MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
INSTRUCTIONAL BULLETIN NO. 17

PRINTERS AND PUBLISHERS

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 your business. Taxpayers are responsible for complying with all applicable tax statutes and rules. Although bulletins issued by Maine Revenue Service ("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 MRSA ("Maine Revised Statutes Annotated") Title 36. 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.

Printers and publishers are engaged in producing and selling tangible personal property and fabrication services. Accordingly, they are required to be registered as sellers with MRS and collect and report sales tax and service provider tax on their taxable sales. As producers of tangible personal property for sale, they are entitled to certain exemptions on the purchases of tangible personal property.

1. PRINTERS AND PUBLISHERS

A. Definition. The terms "printer" and "publisher" as used in this instruction bulletin includes commercial printers and publishers of newspapers, magazines, newsletters, and books.

B. Sales by printers. Charges for printing, imprinting, engraving, multi-graphing, multilithing, folding, binding, and photocopying are generally subject to tax whether or not the paper and other materials are furnished by the customer, unless the sale is for resale or to an exempt entity.

Charges for performing the service of addressing, enclosing, sealing, or mailing printed materials are not taxable when performed solely as a service and not in conjunction with the sale of tangible personal property. If such services are performed in conjunction with the sale of tangible personal property, the charges for these services will be considered part of the sale price of the tangible personal property. When stamped envelopes or United States postal cards are imprinted and sold, the tax does not apply to

the cost of the uncancelled postage, measured by the face value of the postage stamps or indicia.

Any other charges for labor or services rendered in producing printed materials are a part of the taxable sale price of the tangible personal property or fabrication services, whether or not such charges are separately stated.

C. Purchases by printers and publishers. Printers and publishers will generally be liable for sales or use tax on purchases of tangible personal property for use in their business unless the items purchased will be resold in the form of tangible personal property, constitute machinery and equipment for use directly and primarily in the production of tangible personal property for later sale or lease, or will become an ingredient or component part of, or be consumed or destroyed directly and primarily in the production of, tangible personal property for later sale or lease, other than lease for use in this State.

i. Purchases for resale. Tangible personal property and fabrication services purchased by a printer or publisher who will resell them without making use of them are not subject to tax. When purchasing for resale, the printer or publisher should furnish the supplier with a resale certificate in substantially the form set forth in Rule No. 301. If items purchased exempt from tax as being for resale are subsequently used by the printer or publisher, that person becomes liable for use tax based on the cost of the items so used, even if the items are in fact ultimately sold.

ii. Machinery and equipment. Maine law provides an exemption from sales and use tax for machinery and equipment used directly and primarily in the production of tangible personal property for later sale. In the case of printers and publishers, the tangible personal property produced and sold is the final printed product, for example: a newspaper, brochure, catalog, magazine, or book. Since many so-called "pre-press" functions in the modern printing industry constitute an integral and essential part of an integrated series of operations leading to the production of the final printed product, much of the machinery and equipment used in such functions is considered by MRS to be exempt from the sales and use tax. A list of items that will generally be considered as exempt provided that the "primarily" (more than 50% of the time) test is met is found below, along with a list of items that will generally not be entitled to exemption.

Exempt items should be purchased tax-free by furnishing the supplier with an industrial user's certificate of exemption.

Items of machinery and equipment generally entitled to exemption:

1. Equipment (whether on or off the production site) used in the process of the front-end editorial or composing functions, including, without limitation, equipment used to input and/or edit

text and/or graphics, including, without limitation, laptops, other PCs and workstations, and also including, without limitation, output devices used to output text and/or graphics to a typesetter or imager;

2. Color separations, negatives, and “flats,” and machinery and equipment, including, without limitation, sheets of film, computer disks, mylar, and other image holding mediums used to make these items;
3. Printing plates or press plates, including, without limitation, those made from mylar, aluminum, rubber, plastic, or paper, and components of plates and associated supplies;
4. Equipment used to produce printing plates;
5. Equipment and materials used in preparing photographs or other graphics for purposes of making printing plates including, without limitation, electronic image processing equipment such as computers, monitors, scanners, modems and printers;
6. Press fax machines and components thereof;
7. Large-scale, fixed-position cameras used to photograph two-dimensional copy to produce negatives or positives used in the production of plates and darkroom equipment and supplies used to develop or otherwise alter film or prints from such cameras;
8. Equipment used to collate, bind, or finish the final printed product;
9. Equipment used to move work in process between production functions at the same production site including, without limitation, skids, conveyors, and fork lifts;
10. Equipment used to deliver raw material to the press and other production processes after the later of transportation to the production site or storage.

Items of machinery and equipment not generally entitled to exemption:

1. Computers used primarily to perform business accounting, administrative, or other non-production functions;
2. Laptop computers used primarily off the production site, except those used primarily A) to input or edit text in the process of the front-end editorial or composing functions, or B) in conjunction with electronic image processing functions;
3. Cameras used off the production site, and any associated supplies and attachments, including film, tripods, etc., and darkroom equipment and supplies used to develop film from such cameras;
4. Photocopying machines;
5. General office equipment and supplies;
6. Wire service teletype or telecopier machines or terminals.

iii. Ingredient or component part. Items such as paper, ink, glue, and staples that become an ingredient or component part of tangible personal property produced by a printer or publisher are exempt from tax, whether used in production of tangible personal property for sale by the printer or publisher or in performance of fabrication services upon tangible personal property belonging to the customer. The printer or publisher should purchase such items tax-free by providing the supplier with an industrial user's certificate of exemption.

iv. Consumed or destroyed items. Items that are consumed or destroyed in the printing or publishing process but do not become an ingredient or component part of the finished product are exempt when used in the production of tangible personal property for later sale but taxable when used in the performance of fabrication services on tangible personal property which is owned by the customer and will be used by the customer rather than resold.

Tax-exempt items in this category typically include materials and supplies consumed or destroyed in connection with the use of exempt machinery and equipment listed at section 1(C)(ii) above, as well as proofing materials and press solutions, including, without limitation, fountain solution, silicon solution, and blanket wash.

The printer or publisher should purchase tax-exempt items by furnishing the supplier with an industrial user's blanket certificate of exemption, and report and pay use tax directly to the State on those purchases which ultimately are used in the performance of fabrication services.

2. EXEMPT SALES

A. Sales for resale. A sale for resale in the form of tangible personal property is not taxable. A printer or publisher, when selling to others for resale, should require the customer to furnish a resale certificate in substantially the form set forth in Rule No. 301. Otherwise, the burden of proving that a sale actually was for resale is upon the person making the sale. More detailed information regarding sales for resale can be found in Rule No. 301 and Bulletin No. 54.

B. Sales to exempt organizations. Sales made directly to the federal government, the State of Maine or any political subdivision of the State of Maine (such as counties, cities, or towns), or to any agency of any of the above governments, are exempt from sales tax. The Sales and Use Tax Law also provides exemptions for various other organizations, such as hospitals, schools, regularly organized churches or houses of religious worship, and certain other organizations.

In the case of sales to governments and government agencies, no evidence of exemption is required other than the invoice indicating sale to government or government agency. When selling to other exempt organizations, the seller should request the customer to furnish a certificate of exemption in accordance with Rule No. 302. See

Instructional Bulletin No. 36 for documentation requirements regarding sales to exempt organizations.

C. Delivery to customer outside Maine. When a printer or publisher delivers or ships tangible personal property that it has sold to a point outside the State, the sale is not subject to Maine sales tax. Generally, if the customer takes delivery in Maine, however, the tax must be charged regardless of the ultimate destination of the products.

D. Sales of advertising and promotional materials. Sales of advertising or promotional materials printed on paper and subsequently transported outside the State for use by the purchaser solely outside the State are not subject to tax. An "Affidavit for Out of State Use of Promotional Materials" should be completed by the purchaser and kept on file by the printing vendor. One completed affidavit per customer is allowable if the sales are consistently exempt or partially exempt. If the exempt percentage of any given purchase changes, a separate affidavit is required.

3. PUBLICATIONS

Effective October 1, 2013, the sales tax exemption for "publication[s] regularly issued at average intervals not exceeding 3 months" was repealed. Sales of publications are subject to the general sales tax.

A. 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 that the sales to them are for resale since the hotel is giving these publications away.

B. Consignment Sales. When a retail store sells a publication, 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 publication was left with the store to be sold on consignment.

C. 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, contract carrier or by 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 does not make the sale taxable. The reverse 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.

D. Cancelled subscriptions. If a customer subscribes, is charged sales tax on the subscription, and later cancels his or her 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. (See § 1752(14)(B)(3).)

E. Digital Sales. The sale of a digital copy of a publication is taxable provided the publication is downloadable to the subscriber's electronic device. (See § 1811.) If the subscriber is only allowed to access and view an online version of the publication and has no downloading capability, the subscription is not taxable.

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

F. Bundled Sales. If a subscription offers both print and online access/view capability (but no downloads), the subscription is a bundled sale containing a taxable print copy and a non-taxable fee for website access and view only. In cases where a bundled transaction contains both taxable and non-taxable 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.

G. 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. Sales tax needs to be extracted from vending box revenues to arrive at the correct amount of taxable sales to report on the sales tax return.

H. 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, the invoice 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 customers 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. (See § 1753.)

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 carrier, contract carrier, or the US Mail. Shipping is not separately stated when combined with charges for other services, like "shipping and handling." (See § 1752 (14)(B)(7).)

I. 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 No. 36.

Sales to a retailer of publications that will be resold in their ordinary course of business are not taxable. The purchaser must provider the seller with a resale certificate to document this exemption.

J. Wholesale sales for resale to final customers; independent contractors. Publishers that sell their publications at wholesale to retailers for resale should treat such 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 does not present a resale certificate to the publisher, but 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 sale price invoiced to the contractor.

K. Sales by Printers. If you are printing a publication for a publisher, your sales to the publisher, while no longer exempt by virtue of being a publication, may continue to be exempt as a sale for resale. If the publisher is registered for sales/use tax and presents you with a resale certificate, sales to that publisher will continue to be exempt.

In addition, sales to sales tax exempt organizations are exempt. More information regarding "Exempt Organizations" can be found in Instructional Bulletin No. 36.

If the printer's customer is a publisher presenting neither a resale certificate nor exemption certificate, such as publishers who distribute free publications and advertising flyers, the printer's sale to the publisher is taxable. Publishers who purchase such materials without paying sales tax remain liable for the corresponding use tax.

4. 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 SERVICE
SALES, FUEL &SPECIAL TAX DIVISION
P.O. BOX 1060
AUGUSTA, ME 04332-1060
TEL: (207) 624-9693
V/TTY: 7-1-1

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MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION

INDUSTRIAL USERS
BLANKET CERTIFICATE OF EXEMPTION

For purchases of Tangible Personal Property for Use in Production
Under Sections 1760(9-D), (31), (32), and (74) of the Maine Sales and Use Tax Law.

I hereby certify that the Purchaser listed below holds valid Seller's Registration Certificate No._____ issued pursuant to the Sales and Use Tax Law, isengaged in the production of _____, and that tangible personal property to be purchased from _____ is exempt for the reason(s) indicated below:

[ ]a. To become an ingredient or component part of tangible personal property either in the production of tangible personal property for later sale or for lease outside the state or in the production of tangible personal property pursuant to a contract with the United States Government or any agency thereof. §1760 (74)

[ ]b. To be consumed or destroyed or to lose its identity directly and primarily either in the production of tangible personal property for later sale or lease, other than lease for use in this State, or in the production of tangible personal property pursuant to a contract with the United States Government or any agency thereof. §1760 (74)

[ ]c. Constitutes machinery and equipment, or repair or replacement parts, to be used by me directly and primarily in either the production of tangible personal property for sale or lease, the production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof or in the generation of radio and television broadcast signals by broadcast stations regulated under 47 Code of Federal Regulations, Part 73. §1760 (31)

[ ]d. Constitutes machinery and equipment, or repair or replacement parts, to be used by me directly and exclusively in research and development in the experimental and laboratory sense or machinery, equipment, instruments, and supplies to be used by me directly and primarily in biotechnology applications. §1760 (32)

[ ]e. Is fuel or electricity for use at a manufacturing facility (95% of the sale price is exempt)
Meter/Account Number(s) _____. §1760 (9-D)

[ ]f. To be used as part of or for the construction, repair, or maintenance of a water or air pollution control facility, certified as such by the Commissioner of the Department of Environmental Protection. §1760 (29-30)

On behalf of the Purchaser listed below, I further certify that the Purchaser assumes full liability for payment to the State of Maine of any use taxes, together with penalties and interest, that may later be determined to be due on any purchases covered by this certificate because of a taxable use of the property.

_____	_____
NAME OF PURCHASER	DATE
_____	_____
SIGNATURE	TITLE

NOTICE TO RETAILERS: Retailers making exempt sales covered by this certificate must appropriately mark or stamp all invoices to indicate they are exempt sales. For items a through d and f above, the words "Maine Sales Tax Exempt" will satisfy this requirement. For item e above, the words "Fuel/electricity used at a manufacturing facility" will satisfy this requirement.

The certificate may also be used for occasional exempt purchases rather than blanket use by filling out as far as applicable, striking out the word "Blanket" and listing on the reverse side the date of order and the quantity and description of the tangible personal property ordered; or by incorporating the purchase order by reference to this certificate, as by listing date and order number.

MAINE REVENUE SERVICES
SALES/EXCISE TAX DIVISION

Affidavit for Out of State Use of Promotional Materials

The undersigned hereby certifies that the advertising or promotional materials printed on paper, being purchased from _____, are being purchased, in whole or in part, solely for subsequent use outside the State of Maine. In the event that the property is used for any purpose other than solely outside the State of Maine, it is understood that the undersigned is required by Sales and Use Tax Law to report and pay tax, measured by the purchase price of such property.

If only a portion of the materials being purchased qualify for exemption under the above provision, it is certified that _____* of the materials will be solely for subsequent use outside the State of Maine. The undersigned will pay the appropriate Maine State Sales Tax on the remaining taxable portion of the transaction directly to the seller listed above.

Purchaser _____

Address _____

_____

Signature _____

Date _____

*This blank must be completed with a specific quantity, percentage, or dollar value

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