



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 1

SERVICE STATIONS AND AUTO REPAIR SHOPS (Other than Vehicle Dealers)

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 service stations and auto repair shops. 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 the Part 3 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.

This bulletin does not include information regarding the sale of vehicles. See Instructional Bulletin No. 24 (Vehicle Dealers) for additional information.

The Sales and Use Tax Law requires persons engaged in the business of selling tangible personal property and taxable services to register as sellers with the State Tax Assessor, to collect the tax from their customers, and to report and pay the tax to the State on the basis of their total taxable sales multiplied by the applicable sales tax rate. See Rule 304 (Sales Tax Returns and Payments).

1. SALES

A. Nontaxable Sales. Sales of the following items are not subject to sales tax:

- (1) Sales of gasoline;
- (2) Sales of special fuels (such as diesel, LPG and propane) on which a Maine excise tax is imposed;
- (3) Sales of heating oil and kerosene when sold for home cooking and heating;
- (4) Sales of kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of five gallons or less;

- (5) Sales of any kind to the Federal Government, the State of Maine and political subdivisions of the State of Maine; and
- (6) Sales to exempt organizations.

The Maine Sales and Use Tax Law provides exemptions for sales to hospitals, regularly organized churches, schools, and a number of other types of organizations. Organizations that qualify for exemption should obtain exemption certificates from MRS in accordance with Rule 302. Sales may be made tax-free to these organizations only when the purchaser furnishes a copy of its exemption certificate to the seller at the time of the sale. The exemption does not apply to the clergy, staff, or employees of exempt organizations.

See MRS Rule 302 and Instructional Bulletin No. 36 for important information on required documentation for sales to government agencies and exempt organizations.

B. Taxable Sales. Sales of the following items are subject to tax:

- (1) Sales of tires, batteries, parts, accessories, lubrication oils, or any other tangible personal property except as noted above.
- (2) Sales of LPG and propane for use in motor homes, travel trailers, gas grills, etc.
- (3) Sales of kerosene in containers with a capacity of more than five gallons.
- (4) Sales of heating oil and kerosene for commercial use. Certain commercial uses are exempt. See Instructional Bulletin No. 13 for more information.
- (5) Sales of diesel fuel, propane or any special fuel for off-highway use.

The federal tax on tires, etc., is included in the sale price on which the sales tax is based. The sale price includes the total amount of the sale, even though part of it is paid by property traded in. See Instructional Bulletin No. 39 for more information.

Sales of LPG and propane in 20-lb. tanks or similar containers, and the sale of kerosene in containers with a capacity of more than five gallons are not considered to be purchased for cooking or heating in homes or residences. However, if the customer provides an affidavit indicating that the fuel qualifies for exemption under 36 MRSA § 1760(9) or § 1760(9-C), the sale is exempt.

C. Core Charges. Customers who purchase property that can be reconditioned and resold by the seller are sometimes encouraged to bring their used property to the seller by the imposition of a “core charge” on the original purchase, which may then be refunded or credited to the customer when the used property is brought back to the seller. The core charge is considered part of the sale price of the new property being purchased and is subject to the sales tax. For instance, an alternator may be sold for \$80.00 with a core charge being stated in the amount of \$10.00. The total sale price subject to tax is \$90.00.

If a used alternator is traded-in at the same time as the purchase of the new alternator, the sale price subject to tax remains at \$90.00 even though a \$10.00 credit is allowed. If the used alternator is returned to the seller at a later date and the customer is refunded the \$10.00 core charge, no refund of sales tax is allowed. The definition of “sale price” does not exclude an allowance of this sort. Core charges are not allowable as trade-in credits because this type of property does not qualify for the trade-in allowance.

2. SERVICES

Service stations and auto repair shops may perform services where no sale of tangible personal property is involved, such as car washing, storage, towing, battery recharging, etc. Sales tax does not apply to the sale of these services. Tangible personal property such as rags, detergents, jumper cables, tools and equipment, etc., used in performing such services, is taxable at the time of purchase.

Some services, however, may include both parts and labor, as discussed below:

A. Repair Work. When repairs are made to tangible personal property, and the sales of parts and labor are separately stated, sales tax applies only to the sale of parts. If parts and labor are not separately stated on the invoice, the entire charge is subject to tax. When repairs do not include the sale of parts, no tax is charged to the customer.

Tools and equipment used in the repair of a vehicle are subject to tax when purchased by the service station or repair shop. Supplies used in repair work may or may not be taxable, depending on the circumstances. For Maine sales and use tax purposes, a distinction is drawn between items that are “used” or consumed by the repairer, and items that are ultimately transferred to the possession of customers.

i. Consumables

Items that are “used” or consumed in the performance of a service are taxable. If the Maine sales tax is not paid at the time of their purchase, the service station or repair shop must report use tax on these items when they are used. Here is a non-exclusive list of items that generally fall in this category:

Adhesives/glue	Aerosol products	Battery cleaner
Brake cleaner	Brake lathe bits	Brushes
Buffing compound/pads	Car wash soap	Choke cleaner
Cleaners	Deodorizer	Disc brake quieter
Drill bits	Engine degreaser/cleaner	
Floor dry	Gases/oxygen, acetylene	Glass cleaner
Gloves	Grinder wheels	Hacksaw blades
Hand cleaner	Key tags	Light bulbs – facility
Masks	Paper mats/floor/seat	Paper towels

Protective eyewear	Putty spreaders	Rags
Razor blades	Sandpaper	Soap
Tape (masking)	Wash mitts	
Washer/solvent	Wax	

ii. Items Transferred to the Customer

For Maine sales/use tax purposes, items that are ultimately transferred to the possession of the customer can be handled one of two ways:

- (a) The same items can be itemized and billed to the customer as a taxable sale; or
- (b) The items can be maintained together as one “inventory” and billed out to the customer as a percentage of labor or other charge and taxed as a single line item (commonly called “shop supplies”).

Either way, sales tax must be charged and collected from the customer. Here is a non-exclusive list of items that generally fall in this category:

A/C & heater treatment	A/C oil	
Batteries (small AA)	Body filler	Brake fluid/power steering
Brake line fittings	Coolant	Dyes-oil/A/C
Electrical/Duct Tape	Electrical terminals	Electrical wire
Gasket maker/adhesive	Grease/gear lube	Hardener
Helicoils	Hose clamps	Keylock parts
Light bulbs – vehicle	Nuts & bolts	Paint/thinner
Pipe sealant	Plastic wire ties	Rubber hoses
Rubberized undercoating	Screws	Silicon
Small nuts, bolts, fasteners	Solder	Spray trim adhesive
Strip caulking		Thread lock
Touch up paint	Vacuum fittings	Valve stem caps
Welding rods	Wheel weights	Wire looms

B. Tire Retreading, Recapping, and Repairs. The business of retreading and recapping tires is considered to involve both a sale of materials and the sale of a service. The charges for materials and labor may be itemized and billed separately, in which case the sales tax applies only to the charge for materials. Where it is not feasible to separate out materials and labor costs, tax may be reported on the basis of 50% of the cost reflecting labor, and 50% of the cost reflecting materials. This formula only applies to tires that are owned by the customer.

If tires or tire casings are purchased by the retreading business and processed for sale, the entire sale price of the retreaded tires is subject to tax.

The sale of ordinary tire repairs such as fixing a flat, balancing, etc., is considered the sale of a service. The customer should not be charged sales tax on materials used in the repair. The service station or auto repair shop must pay tax on the purchase of these materials.

C. Greasing, Polishing, and Rustproofing. Greasing, polishing, and rustproofing are considered to be the sale of a service rather than the sale of personal property, unless the provider states labor and material separately in billing the customer. Where the grease used in a grease job, the wax and polish used in a polishing job, or the undercoating material used in a rustproofing job are not stated separately in the bill to the customer, sales tax should not be charged to the customer on such materials. Tax on these materials must be paid by the service station or auto repair shop at the time of purchase.

D. Manufacturer's Warranty. The sale of manufacturer's warranties are considered part of the sale price of the item when originally purchased. Since the warranty has been taxed as part of the original purchase, sales of parts associated with repairs pursuant to a manufacturer's warranty are not taxable.

E. Extended Warranties. The sale of an extended service contract on an automobile that entitles the purchaser to specific benefits in the service of the automobile for a specific duration is a taxable service. For transactions entered into on or after October 9, 2013, the same is true for the sales of extended service contracts for trucks; see 36 MRSA § 1752(20-B). Sales of parts associated with repairs made pursuant to such a warranty are therefore not usually taxable either to the repairer or to the customer, since the parts are considered to be included in the original price of the extended warranty. If a warranty provides for a "deductible" to be paid by the customer at the time of repair or maintenance, the amount paid by the customer is first applied to non-taxable labor. If the deductible exceeds the amount charged for labor, the remaining amount will be applied to parts, on which the customer must pay sales tax.

3. PURCHASES

a. Purchases for Own Use. On items that the retailer uses rather than sells, tax should be paid to the supplier at the time of purchase. If purchases of such items are made from outside the State and tax was not paid to the supplier, the retailer should report and pay a use tax on such items. If the retailer has purchased items tax free for resale and later withdraws them from stock for use, use tax must be reported and paid at the time of withdrawal. Items used rather than resold include tools and machines used in the business, fuel used for heating, materials used in tire repairs, lubricants used in grease jobs where no separate charge is made for lubricants, etc.

b. Purchases for Resale. When a retailer purchases tangible personal property for resale, the retailer should furnish the supplier with a resale certificate as provided in Rule 301. The certificate will enable the retailer to purchase tangible personal property for resale without payment of sales tax. Only one certificate need be furnished to each supplier to cover subsequent purchases by that retailer. However, on subsequent purchases, the retailer must inform the supplier whether or not the purchase is covered by the resale certificate on file and will be held responsible for the tax on any item purchased for resale but subsequently used by the retailer.

Purchasers who avoid payment of tax through deliberate misuse of resale certificates may be subject to criminal prosecution.

4. RECYCLING ASSISTANCE FEES

A recycling assistance fee is imposed on the retail sale of **new** tires and **new** lead-acid batteries at the rate of \$1.00 each. Sales of **used** tires and batteries are not subject to the fee. The fee is also specifically excluded from the definition of sale price and is therefore not subject to sales tax.

The fee follows the same exemptions as sales and use tax. Thus, if a sale is exempt from sales tax, it is also exempt from the fee. The fees are remitted in the same manner as sales tax through the Sales and Use Tax return.

The recycling assistance fee is not to be confused with the lead-acid battery deposit required by 38 MRSA § 1604, which requires the retailer to charge a \$10.00 deposit to the consumer if no used battery is presented at the time of sale. The \$1.00 recycling assistance fee is in addition to the \$10.00 deposit and applies even though the deposit may not be applicable.

5. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the Sales and Use 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
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TTY: 7-1-1**

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