



MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

INSTRUCTIONAL BULLETIN NO. 41

MEDICINES, MEDICAL EQUIPMENT, AND PROSTHETIC DEVICES

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 is intended to address issues commonly faced by taxpayers with respect to sales of medicines, medical equipment, and prosthetic devices.

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 Sales and Use Tax Law is found in Part 3 of Title 36 of the Maine Revised Statutes (“M.R.S.”). Title 36, MRS rules, instructional bulletins and affidavits referenced in this bulletin may be viewed on the MRS website, maine.gov/revenue.

This bulletin relates to sales of medicines, medical equipment, and prosthetic devices to the consumer of those products. For information on sales to exempt organizations or governmental agencies, see MRS Rule 302 (“Sales to Governmental Agencies and Exempt Organizations”) and Instructional Bulletin No. 36 (“Exempt Organizations and Government Agencies”).

1. PRESCRIPTION MEDICINES

Sales of medicines for human beings that are sold on a doctor’s prescription are exempt from sales tax. 36 M.R.S. § 1760(5). “Medicines” means antibiotics, analgesics, antipyretics, stimulants, sedatives, antitoxins, anesthetics, antipruritics, hormones, antihistamines, certain “dermal fillers” (such as BoTox®), injectable contrast agents, vitamins, oxygen, vaccines, and other substances that are used in the prevention, diagnosis, or treatment of disease or injury. “Medicines” include items that (1) require a prescription in order to be purchased or administered to the retail consumer or patient; or (2) are sold in packaging that contains a U.S. Food and Drug Administration “Over-the-Counter” (OTC) Drug Facts Label.

Note: Cannabis is not eligible for this exemption. Sales of cannabis are taxable, even if sold by a registered dispensary or registered caregiver under the Maine Medical Use of Cannabis Act.

“Sold on a doctor’s prescription” means that either (1) a medical professional authorized by law to prescribe medicines for human beings dispensed or administered the medicine or (2) a licensed pharmacist sold the medicine in accordance with a prescription issued by a medical professional

authorized by law to prescribe medicines for human beings. Sales of medicines originally prescribed by a doctor on a refillable prescription are exempt when the prescription is refilled.

Bandages, dressings, swabs, hypodermics, diagnostic test kits, instruments, and similar items that may be used in the diagnosis and treatment of injury or disease are not medicines and are subject to tax; this is true even when the bandage, dressing, or similar item contains medication. An OTC drug that is not sold on a doctor's prescription is taxable, even if the drug is purchased on the advice or recommendation of a physician. There is no tax on OTC medicines purchased by a doctor to dispense or administer to patients in the doctor's medical practice. Sales of items used only in the diagnosis or treatment of diabetes are exempt. See Section 6 below.

2. DURABLE MEDICAL EQUIPMENT FOR HOME USE

Effective January 1, 2026, the sale of durable medical equipment for home use is exempt. 36 M.R.S. § 1760(116)(A). "Durable medical equipment," as defined in 36 M.R.S. § 1752(2-G), means equipment, including repair and replacement parts for such equipment, that:

- A.** Can withstand repeated use;
- B.** Is primarily and customarily used to serve a medical purpose;
- C.** Generally is not useful to a person in the absence of illness or injury; and
- D.** Is not worn in or on the body.

Examples of durable medical equipment for home use include, but are not limited to, continuous positive airway pressure ("PAP") machines, oxygen concentrators, nebulizers, thermometers, hospital beds for home use, home dialysis equipment, and home infusion pumps. Durable medical equipment does not include mobility-enhancing equipment. See Section 3 below.

Note: Before January 1, 2026, the Sales and Use Tax Law contained an exemption for positive airway pressure equipment and supplies and oxygen delivery equipment. Effective January 1, 2026, that exemption is repealed, and such items are exempt as "durable medical equipment."

3. MOBILITY-ENHANCING EQUIPMENT; CERTAIN ADAPTIVE EQUIPMENT

Effective January 1, 2026, the sale of mobility-enhancing equipment for home use or use in a motor vehicle is exempt. 36 M.R.S. § 1760(117). If an item does not qualify as "mobility-enhancing equipment," the item may possibly fall within the exempt category of "certain adaptive equipment." See subsection B below.

- A. MOBILITY-ENHANCING EQUIPMENT.** "Mobility-enhancing equipment," as defined in 36 M.R.S. § 1752(6-K), means equipment, including repair and replacement parts for such equipment, that:

- (1) Is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;
- (2) Is not generally used by persons with normal mobility; and
- (3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

Examples of mobility-enhancing equipment include, but are not limited to, wheelchairs, canes, crutches, walkers, stairlifts, handrails, ramps, and wheelchair lifts for use in a motor vehicle. Mobility-enhancing equipment does not include durable medical equipment. See Section 2 above.

B. CERTAIN ADAPTIVE EQUIPMENT. The sale of adaptive equipment for installation in or on a motor vehicle to make that vehicle operable or accessible by a person with a disability is exempt from sales tax. See 36 M.R.S. § 1760(95). To qualify for the exemption, the purchase must have been made by a person, or at the request of a person, who has been issued a disability plate or placard by the Secretary of State pursuant to 29-A M.R.S. § 521.

Purchasers of such equipment must provide an “Affidavit for Purchase of Adaptive Equipment” (ST-A-124) to the retailer to document the transaction as exempt. 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 modified or has been modified with adaptive equipment.

4. PROSTHETIC OR ORTHOTIC DEVICES

Sales of prosthetic or orthotic devices are exempt from sales tax when sold by means of an order issued by a health care practitioner, as defined in 24 M.R.S. § 2502(1-A), who is licensed under Title 32. 36 M.R.S. § 1760(5-A). “Prosthetic or orthotic device,” as defined in 36 M.R.S. § 1752(9-F), means a replacement, corrective or supportive device, including repair and replacement parts for such device, worn on, in or next to the human body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct a physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

The term “prosthetic or orthotic device” includes, but is not limited to, artificial limbs and eyes, hearing aids, eyeglasses and contact lenses, ostomy appliances, enteral feeding devices, skin staples and sutures, dentures, crowns, caps and materials used in the repair or replacement of teeth such as dental amalgam and cement, and cardiac pacemakers. Mouth guards that are created for a specific person and used as a night guard to prevent chronic tooth grinding during sleep are considered dental prostheses and are exempt from sales and use tax. However, mouth guards that

merely provide protection or enhancement in a sports environment do not qualify as dental prostheses and are subject to sales and use tax.

Sales of non-corrective safety glasses, sport glasses and goggles, non-corrective sunglasses, opera glasses, magnifying glasses, platform magnifiers, non-corrective contact lenses, and similar items are not covered by this exemption. Sales of cleaning solutions and supplies for contact lenses and eyeglasses are likewise not covered by this exemption.

Sales of items ordinarily worn for cosmetic purposes, such as wigs, false eyelashes and makeup, are not covered by this exemption whether or not the need for them results from a medical condition.

5. BREAST PUMPS

Effective January 1, 2026, the sale of breast pumps for home use is exempt. 36 M.R.S. § 1760(116)(B). “Breast pump” means an electronically or manually controlled pump device used to express milk from a human breast during lactation, including any external power supply unit packaged and sold with the pump device at the time of sale to power the pump device. “Breast pump” includes breast pump replacement parts, breast pump collection and storage supplies and breast pump kits. “Breast pump collection and storage supplies” means tangible personal property to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption. 36 M.R.S. § 1752(1-L).

6. DIABETIC SUPPLIES

Sales of all equipment and supplies used by the purchaser in the diagnosis or treatment of human diabetes are exempt from sales tax. 36 M.R.S. § 1760(33). This exemption includes sales of insulin, antidiabetic drugs, diabetes testing supplies, and other items used only in the treatment of diabetes.

The retailer must retain written evidence that a purchaser has been diagnosed with diabetes when purchasing items that are not used solely in the diagnosis or treatment of diabetes, such as shoes, shoe inserts, compression socks, and hypodermic syringes and needles. The written evidence may be a written statement from a doctor that the purchaser has been diagnosed as diabetic, and that the items purchased will be used in the treatment of the person’s diabetes.

7. SEEING EYE DOGS

Sales of tangible personal property or taxable services essential for the care and maintenance of seeing eye dogs used to aid any blind person are exempt from sales tax. 36 M.R.S. § 1760(35).

Sales of dog food, veterinary medicines and supplies, and other items ordinarily used in the care and maintenance of domestic dogs will be presumed to qualify for this exemption when sold for

use by a blind person who has a seeing eye dog. The retailer must maintain records of exempt sales of tangible personal property for a seeing eye dog and must have as a part of that record the name and address of the blind person who owns the seeing eye dog.

8. OTHER TRANSACTIONS

A. THIRD-PARTY PAYMENTS. Payment for medicines, durable medical equipment, mobility-enhancing equipment, and prosthetic or orthotic devices is often received from a party other than the consumer of the goods. The third-party payer may be an insurance company, a state agency, a municipality, or Medicare/Medicaid. Even though the third-party payer may be an organization that is exempt from sales tax, the transaction is a sale to the consumer, not to the exempt organization. If the transaction is otherwise taxable, sales tax applies even when billed to the exempt organization.

B. LEASES OR RENTALS. Lessors of medical equipment may purchase lease or rental property tax-free for resale and must collect sales tax from lessees on each periodic lease or rental payment unless otherwise exempt. Under 36 M.R.S. § 1760, exemptions apply to leases or rentals the same as to sales. See MRS Rule 326 (“Leases and Rentals of Tangible Personal Property”) for additional information.

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 sales of medicines, durable medical equipment, mobility-enhancing equipment and prosthetic or orthotic devices. It is not intended to be all-inclusive. Requests for information on specific situations must be in writing, must contain full information as to the transaction in question, and must be directed to:

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