



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

GENERAL INFORMATION BULLETIN

June 1, 2014

NO. 104

This bulletin contains important information about recent developments and issues that affect everyone who reports Maine sales 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.

In this issue:

Certain adaptive equipment
Free publications and inserts to publications
Products transferred electronically
Commercial farming
Commercial fishing
Commercial windjammers

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.

CERTAIN ADAPTIVE EQUIPMENT

NEW EXEMPTION
36 M.R.S. § 1760(95)

A new sales tax exemption applies to sales of adaptive equipment sold for installation in or on a motor vehicle to make that vehicle operable or accessible by a person with a disability who is issued a disability plate or placard by the Secretary of State pursuant to Title 29-A, section 521. The purchase must be made by or at the request of the person with the disability. The exemption applies to sales made on or after July 1, 2014. (*P.L. 2013, c. 442*)

The exemption applies only to the sale of adaptive equipment to be installed in or on a motor vehicle. The exemption does not apply to the sale of a motor vehicle that will be or has been modified with adaptive equipment.

Retailers making such tax exempt sales must obtain from the purchaser a copy of a properly completed affidavit to document and support treating a transaction as exempt. An "Affidavit For Purchase of Adaptive Equipment" is available online at <http://maine.gov/revenue/forms/sales/salesforms.htm>.

When a retailer sells a motor vehicle and also provides the service of installing adaptive equipment prior to making delivery to the customer, the value of the adaptive equipment must be

separately stated from the value of the motor vehicle on the billing invoice to the customer in order for the sale to qualify for the exemption. If the value of the exempt equipment is not separately stated, but invoiced as one bundled price, the entire amount charged to the customer is taxable.

FREE PUBLICATIONS AND INSERTS TO PUBLICATIONS

NEW EXEMPTION

36 M.R.S. § 1760(14-A)

FOLLOW UP TO NEWS IN LAST ISSUE

Sales of all publications became subject to sales tax on October 1, 2013. Subsequently, the Legislature enacted a new exemption for purchases of “free” publications and inclusions within publications, which has a retroactive effective date of October 1, 2013. As of October 1, 2013, any publication that is purchased for distribution without charge as a free publication is exempt from sales tax. A publication is defined in the enacting legislation as “*printed paper material, including without limitation newspapers, magazines and trade journals and employee, client and organization newsletters, issued at average intervals not exceeding 3 months that manifests a continuity of identity from issue to issue by a front page masthead bearing the name, date, volume and issue number of the publication and by a continuity of style, format, themes and subject matter. For purposes of this subsection, ‘publication’ does not include printed paper materials consisting primarily of advertisements or the promotion of a single seller’s products or services.*” In addition, printed paper materials, including advertising flyers and promotional materials, purchased for inclusion in a publication are also exempt. (*P. L. 2013 c. 564*)

Retailers making such tax exempt sales must obtain from the publisher a copy of a properly completed affidavit to document and support treating a transaction as exempt. An “Affidavit for Purchases of Free Publications and Inserts to Publications” is available online at <http://maine.gov/revenue/forms/sales/salesforms.htm>. Publishers who have paid sales tax on qualifying publications or inserts to publications since October 1, 2013, may apply for a refund of sales tax paid on such purchases. A Sales Tax Refund Application can be found on the Maine Revenue Services website at <http://maine.gov/revenue/forms/sales/salesforms.htm>.

Sales Tax Instructional Bulletin No. 17 (“Printers and Publishers”) has been updated to reflect these changes and can be viewed online at <http://maine.gov/revenue/salesuse/salestax/bulletinssales.htm>.

OTHER LEGISLATIVE CHANGES

PRODUCTS TRANSFERRED ELECTRONICALLY

36 M.R.S. § 1752(17)

Sales of products transferred electronically are subject to sales tax. A “product transferred electronically” is a digital product transferred to the purchaser electronically that would otherwise be taxable as a sale of tangible personal property had it been transferred in a physical format. Maine law was amended during the last legislative session by Chapter 368 to clarify the longstanding Maine Revenue Services interpretation of the sales tax law that a product is subject to sales tax, whether provided to the customer in a tangible or electronic form. For

example, a paperback book and an e-book are treated the same for sales tax purposes. The law was further amended this legislative session to clarify that “tangible personal property” includes a product transferred electronically. (*P. L. 2013 c. 546*)

EXEMPTION CARDS EXPIRING
COMMERCIAL FISHERMEN
COMMERCIAL FARMERS
COMMERCIAL WINDJAMMER OPERATORS

Persons engaged in commercial fishing, commercial farming, or the operation of a commercial windjammer are allowed to make certain tax exempt purchases at retail locations using an exemption card issued by Maine Revenue Services. Retailers making tax exempt sales to those persons engaged in these commercial activities must obtain a copy of each purchaser’s exemption card and a properly completed exemption affidavit to document and support treating any transaction as exempt. Retailers must also clearly mark the sales invoice as tax exempt. The current exemption cards will expire June 30, 2014. Current cardholders are required to reapply with Maine Revenue Services to renew their exemption card. New exemption cards will be valid until June 30, 2018.

Retailers must obtain copies of new, updated exemption cards from their customers to properly document exempt sales to those customers after June 30, 2014.

As a reminder:

- Commercial fishermen may purchase depreciable machinery and equipment, electricity, and fuel used in a commercial fishing vessel exempt from sales tax.
- Commercial farmers may purchase depreciable machinery and equipment, and electricity exempt from sales tax, but not fuel.
- Commercial windjammer operators may purchase tools, parts and supplies for use in the operation, repair or maintenance of a windjammer, including fuel.

The application for an exemption certificate and the relevant exemption affidavits are both on the Maine Revenue Services website at: <http://www.maine.gov/revenue/forms/sales/salesforms.htm>.

The Maine Revenue Services website also has a number of helpful Instructional Bulletins and Rules related to these commercial activities that retailers may wish to review. Sales Tax Instructional Bulletins can be found at <http://maine.gov/revenue/salesuse/salestax/bulletinssales.htm>. Maine Revenue Services Rules can be found at <http://maine.gov/revenue/rules/homepage.html>.