



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION SERVICE PROVIDER TAX INSTRUCTIONAL BULLETIN 55

---

## Service Provider Tax

---

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 persons subject to the Maine Service Provider Tax.

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 MRSA (“Maine Revised Statutes Annotated”) Title 36. Both Title 36 and all MRS rules may be seen by clicking on “laws and rules” on the MRS website.

### 1. SERVICES TAXABLE

The Maine Service Provider Tax is imposed upon the providers of the following services provided in Maine:

- extended cable and satellite television services;
- fabrication services;
- rental of video media and video equipment;
- rental of furniture, audio media and audio equipment pursuant to a rental-purchase agreement;
- telecommunications services and ancillary services;
- installation, maintenance or repair of telecommunications equipment;
- private nonmedical institution or personal care services;
- community support services for persons with mental health diagnoses;
- community support services for persons with intellectual disabilities or autism;
- group residential services for persons with brain injuries; and
- home support services.

The final five services on the list above are taxable only when provided by a designated provider under contract with the Maine Department of Health and Human Services (“DHHS”).

Unlike the sales tax, the Service Provider Tax is not levied on the consumer, but is instead imposed upon the provider (seller). The law does allow the provider to pass the tax on to the consumer, but only if it is separately stated and identified on the invoice to the consumer as a “service provider tax.”

## **2. DESCRIPTION OF TAXABLE SERVICES; FILING OF RETURNS**

For the six services discussed below, most taxpayers will be filing both a Maine Sales/Use Tax return and a Maine Service Provider Tax return. When preparing these returns, taxpayers should include all services subject to the service provider tax, and reported on the service provider tax return, as a part of “Gross Sales” and then “Exempt Sales” on lines 1 and 2 of their Sales/Use Tax return. This ensures that all services being offered by a business are included in its total gross sales reported on the sales tax return since the issuance of a Maine Resale Certificate is based upon “Gross Sales”.

### **A. EXTENDED CABLE AND SATELLITE TELEVISION SERVICES**

The tax on cable and satellite television services applies only to charges for services over and above the most basic level programming available to consumers (i.e., the service package offering the fewest number of channels). Taxable services include, but are not limited to, extended packages containing additional channels, movie or sports channels, pay-per-view programming, connection fees to additional sets, and rental fees for use of special equipment such as converter boxes.

### **B. FABRICATION SERVICES**

“Fabrication services” means the production of tangible personal property for a consideration for a person who furnishes, either directly or indirectly, the materials used in that production. Fabrication services, as defined by 36 MRSA § 2551(3), may be distinguished from manufacturing by identifying the person who furnishes the raw materials to be used in production. In order for a service to be considered “fabrication,” the raw materials must be supplied by the purchaser of the services (the customer), not the supplier of the services (the fabricator). If the purchaser of the service, or a third party at the direction of the purchaser, supplies the raw materials upon which the fabrication service will occur, then these services qualify as fabrication services and are subject to the service provider tax. See Instructional Bulletin 46 for more detailed information.

### **C. RENTAL OF VIDEO MEDIA AND VIDEO EQUIPMENT**

“Video media” includes video tapes (VHS), video games, and digital video discs (DVDs). “Video equipment” includes VCRs, DVD players/recorders, camcorders and video game equipment such as Sony Playstation and Xbox. LCD projectors are not considered video equipment. Late fees and the sale of movie passes are also taxable because they represent payment for rentals of video media or equipment rentals. Damage protection fees are not subject to tax, provided they are optional to the customer and separately stated.

### **D. RENTAL OF FURNITURE, AUDIO MEDIA AND AUDIO EQUIPMENT**

The Service Provider Tax applies to the rental of furniture, audio media and audio, equipment but only when such rentals are made by “rent-to-own” businesses that are regulated by 9-A MRSA § 11-105. “Furniture” is defined by statute and includes home electronic devices. (See 36 MRSA § 2551(4)). The tax applies to each rental payment as it is made.

## **E. TELECOMMUNICATIONS SERVICES & ANCILLARY SERVICES**

“Telecommunications services” includes all 2-way interactive communications, including, but not limited to voice, data, audio, or video transmissions that begin and end within the State of Maine (intrastate service). Interstate service and access services are not subject to the Service Provider Tax. “Telecommunications services” includes internet telephone service (voice over internet protocol or “VOIP”). “Telecommunications services” does not include internet access services, directory advertising services, charges for leasing telecommunications equipment, or prepaid calling services. Mobile telecommunications services are taxable, but only with respect to customers whose place of primary use is within the State of Maine. Taxable ancillary services include detailed telecommunications billing service, directory assistance, voice mail service, and conference bridging services.

## **F. INSTALLATION, MAINTENANCE & REPAIR OF TELECOMMUNICATIONS EQUIPMENT**

Labor charges for the installation, maintenance or repair of telecommunications equipment are subject to the Service Provider Tax. This includes installation and repair of telephone systems, facsimile machines, two-way radios, and transmission media such as copper wire, coaxial cable and optical fiber lines (but does not include transmission media designed and primarily used to transmit electricity). “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.

The Service Provider Tax as it applies to telecommunications equipment affects not only telecommunications companies, but also electricians and other contractors that install telecommunication wiring. Since copper wire, coaxial cable, and optical fiber are all capable of being used in the provision of two-way interactive communications, the installation contractor must always accrue the Maine Service Provider Tax on the installation labor charges for these products.

For multi-functioning machines, only the labor 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 labor charge for installing, maintaining or repairing the modem is subject to tax.

## **3. SERVICES ADMINISTERED BY DHHS**

The taxable services discussed below all require either licensing by DHHS or a contract with DHHS. If you offer these services but are not licensed by or under contract with DHHS, then such service would not be subject to the Service Provider Tax. These services are taxed based on the number of billing units billed out for the reporting period multiplied by the rate assigned to the provider by DHHS. (Note: This rate paid by DHHS includes the 5% allowance for reimbursement of this tax.) The “Gross Services” line on the Service Provider Tax return should not include the amount paid by DHHS for the tax portion of the services provided. The sum of the “Taxable Services” and “Tax Due” lines of the Service Provider Tax return should equal the amount of reimbursement received from DHHS for providing these services.

#### **A. PRIVATE NONMEDICAL INSTITUTION OR PERSONAL CARE SERVICES**

Private nonmedical institution or personal care services include food, shelter and treatment that are provided by a private nonmedical institution or personal home care. “Private nonmedical institution or personal home care services” means a person licensed by DHHS to provide care to four or more MaineCare-eligible and other residents in single or multiple facilities under a written agreement with DHHS. This does not include a health insurance organization, hospital, nursing home or community health care center.

#### **B. COMMUNITY SUPPORT SERVICES FOR PERSONS WITH MENTAL HEALTH DIAGNOSES**

These are community support services offered by a provider that is licensed by DHHS to provide rehabilitative services for adults or emancipated children with mental health diagnoses pursuant to an individual support plan that promotes a person’s recovery and integration of the person into the community and that sustain the person’s current living situation or another living situation of the person’s choice.

#### **C. COMMUNITY SUPPORT SERVICES FOR PERSONS WITH INTELLECTUAL DISABILITIES OR AUTISM**

These are community support services (A) that are provided by community-based agencies to children or adults with intellectual disabilities or autism and include assistance with the acquisition, retention, or improvement of self-help, socialization, and adaptive living skills; (B) that take place in a nonresidential setting separate from the home or facility in which the individual resides, except when a physician has ordered that such services be provided in the individual’s home, and (C) that focus on enabling the individual to attain or maintain maximum functionality.

#### **D. GROUP RESIDENTIAL SERVICES FOR PERSONS WITH BRAIN INJURIES**

These are services provided to adults with acquired brain injuries, including direct assistance with eating, bathing, dressing, personal hygiene, and other activities of daily living.

#### **E. HOME SUPPORT SERVICES**

Home support services means services provided to adults with intellectual disabilities or autism, including direct assistance with eating, bathing, dressing, personal hygiene, and other activities of daily living. Services may include assistance with instrumental activities of daily living such as assistance with the preparation of meals, but not the cost of the meals. They may also include assistance with housekeeping chores that are incidental to the care furnished, or essential to the health and welfare of the recipient of the services. The provider may or may not be related to the individual receiving assistance, but the services may not be provided by the recipient’s spouse and may not be provided in the same setting where residential training is provided.

#### **4. ADDITIONAL INFORMATION**

The information in this bulletin addresses some of the more common questions regarding the 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:

**MAINE REVENUE SERVICES  
SALES, FUEL & SPECIAL TAX DIVISION  
P.O. BOX 1060  
AUGUSTA, ME 04332-1060  
TEL: (207) 624-9693  
TTY: 7-1-1**

The Department of Administrative and Financial Services does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities.

**Issued: December 20, 2006**

**Last Revised: September 20, 2013**

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