



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION GENERAL INFORMATION BULLETIN

August 27, 2024

NO. 114

This bulletin contains important information about legislation enacted during the Second Regular Session of the 131st Legislature and other recent developments that affect everyone who reports Maine sales, use, service provider, and other special taxes. **Please read it carefully.** The changes contain a variety of effective dates and apply to sales occurring on or after the applicable effective dates.

What you will find in this publication:

SALES AND USE TAX

- ❖ Shift to “Lease Stream” Sales Taxation of Rentals of Tangible Personal Property
- ❖ Sourcing for Leased and Rented Tangible Personal Property
- ❖ Limited Refund Period for Sales and Use Tax Previously Paid by Qualified Lessors
- ❖ Short-term Rentals of Trucks and Vans Rented From a Person Primarily Engaged in the Business of Renting Automobiles
- ❖ New Sales Tax Exemption for Sales to Nonprofit Organizations

SERVICE PROVIDER TAX

- ❖ Medical Services Taxable Under Service Provider Tax Repealed

HOSPITAL TAX

- ❖ Definition of “Hospital” Changed
- ❖ Hospital Tax Return Due November 15, 2024

TOBACCO PRODUCTS TAX

- ❖ Definition of “Tobacco Products” Amended

ADDITIONAL RESOURCES

Maine Revenue Services (MRS) www.maine.gov/revenue
Laws and Rules www.maine.gov/revenue/rules/homepage.html
Sales Tax Website www.maine.gov/revenue/taxes/sales-use-service-provider-tax
Email sales.tax@maine.gov

Sales and Use Tax



SHIFT TO “LEASE STREAM” SALES TAXATION OF RENTALS OF TANGIBLE PERSONAL PROPERTY

36 M.R.S. §§ 1752(5-D), (5-E), (10), (13)
EFFECTIVE JANUARY 1, 2025

Beginning January 1, 2025, the imposition of sales tax on leased or rented tangible personal property will shift to impose the sales tax on each periodic lease or rental payment paid by the lessee. Current law requires the lessor to pay tax upfront on the full value of the lessor’s purchase price of the property being leased or rented.

Beginning January 1, 2025, lessors should purchase lease or rental property tax-free by presenting their resale certificate. Lessors are required to charge and collect sales tax from the lessee on each individual lease or rental payment on all tangible personal property leased or rented on or after January 1, 2025, including leases and rentals that commenced prior to January 1, 2025. Each time period for which a lease or rental payment is charged is considered a separate sale.

To facilitate this shift:

A definition of “lease or rental,” which includes both “lease” and “rental,” was enacted to mean “any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase the property or extend the lease or rental.” 36 M.R.S. § 1752(5-D). The term also includes subleases and subrentals. “Lease or rental” excludes:

- Leases in lieu of purchase (already considered “sales” for sales tax purposes), e.g., a lease with an option to purchase the leased property for \$1.00 or other nominal consideration;
- Agreements transferring possession or control of tangible personal property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
- Agreements providing tangible personal property along with an operator necessary for the property to perform as designed when the operator does more than maintain, inspect, or set up the property; and
- The lease or rental of video media and video equipment, and the lease or rental of furniture, audio media and audio equipment pursuant to a rental-purchase agreement, which are both currently subject to the Service Provider Tax.

A definition of “lessor” was enacted to mean “a person who leases or rents tangible personal property located in this State to another person.” 36 M.R.S. § 1752(5-E). The definition of “retailer” was amended to include a lessor. 36 M.R.S. § 1752(10).

The definition of “sale” was amended to include “leases and rentals, conditional sale contracts and any contract under which possession of the property is given to the purchaser but title is retained by the seller as security for the payment of the purchase price.” 36 M.R.S. § 1752(13). The definition of “sale” was also amended to provide that “[e]ach time period for which a lease or rental payment is charged is considered a separate sale.” (P.L. 2023, c. 643; P.L. 2023, c. 673)



SOURCING FOR LEASED AND RENTED TANGIBLE PERSONAL PROPERTY

36 M.R.S. § 1819

EFFECTIVE JANUARY 1, 2025

The sales tax sourcing law has been amended by enacting three new sourcing provisions for leases or rentals of: (1) tangible personal property; (2) motor vehicles, trailers, semitrailers, truck campers or aircraft; and (3) “transportation equipment” used in interstate commerce.

Tangible personal property other than motor vehicles, trailers, etc., and “transportation equipment”
Leases or rentals of tangible personal property are sourced differently depending on whether the lease requires recurring periodic payments (e.g., monthly). If the lease or rental requires recurring periodic payments, the first payment is sourced according to 36 M.R.S. § 1819(2) and every subsequent payment is sourced to the “primary property location.”

For the purposes of sourcing sales, “primary property location” is “an address for the property provided by the lessee that is available to the lessor from its records and maintained in the ordinary course of business, when use of this address does not constitute bad faith. The primary property location is not altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.”

A lease or rental of tangible personal property that does not require recurring periodic payments is sourced in the same manner as a sale of tangible personal property under 36 M.R.S. § 1819(2).

Motor vehicles, trailers, semitrailers, truck campers, or aircraft

Leases or rentals of motor vehicles, trailers, semitrailers, truck campers, or aircraft are also sourced differently depending on whether the lease requires recurring periodic payments. If the lease or rental requires recurring periodic payments, every payment is sourced to the “primary property location.” A lease or rental that does not require recurring periodic payments is sourced in the same manner as a sale of tangible personal property under 36 M.R.S. § 1819(2).

Transportation equipment

“Transportation equipment” means locomotives and railcars; trucks and truck tractors with a gross vehicle weight rating greater than 10,000 pounds, trailers, semitrailers, or passenger buses that are

registered through the International Registration Plan and operated under authority of a carrier authorized and certificated by the United States Department of Transportation; aircraft; and containers and/or component parts attached to or secured onto any of the listed “transportation equipment,” when the vehicle is engaged in interstate commerce. All sales, including leases or rentals, of “transportation equipment” are sourced in the same manner as a sale of tangible personal property under 36 M.R.S. § 1819(2). **(P.L. 2023, c. 643; P.L. 2023, c. 673)**



**LIMITED REFUND PERIOD FOR SALES AND USE TAX PREVIOUSLY PAID BY
QUALIFIED LESSORS**

36 M.R.S. § 2022

EFFECTIVE JANUARY 1, 2025

Refund Application Period Begins January 1, 2027

A “qualified lessor” – defined to mean a person who paid Maine sales or use tax on the purchase of qualifying lease or rental property on or after January 1, 2023, and before January 1, 2025, and who subsequently collected and remitted Maine sales or use tax on the lease or rental of that property on or after January 1, 2025 – may request a refund on or after January 1, 2027, and before March 31, 2027, of the sales or use tax paid by the qualified lessor on the qualifying lease or rental property. The refund is limited to the Maine sales or use tax collected and remitted to Maine by the qualified lessor on the qualifying lease or rental property on or after January 1, 2025, and before January 1, 2027. **(P.L. 2023, c. 643; P.L. 2023, c. 673)**



**SHORT-TERM RENTALS OF TRUCKS AND VANS SUBJECT TO 5.5% SALES TAX
RATE**

36 M.R.S. § 1811(1)(D)

EFFECTIVE JANUARY 1, 2025

Prior to January 1, 2025, the rental of a truck or van with a gross vehicle weight rating of less than 26,000 pounds when rented from a person primarily engaged in the business of renting automobiles is subject to the 10% sales tax rate. Beginning January 1, 2025, rentals for a period of less than one year of trucks and vans with a gross vehicle weight rating of less than 26,000 pounds will be subject to the general 5.5% sales tax rate, regardless of the person from whom the vehicle was rented. The 10% sales tax rate is still imposed on rentals of automobiles and certain loaner vehicles for periods of less than one year. **(P.L. 2023, c. 643; PL 2023, c. 673)**

New Exemption



NEW SALES TAX EXEMPTION FOR SALES TO NONPROFIT ORGANIZATIONS
36 M.R.S. § 1760(115)
EFFECTIVE JANUARY 1, 2025

Beginning January 1, 2025, the law will provide a sales tax exemption for sales to nonprofit organizations that have been determined by the Internal Revenue Service to be exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, if the tangible personal property or taxable services sold are to be used primarily for the purposes for which the nonprofit organization was organized. Before making exempt purchases, organizations must receive an exemption certificate from MRS, the application for which will be available online and through the Maine Tax Portal before January 1, 2025. **(P.L. 2023, c. 643)**

Service Provider Tax



MEDICAL SERVICES TAXABLE UNDER SERVICE PROVIDER TAX REPEALED
Title 36, c. 358
EFFECTIVE JANUARY 1, 2025

For sales occurring on or after January 1, 2025, the Service Provider Tax (SPT) is repealed on sales of the following services: (1) private nonmedical institution services; (2) community support services for persons with mental health diagnoses; (3) community support services for persons with intellectual disabilities or autism; (4) home support services; and (5) group residential services for persons with brain injuries. **(P.L. 2023, c. 412)**

Hospital Tax



DEFINITION OF “HOSPITAL” CHANGED
36 M.R.S. § 2891(1)
EFFECTIVE AUGUST 9, 2024

Beginning January 1, 2025, “critical access hospitals” are excluded from the definition of “hospital” for the purposes of the Hospital Tax. **(P.L. 2023, c. 643)**



HOSPITAL TAX RETURN DUE NOVEMBER 15, 2024

36 M.R.S. § 2893(2-A)

EFFECTIVE AUGUST 9, 2024

The 2024-2025 Hospital Tax Return and first payment, due November 15, 2024, with the second payment due May 15, 2025, will have the following requirements:

- (1) For all hospitals, including critical access hospitals, the Hospital Tax payment due with the Hospital Tax return required to be filed on or before November 15, 2024, the hospital is required to pay 2.23% of the hospital's net operating revenue as identified in the hospital's audited financial statement for the hospital's fiscal year that ended during calendar year 2020, multiplied by one-half;
- (2) For certain hospitals, excluding critical access hospitals, the Hospital Tax payment due on or before May 15, 2025, is 3.25% of the hospital's net operating revenue as identified in the hospital's audited financial statement for the hospital's fiscal year that ended during calendar year 2022, multiplied by one-half;
- (3) For a facility licensed as a psychiatric hospital by the Maine Department of Health and Human Services pursuant to Title 22, Sec. 1817, the Hospital Tax payment due on or before May 15, 2025, is 2.23% of the hospital's net operating revenue as identified in the hospital's audited financial statement for the hospital's fiscal year that ended during calendar year 2022, multiplied by one-half.

Effective August 9, 2024. (P.L. 2023, c. 643)

Tobacco Products Tax



DEFINITION OF "TOBACCO PRODUCTS" AMENDED

36 M.R.S. § 4401(9)

EFFECTIVE AUGUST 9, 2024

The definition of "tobacco products" was amended to include "any products that are made from or derived from tobacco, or that contain nicotine, whether natural or artificial." All products containing artificial nicotine or tobacco-derived nicotine that are intended for human consumption or are likely to be consumed are subject to the Tobacco Products Tax and subject to the Tobacco Products Tax rate based on its form, either as a smokeless tobacco product or an "other" – e.g., "smoking" – tobacco product. (P.L. 2023, c. 613)