- (10) Access services sold by a local exchange carrier to an interstate or intrastate exchange carrier. If the carrier passes the cost of the access services to an end user, the value of this cost is part of the taxable sale price to the end user.
- (11) Telecommunications relay service (TTY charge passed on to all customers to help subsidize the cost of TTY equipment)
- (12) Federal and State taxes

- (13) The following fees and surcharges:
- a. Maine Telecommunications Education Access Fund (MTEAF) surcharge (sometimes termed “School and Library Fund surcharge”)
 - b. Maine Universal Service Fund (MUSF) surcharge
 - c. ConnectMe Fund surcharge
 - d. E-911 surcharge or service fee
 - e. Federal Universal Service Fund or “Universal Connectivity” surcharge

E. Bundled plans. The federal Internet Tax Freedom Act (47 USC § 151, sub-§ 1106) establishes an accounting rule whereby if charges for internet access are aggregated with and not separately stated from charges for telecommunication services or other taxable charges, they may be subject to state taxation unless the internet access provider (which may be a telecommunications provider) can “reasonably identify the charges for internet access from its book and records kept in the regular course of business.” Therefore, in the case of a “bundled” plan, internet access is not subject to the Service Provider Tax if the provider can meet the accounting rule stated above.

F. Voice over Internet Protocol. As noted in Section 1 above, voice over internet protocol (“VOIP”) service is subject to the Service Provider Tax. A charge to a customer for a service provider’s cost components of the sale of VOIP internet telephone service is part of the consideration for the telecommunication service.

- (1) VOIP service that includes connecting the call to a non-internet telephone via a publicly switched telephone network is also a sale of telecommunications service subject to the Service Provider Tax.
- (2) A “sale” in Maine of VOIP internet telecommunications services occurs when either the contract for services is executed in Maine or the service is billed to a customer in Maine, and any part of the services are provided in Maine, including when a customer places or receives a VOIP call in Maine (but note that the sale may still be exempt; see Section 2 below).

2. EXEMPTIONS

The statute provides a number of exemptions from the Service Provider Tax. The exemptions discussed in Paragraphs A and B below have relevance only to the sale of telecommunications services.

A. Interstate and international calls. The sale of interstate and international telecommunications service, when sold to a business for use directly in that business, is exempt from the Service Provider Tax. “Interstate telecommunications service” means a telecommunications service that originates in one state, territory or possession of the United States and terminates in a different state, territory or possession of the United States. “State” includes the District of Columbia. “International telecommunications service” means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. For purposes of these provisions, “United States” includes the District of Columbia and a territory or possession of the United States; and “business” means a commercial activity engaged in as a means of livelihood or profit or an entity that engages in such activities.

B. Prepaid calling service. The sale of prepaid calling service, including the sale or recharging of calling cards, is exempt from the Maine Service Provider Tax, but is subject to the Maine Sales and Use Tax. The Sales and Use Tax Law defines “prepaid calling service” and explains when prepaid service is taxable in Maine as follows:

“Prepaid calling service” means the right to access exclusively telecommunications services that must be paid for in advance that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed, and that is sold in predetermined units or dollars, the number of which declines with use in a known amount. The sale or recharge of the service is considered a sale within the State if the transfer for consideration takes place at the vendor's place of business in the State. If the sale or recharge of prepaid calling service does not take place at the vendor's place of business, the sale or recharge is deemed to take place at the customer's shipping address, or if there is no item shipped, at the customer's billing address or the location associated with the customer's mobile telephone number. The sale of the service is deemed to occur on the date of the transfer for consideration of the service. 36 M.R.S.A. § 1752 (8-B).

C. Other exemptions. The law provides for the exemption from the Service Provider Tax of sales to certain persons of telecommunications services and other taxable services (including the installation, maintenance and repair of telecommunications equipment). For a complete list of exemptions, see 36 M.R.S.A. § 2557. For a discussion of the exemption for sales for resale, see Section 5 below.

3. INSTALLATION, MAINTENANCE AND REPAIR

A. Generally. The service of installation, maintenance or repair of telecommunications equipment is subject to the Service Provider Tax (but not subject to the Sales and Use Tax). The statute defines “telecommunications equipment” as follows:

“Telecommunications equipment” means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. “Telecommunications equipment” includes all transmission media that are used or capable of being used in the provision of 2-way interactive communications, including, without limitation, copper wire, coaxial cable and optical fiber, except those transmission media designed and primarily used to transmit electricity. “Telecommunications equipment” does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information. 36 M.R.S.A. § 2551(19)

Charges for the service of installation, maintenance or repair of telephones, telephone systems, facsimile machines, modems, two-way radios and intercom systems is subject to the Service Provider Tax; this includes a wire maintenance plan charge covering the line between the carrier's line and the jack in the customer's home or place of business. It also includes charges by a contractor engaged by a telecommunications carrier to perform installation, maintenance or repair work to the carrier's own lines or other infrastructure elements consisting of telecommunications equipment.

Computer networks also contain telecommunications equipment. Although the definition of telecommunications equipment specifically excludes “computers,” items such as wiring, cabling,

modems, switches and other equipment necessary for the operation of the network meet the definition of telecommunications equipment. The service of installation, maintenance or repair of these items is therefore subject to the Service Provider Tax.

The State Tax Assessor takes the position that “telecommunications equipment” does not include home automation systems and security/alarm systems to the extent they do not contain equipment making them capable of 2-way interactive communications. If they do include telecommunications equipment, the service of installation, maintenance and repair for that equipment (but not for the system as a whole) is subject to Service Provider Tax.

B. Bundled transactions. Contractors who install or repair telecommunications equipment, including fiber optic, coaxial cable and copper wire, may be hired to perform tasks other than, or in addition to, the installation or repair of the telecommunications equipment. Some of the tasks are not taxable as installation, maintenance or repair services (labor to install a telephone pole) while other tasks are (labor to lash a cable to the support strand). In a bundled transaction consisting of both taxable and non-taxable services for a single, lump sum amount, the entire amount is taxable because it contains taxable components. For example, if the customer is billed a lump sum amount for installing support strand and fiber, that entire amount is taxable unless the price charged for each service is evident from the books and records of the seller. If each task is billed separately, only the charges associated with the installation, repair or maintenance of telecommunications equipment and any other taxable components are taxable.

C. Services that are part of a sale. “Sale price” includes charges for any services that are a part of the sale of a taxable service. Thus with respect to a contract for the installation, repair or maintenance of telecommunications equipment, the sale price could include more than the direct labor involved.

Generally, line item charges for the service of installation, repair or maintenance of telecommunications equipment, or that allow for the delivery of such a service, are services that are a part of the sale. For example, if a contract is for the installation of new fiber optic cable in existing conduit, and the contract includes line item charges for manhole access or digging a trench to access the conduit, renting a trencher and labor for a flag person, the line item charges are services that are part of the sale of installing the fiber optic, and are included in the taxable sale price. It is immaterial that these charges are separately stated or that the services would be nontaxable if sold in an unrelated contract.

D. Taxable vs. Nontaxable Services. Only the installation, maintenance or repair of telecommunications equipment as defined in 36 M.R.S.A. § 2551(19) is subject to the Service Provider Tax. The sale price of this service would also include any services associated with the installation, maintenance or repair service. Installation of non-telecommunications equipment used to support or contain telecommunications equipment, such as conduit, poles and support strand, along with services associated with that installation, such as brush clearing and trenching, would not be considered services in connection with the installation of telecommunications equipment. For example, if a contract is for the installation of standard telephone poles, support strand and the installation of coaxial cable on those poles, the installation of the poles is nontaxable (if separately stated from the sale of the poles), installation of the support strand is nontaxable (if separately stated from the sale of the support strand) and the installation of the coaxial cable is taxable. Services provided in connection with the installation of the telephone poles or support strand, such as site work and installation of poles, guy wires, and support strand would be nontaxable while services

provided in connection with the installation of the cable, such as installation of slack shoe, installation of splice enclosure and lashing to new support strand, would be taxable. Similarly, if a contract is for the installation of both new conduit and the installation of fiber optic cable in the conduit, charges for placing the conduit are nontaxable (if separately stated from the sale of the conduit) and the installation of the fiber optic cable is taxable. Services provided in connection with placing the conduit, such as site work, would be nontaxable while services provided in connection with the installation of the cable, such as pulling the cable through the conduit, would be taxable. And similarly, if a contract is for the installation of a tower and installation of an antenna on the tower, the installation of the tower, including site work, is nontaxable and the installation of the antenna is taxable.

E. Wiring and cables. Since telecommunications equipment includes signal transmission media “*used or capable of being used*” in telecommunications, the installation, maintenance and repair of wiring and cables - including copper wire, coaxial cable, optical fiber, and category 5 & 6 wiring - may also be subject to the tax. All electricians and contractors doing business in Maine should be aware of this fact.

If the person that installs the product knows or has reason to know at the time of installation that the product will be used in providing telecommunications services, the installation service is taxable; if the installer knows that the product will be used only to transmit electricity, the installation service is not taxable. (The term “electricity” is used in the sense of transmitting or distributing electrical power primarily in non-telecommunications activities.) If the person that installs the product does *not* know or have reason to know at the time of installation the use to which the product will be put, and the product is *capable* of being used in telecommunications, the installation service is taxable.

Installation, maintenance or repair of items that are clearly not related to telecommunications are not taxable. This includes but is not limited to items such as lighting fixtures, garage door openers, HVAC systems, doorbells/buzzers, and smoke/motion detectors.

The burden of proof that a transaction is exempt is upon the seller of the installation, maintenance, or repair service. Persons engaged in providing such services must maintain proper documentation to support any exemptions claimed. Absent such documentation, the entire installation is presumed to be taxable. Examples of documentation include, but are not limited to, contracts, blueprints and work orders.

Examples:

1. A company is hired to install coaxial cable throughout an apartment building for the specific purpose of enabling the tenants to receive cable television. Cable TV service permits 2-way interactive communication between the receiver and the service provider and also supports telephone and internet service. The installation of this coaxial cable is subject to the Service Provider Tax.
2. A company is hired to wire a house for a telephone system. The company that runs the wiring does not install the telephone system, but has every reason to believe that telephonic devices will ultimately be connected to the wires and used in telecommunications. The installation of the wire is subject to the Service Provider Tax.
3. An electrician is hired to run wiring through an office building, including coaxial cable, telephone wire, and category 5 wiring. The wiring is run in such a manner that it would be

likely and practical that a user of the building would connect telecommunications equipment to the wiring. The electrician is not told what devices will be connected to the wiring. The installation of this wiring is subject to the Service Provider Tax.

4. An electrician is hired to install wires and cables in an existing home. Three wires are installed, an electrical wire, a telephone wire, and a coaxial cable to be used for high-speed internet access. If the electrician does not itemize the labor, all the installation is taxable. If the electrician does itemize, the installation is taxable on the taxable components.

5. The installation, repair or maintenance of copper wire that will be used to provide electricity to an electrical receptacle is not taxable. The same is true for installation, repair or maintenance of copper wire that will be used to provide electricity to an electrical receptacle into which a computer will be plugged; although the computer may be used in two-way communications, this wiring falls into the exception for transmission media used primarily to transmit electricity, regardless of what equipment is ultimately plugged into the receptacle.

6. A security company runs wiring from a video camera to a video recorder or monitor. The tax does not apply to the installation, repair or maintenance of this wiring, unless the security system incorporates a modem, telephone wire and telephone jacks, in which case the labor associated with those items is taxable. Service providers should be sure to itemize bills in any situation of this type in order to avoid being assessed tax on the cost of the entire job.

7. A company installs a security system that is linked to the building's telephone system. The labor to install the telecommunications equipment (modem, wires, jacks, switches) is taxable, but the installation of the wiring for the security system components (cameras, recorders, detection devices, etc.) is exempt.

8. Wiring and cables are installed to connect a control room to a piece of manufacturing equipment that produces widgets for sale. Even if audio, video, data or textual information signals or data are sent back and forth between the manufacturing equipment and the control room, the installation, repair or maintenance of this wiring is not subject to Service Provider Tax because the wiring and cables are considered part of the manufacturing process.

9. The installation, repair or maintenance of wiring for one-way voice evacuation systems, mass notifications systems or emergency communications systems (to the extent they are one-way) are not subject to tax.

F. Maintenance agreements. Periodic fees paid pursuant to a maintenance agreement for telecommunication equipment are subject to the Service Provider Tax.

G. Computer equipment; mobile equipment. "Telecommunications equipment" does not include computers or most computer equipment, but does include modems and other computer components used directly and primarily as a two-way interactive communications device capable of exchanging audio, video, data or textual information. "Telecommunications equipment" also includes cellular telephones and other mobile telecommunications equipment.

H. Multi-functioning equipment. For multi-functioning equipment, only the service to install, maintain or repair the telecommunications equipment portion of the item is subject to the Service Provider Tax. For example, with a fax/printer/copier combined unit, only the charge for installing, maintaining or repairing the modem is subject to tax.

I. Utility poles. Utility poles do not constitute “telecommunications equipment” for purposes of the Service Provider Tax. Therefore, charges for installing such poles are not subject to the Service Provider Tax. However, the installation of telecommunications equipment to utility poles is taxable.

J. Sales to exempt entities. Sales of otherwise taxable installation or repair services made directly to entities that are exempt from Service Provider Tax under 36 M.R.S.A. § 2557 are exempt, provided that the services (i.e., the equipment installed or repaired) are to be used primarily in the activity identified by the exemption. Except in the case of sales to a governmental entity or agency, in order to claim the exemption, the contractor should obtain a copy of the exempt entity’s exemption certificate.

K. Sales of tangible personal property that is not telecommunications equipment. A telecommunications contractor may sell tangible personal property in connection with its services. Sales of tangible personal property are subject to sales or use tax unless: (1) the property is purchased for resale; (2) a specific exemption applies; or (3) the property is installed by the contractor and, upon installation, the property becomes a part of the real property of the customer. The exemptions from Sales Tax are set forth in 36 M.R.S.A. § 1760. Charges for installation of the tangible personal property sold are taxable unless separately stated on the invoice or in the books and records of the vendor. As a result, a charge for the installation of tangible personal property that is not separately stated from the price for the sale of that property may be subject to Sales Tax even if the installation is not taxable under the Service Provider Tax. See Instructional Bulletin Number 4 (“Contractors and Subcontractors”) for further discussion of the application of Sales Tax to contractors.

4. MOBILE TELECOMMUNICATIONS

A. Generally. Maine’s taxation of mobile telecommunications is designed to comply with the federal Mobile Telecommunications Sourcing Act. The Maine Service Provider Tax therefore applies to wireless calls billed to a customer whose place of primary use is in this State, to the extent those services are associated with transmissions that originate and terminate within this State or within any other state; for this purpose, the term “state” includes the District of Columbia and any territory or possession of the United States. There may also be some charges imposed upon mobile phone customers that may not apply to “landline” phones, such as text messaging; such charges are also telecommunication services subject to the Maine Service Provider Tax. Otherwise, the taxable telecommunication services for mobile telephones are the same types of services that are taxed in the case of “landline” equipment.

B. Place of Primary Use. “Place of primary use” is defined in 36 M.R.S.A. § 2551(8). The term generally means either the residential street address or the primary business street address of the customer. The place of primary use must be located within the licensed service area of the home service provider. See 36 M.R.S.A. § 2556, which sets out the sourcing rules for mobile telecommunications services.

C. Bundled sale of mobile telephone “plans.” The law provides that otherwise nontaxable charges that are aggregated with and not separately stated from taxable mobile telecommunications charges are subject to taxation unless the home service provider can, to the satisfaction of the assessor, reasonably identify such charges from books and records kept in the regular course of its business. However, a line-item charge for internet access is not subject to the Service Provider Tax if the provider can meet the accounting rule set forth in the federal Internet Tax Freedom Act (see the discussion of bundled plans in Section 1, Paragraph E above).

D. Related products and services. Charges for text messaging service are taxable under the Service Provider Tax as an “ancillary service.” Digital products delivered or downloaded to a cellular telephone electronically, including music, video, text or ringtones are not subject to the Service Provider Tax, but are subject to the Sales and Use Tax. The sale of cellular telephone accessories, such as phone cases and headsets, is also subject to the Maine Sales and Use Tax.

E. Telephone provided as part of service contract. When a cellular telephone is provided by a mobile telecommunications provider to a customer as part of the service contract without a separately stated cost, the price of the telephone is considered a part of the sale price of the contract, and the Service Provider Tax applies to the entire contract price, with no Sales and Use Tax being due on the telephone.

F. Mobile telecommunication towers. Mobile communication towers do not constitute “telecommunications equipment” for purposes of the Service Provider Tax. Therefore, charges for installing such towers are not subject to the Service Provider Tax. However, the installation of telecommunications equipment to such towers is taxable.

5. SALES FOR RESALE

Charges for the sale of telecommunications services by one telecommunications provider to another when the services are going to be resold to consumers are exempt from the Service Provider Tax. For example, when Carrier A purchases digital subscriber line (“DSL”) from Carrier B, and then Carrier A sells that DSL to its customers or uses it to provide internet access to its customers, the original sale to Carrier A is a sale for resale that is not subject to tax.

Sales for resale of installation, maintenance or repair of telecommunications equipment are also exempt from the Service Provider Tax. When a telecommunications provider contracts with an independent contractor or with another telecommunications provider to perform installation or repair work on telecommunications equipment (including cable home installation service), and these installation or repair charges are intended to be resold to a final customer (and subject to the Service Provider Tax), the transaction between the telecommunications provider and the contractor is considered a purchase for resale and is not subject to the tax. Likewise, charges for telecommunication line services that are intended to be resold by a telecommunications company to a final customer are not subject to the Service Provider Tax. Finally, contractors may be hired to perform services that are purchased by their customers for resale. A contractor may be hired as a subcontractor by a prime contractor to provide services that the prime contractor has agreed to provide to a telecommunications service provider or another contractor. In such situations, the prime contractor is purchasing the subcontractor’s services for resale. However, when a contractor is engaged by a telecommunications carrier to perform installation or repair work to telecommunications equipment (including lines) in support of the carrier’s infrastructure, the Service Provider Tax must be charged, even if the carrier passes on the cost of that work to its

customers; see Section 3 of this bulletin above.) The burden is on the contractor to prove that the sale is for resale. A contractor should obtain a resale certificate from its customer if the purchase is for resale; a resale certificate satisfies the burden of proof unless the contractor has reason to know that it is not valid (that is, knows that the purchase is not for resale).

6. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the Sales, Use and Service Provider Tax Law faced by your business. It is not intended to be all-inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to:

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Issued: June 12, 2009

Last Revised: January 1, 2016

(Published under Appropriation 010-18F-0002-07)



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION

RESALE AUTHORIZATION FOR SERVICES SUBJECT TO MAINE SERVICE PROVIDER TAX

IT IS HEREBY CERTIFIED: That _____ (“Provider”) holds a valid Maine Service Provider Registration No. _____ issued pursuant to 36 M.R.S.A. § 2553 and is in the business of selling telecommunications services and/or ancillary services; and that the services purchased from _____ will be resold in the ordinary course of business. These services when resold by the above named provider will be subject to the Maine Service Provider Tax, unless such sale is otherwise exempted pursuant to 36 M.R.S.A. § 2557.

I understand that if the services are not resold but are instead used by the provider for its own purposes, the provider will be held liable for the Service Provider Tax.

I HEREBY CERTIFY THAT: I am an authorized representative of

Purchaser _____
Address _____

Signature _____
Title _____
Date _____