



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 21

FLORISTS

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1. Also attached are applicable Sales and Use Tax Rules.

1. MAINE LAW

A. 36 M.R.S.A. §1752(14) Sale Price

"Sales price" means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. "Sale price" includes:

- (1) Services which are part of a retail sale; and
- (2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses.

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise or with respect to fabrication services pursuant to warranty;
- (3) The price of property returned or fabrication services rejected by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold or fabricated, if separately charged or stated;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, motel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax; or

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and that transportation occurs by means of common carrier, contract carrier or the United States mail.

B. 36 M.R.S.A. §1181 Sales Tax (in part)

A tax imposed at the rate of 5% on the value of all tangible personal property, on telephone and telegraph service, on extended cable television service, on fabrication services and on custom computer programming sold at retail in this State and at the rate of 7% on the value of all other taxable services sold at retail in this State. Value shall be measured by the sale price, except as otherwise provided.

2. MAINE REVENUE SERVICES RULE

None applicable.

3. INTERPRETATIONS AND DETERMINATIONS OF MAINE REVENUE SERVICES.

Sales at retail by florists or other producers or sellers of flowers, wreaths, bouquets, potted plants, hospital baskets, funeral design, and any and all other flowers, plants, or merchandise sold by them, are sales of tangible personal property to which the tax applies.

A. Florist Telegraphic Delivery (FTD)

Where florists conduct transactions through a florist telegraphic delivery association, or otherwise by telephone, telegraph, or other means of communication with other florists, the following rules will apply in the computation of the tax.

(1) On all orders taken by a Maine florist and transmitted to a second florist in Maine for delivery in the State, the sending florist will be held liable for the tax on the total selling price of the flowers and other merchandise included in the sale.

(2) On all orders taken by a Maine florist and transmitted to a second florist located outside Maine, for delivery of flowers to a point outside Maine, the tax will likewise apply with respect to the total selling price to the customer who placed the order.

(3) In cases where Maine florists receive instructions from other florists located either within or outside of Maine, for the delivery of flowers, the receiving florist will not be liable for the tax with respect to gross sales which he may realize from the transaction. In such instances, if the order originated in Maine, the tax will be payable by the Maine florist who first received that order and transmitted instructions to the second florist.

B. Service Charges

The definition of "sale price" state that it includes "services which are a part of a retail sale."

Sales tax applies to the full charge for the goods sold, including any charges for services which are a part of the sale. For example, a florist receives an order from a customer and is instructed to send the order via FTD to an out-of-state address. For this service, the florist charges a service charge of \$3.50. This charge includes the services of the florist and such overhead costs as telephone or telegraph charges involved in sending the message.

Sales tax applies to the entire charge, including the service charge, regardless of whether or not it is separately stated.

C. Delivery Charges

Charges for delivery of a product by a florist are taxable and should be included in the total selling price when computing the sales tax. This rule also applies to delivery charges in connection with FTD orders where the receiving florist provides the delivery. Delivery charges are taxable unless the following three conditions are met:

- i. The transportation is from the retailers place of business, or some other point from which shipment is made, directly to the customer;
- ii. The transportation is by means of common carrier, contract carrier or the United States mail; and
- iii. The transportation charges are separately stated.

D. Rentals

Florists who are engaged in renting plants, vases, candelabra and various other items are required to pay tax on the purchase of such items. The rental charge to the customer is not subject to tax.

If items are specifically purchased for rental purposes, the florist should pay tax to the vendor. If the vendor does not collect Maine sales tax, it is the florist's responsibility to report the used tax directly to the State. If items are withdrawn from inventory, use tax is due upon the initial withdrawal. Purchases subject to use tax should be reported on the sales and use tax return as "taxable purchase".

If an item which has been rented is later sold, the sale is a retail sale and subject to sales tax.

E. Purchases

The florist will purchase stock for resale free of tax, giving his supplier a resale certificate in the form shown under (2), below.

The florist should pay tax as a consumer on the purchase of equipment and supplies (except wrapping and packaging materials). If he does not pay his supplier a sales tax (as, for example, in the case of most purchases from out-of-state suppliers), he should report and pay use tax on such items. Regardless of whether the purchase is from a local or out-of-state supplier, if sales tax is paid the florist should be sure his bill or invoice from the supplier shows this; otherwise the purchase will be subject to use tax.

(1) Purchase of Packaging Materials.

On wrapping or packaging materials purchased for use in wrapping or packaging an article which he sells, the florist should not pay a tax, but should buy for resale as explained below.

(2) Use of Resale Certificate.

When the florist buys tangible personal property for resale he should:

- i. Furnish his supplier with a resale certificate issued by Maine Revenue Services.

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 the:

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