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Informational Notice on Publications

Maine Revenue Services (“MRS”) provides this guidance for taxpayers engaged in the sale of publications in Maine. Effective October 1, 2013, the sales tax exemption for “publication[s] regularly issued at average intervals not exceeding 3 months” is repealed. Sales of publications will become subject to a 5.5% sales tax.

Taxable Sales

Publications include, but are not limited to, magazines, newspapers (including inserts to newspapers), comic books, puzzle books, tabloids, advertising magazines, newsletters, bulletins and advertising material packaged for mail distribution as a publication. All sales of publications, regardless of where the publication is produced, whether sold over-the-counter or sold for home delivery, are taxable. (See exempt sales below for certain exempt transactions.)

Sales of publications to hotels for the purpose of providing a complimentary copy to their guests are taxable. Hotels cannot claim an exemption for resale since the hotel is giving these publications away.

Consignment Sales

When a retail store sells a newspaper, the retail store is responsible for collecting the sales tax and reporting that sale and tax to the State. This is true even if the newspaper was left with the store to be sold on consignment.

Subscription Sales

The sale of a subscription is recognized in the month that the subscription is sold, not on each delivery of the publication. Subscription sales are taxable provided the delivery of the publication occurs in Maine. If the delivery is by carrier to the subscriber’s home in Maine, the publication is taxable. If the delivery is by common carrier (U S Postal Service) and the delivery address is in Maine, the publication is taxable.

If a subscription is sold and the publications are to be delivered out-of-state, the transaction is exempt. The fact that some issues during the subscription may be delivered to a summer address in Maine is immaterial. The flip side would be taxable; such as a Maine resident subscribing with delivery in Maine with some subsequent issues being delivered out-of-state. The taxable status of the subscription is determined at the time the subscription is sold. If initial delivery of the subscription or renewal occurs out-of-state, all issues in that subscription are exempt. If the

initial delivery occurs in Maine, all issues in that subscription are taxable. In situations where the delivery address is unknown, the customer's billing address would determine its tax status.

Cancelled subscriptions

If a customer subscribes, is charged sales tax on the subscription, and later cancels their subscription, there is no refund of the sales tax unless the entire sale price is refunded to the customer. The sales tax law does not provide for a partial refund for the remaining undelivered issues.

Digital Sales

The sale of a digital copy of a publication is taxable provided the publication is downloadable to the subscriber's electronic device. If the subscriber is only allowed to access and view an online version of the publication and has no downloading capability, the subscription is exempt.

Since the point of where the publication is being downloaded may be unknown, the subscriber's billing address would determine if the sale occurs in Maine or not. If the billing address is in Maine, the subscription would be taxable.

Bundled Sales

If a subscription offers both print and online access/view capability (no downloads), the subscription is a bundled sale containing a taxable print copy and an exempt fee for website access and view only. In cases where a bundled transaction contains both taxable and exempt components, the entire amount is subject to sales tax. However, if the taxable and exempt values are separately stated, either on the invoice to the customer or in the books and records of the business, sales tax would only apply to the taxable amount.

Vending Sales

Sales through vending boxes are taxable. Since collection of sales tax through vending machines is difficult, MRS recognizes the practice of including sales tax in the sale price of the publication when sold through the vending box. Revenues from the vending box should be divided by 1.055 to arrive at the correct amount of taxable sales to report on the sales tax return.

Sale Price of Publication

The sale price of a publication is the amount that the customer/subscriber pays. The cover price is generally the sale price in over-the-counter transactions. A subscription, on the other hand, may be sold at substantially lower than the cover price. The subscription price is the amount on which the sales tax is based.

Sales tax can be included in the sale price, however, invoicing must clearly state that tax is included. In the event there is no invoice, any documentation provided or displayed (including by website display) by the publisher to the customer regarding their purchase, including subscription purchases, should clearly state that tax is included in the sale price. All sales tax collected in this manner must be remitted to the State.

The taxable sale price could exclude shipping charges if, 1) the delivery is direct to the customer, 2) the delivery charge is separately stated* and 3) the shipping occurs by common or contract carrier. *Shipping is not separately stated when combined with charges for other services, like "shipping and handling".

Exempt Sales

There are a variety of sales tax exempt organizations, but not all nonprofit organizations are exempt from paying sales tax. Those that are exempt are issued exemption certificates by MRS. Examples of organizations that are exempt are schools, hospitals, and churches. Sales to the federal, state, county, or city governments are likewise exempt. A seller needs to collect and retain a copy in its files of the exempt organization's exemption certificate. (Exemption certificates are not generally provided to governmental entities, however; the invoice showing the governmental entity is sufficient proof of exemption.) More information regarding "Exempt Organizations" can be found in Instructional Bulletin #36.

Sales to a retailer of publications that will be resold in their ordinary course of business are exempt. The purchaser must provide the seller with a resale certificate to document this exemption.

Wholesale sales for resale to final customers; independent contractors

Publishers that sell their publications at wholesale to retailers for resale should treat their wholesale sales as non-taxable, *but only if* the retailer presents the publisher with a valid resale certificate issued by MRS. In such cases, the retailer would collect and remit the sales tax on the sale price it charges to its customers.

Independent contractors that contract with the publisher to provide a service related to delivery of the publication are not necessarily retailers reselling the publication. If the independent contractor is acting as a sales and delivery *agent* of the publisher, sales tax is due on the full sale price charged to the final consumer by the agent, regardless of the contract compensation arrangements between the publisher and the agent. In this situation, the publisher is responsible for reporting and remitting the sales tax to the State. As with any retailer, the publisher can choose to include sales tax in the sale price (see "Sale Price of Publications," above). If an independent contractor is unable to present a resale certificate, but in fact the independent contractor is *not* a sales and delivery agent of the publisher and is purchasing the publication from the publisher, sales to the contractor would be taxable, but sales tax would apply to the amount invoiced to the contractor.

Administrative Issues

Persons engaged in selling tangible personal property and taxable services which are subject to the sales and use tax are required to register with MRS to facilitate the collection of tax. Once registered, periodic reporting and remittance of the tax is required.

Registration with MRS is accomplished by submitting an application for registration. The application can be found by visiting our website at <http://www.maine.gov/revenue/>. Once the application is processed, a Retailer's Certificate is issued. Although the certificate does not need to be displayed, the certificate does need to be available for review by the assessor, the assessor's representatives or agents or municipal officials. The certificate is valid until canceled by the taxpayer or revoked by MRS and is not assignable to a new owner. If the retailer operates more than one business, a separate certificate is necessary for each location.

Retailers are responsible for filing a sales tax return on or before the 15th of the month. The information on the return reflects sales that occurred in the prior month. All sales tax accounts are required to file their returns electronically. For more information, click on "Electronic Services" on our website.

For publishers that are registered for sales/use tax, the amount of sales/use tax that you have remitted in the past may be substantially lower than what you will be required to report in the future. This will require you to file returns more frequently. Information on filing thresholds can be seen by reviewing Rule 304 on our website. If you determine you should be filing more frequently, please call our office to request the change.

Note to Printers

A further informational notice will be issued on the topic of printers' sales of advertising flyers and free publications.

Other General Information

Residents subscribing directly with a publisher or a publisher's representative who is not registered to collect and remit Maine sales tax, are responsible for reporting applicable use tax on their income tax form.