MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
GENERAL INFORMATION BULLETIN

Revised August 16, 2012

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 aimed to provide an overview of the Sales, Use, and Service Provider Tax Law.

Taxpayers are responsible for complying with all applicable tax statutes and rules. Although MRS bulletins 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 revision date shown above.

SALES TAX. A tax is imposed at the rate of 5% of the sale price on retail sales of tangible personal property, prepaid calling arrangements, transmission and distribution of electricity, extended service contract on an automobile and to the rental of a camper trailer or a motor home and the rental or lease for more than one year of an automobile. The rate is 7% of the sale price on prepared food and alcoholic drinks sold in establishments that are licensed for on-premises consumption of liquor and certain rentals of living quarters. The rate is 10% on short-term rentals of automobiles and on short-term rentals of pickup trucks and vans with a gross vehicle weight of less than 26,000 pounds when rented by a person primarily engaged in the short-term rental of automobiles.

USE TAX. Purchases made outside the state for use in Maine are subject to a use tax at the rate of 5% when the retailer has not charged the tax. Some common taxable items for a business are office supplies and equipment, janitorial supplies, computer hardware, software and supplies, reference books, fax machines and supplies and photocopiers and supplies. Items withdrawn from inventory for use by the retailer are likewise subject to use tax. Use tax is reported directly to the State. Use tax also applies to casual purchases of motor vehicles, watercraft, trailers, truck campers, and special mobile equipment.

SERVICE PROVIDER TAX. A tax is imposed on certain services provided in the State. The 5% service provider tax is imposed upon extended cable and satellite television services, fabrication services, the rental of video media and video equipment, the rental of furniture and audio equipment pursuant to a “rent-to-own” contract, telecommunications service (except sales of prepaid calling cards), installation, maintenance, or repair of telecommunications equipment, private nonmedical institution services, community support services for persons with mental health diagnoses, community support services for persons with mental retardation or autism, and home support services. This tax is imposed upon the provider of these services and not upon the consumer. However, the provider may pass this tax through to the consumer in which case it must be identified as a “service provider tax”.

RECYCLING ASSISTANCE FEE. In addition to the sales or use tax, a Recycling Assistance Fee is imposed on retail sales of new tires and new lead-acid batteries. The amount of the fee is $1 on each tire or battery.

OIL PREMIUM. A premium is imposed on gasoline engine crankcase oil, diesel engine crankcase oil, and certain other motor vehicle oils sold or distributed by motor vehicle oil dealers in the State. The premium is imposed on the oil dealers' first sale or distribution of motor vehicle oil in this state. If you are engaged in selling or distributing motor vehicle oil, the premium must be remitted to the State Tax Assessor. For more detailed information, please visit our website at http://maine.gov/revenue/ or call (207) 624-9693.

E-9-1-1 PREPAID WIRELESS SURCHARGE. An E-9-1-1 surcharge is applied to purchases of prepaid wireless service from a wireless service provider and also on any prepaid wireless service sold by a retailer, such as in the form of a prepaid wireless card (not to be confused with a prepaid calling card). The surcharge must be collected by the seller from the prepaid wireless consumer with respect to each retail transaction occurring in this State. The amount of the prepaid wireless E-9-1-1 surcharge must be separately stated on an invoice, receipt or similar document that is provided to the prepaid wireless consumer by the seller when practicable. Like sales tax, the surcharge is the liability of the consumer: however the seller is responsible for its collection. The surcharge is 45 cents per retail transaction. On January 1, 2013, the surcharge becomes a combined fee encompassing the E-9-1-1 surcharge and the fees required to be contributed to the state universal service fund and the telecommunications education access fund. The Public Utilities Commission will be releasing a Rule no later than October 1, 2012 that establishes the new rate.

REGISTRATION. The following persons are required to register as sellers and to collect and remit the sales tax, the recycling assistance fee and the oil premium when applicable.

1. Every seller of tangible personal property or taxable services, **whether at wholesale or at retail,** who maintains any kind of business location in Maine.
2. Every seller of tangible personal property or taxable services who does not have a business location in Maine but makes retail sales in Maine or solicits orders by means of salespersons in Maine.
3. Every person who makes sales of tangible personal property or taxable services in Maine as consignee or agent of a principal located outside of Maine, or receives compensation from sales of tangible personal property or taxable services for use in Maine made by a principal located outside of Maine, unless the principal is registered as a seller.
4. Every person who makes rentals of living quarters in Maine, including casual rentals of a cottage, condominium unit or vacation home.
5. Every person who makes rentals or leases of automobiles in Maine.
6. Every person who makes consignment sales.
7. Every lessor engaged in the leasing of tangible personal property located in Maine who makes retail sales to purchasers from Maine.
8. Every seller of tangible personal property or taxable services who has a substantial physical presence in this State, which means physical presence sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution.
9. Every person engaged in the transmission and distribution of electricity.

10. Every person required to register as a condition of doing business in Maine or is a holder of a wine direct shipper license.

The following persons are required to register as service providers and to calculate and remit the service provider tax.

1. Every person who furnishes telecommunications service, ancillary services or extended cable television service in Maine.
2. Every person who furnishes extended satellite television service in Maine.
3. Every person who makes rentals of video media, video games or video equipment in Maine.
4. Every person who makes sales of fabrication services in Maine.
5. Every person who makes rentals of furniture, home electronic devices audio media or audio equipment.
6. Every person who installs, maintains or repairs telecommunications equipment.
7. Every person engaged in providing private nonmedical institution services, community support services for persons with mental health diagnoses, community support services for persons with mental retardation or autism, and home support services (all pursuant to a contract with the Department of Health and Human Services).

RETAILER CERTIFICATES. Applications for retailer certificates are available from Maine Revenue Services. **A separate certificate must be obtained for each place of business in this State and must be made available for inspection by the Assessor, the Assessor's representatives and agents or authorized municipal officials**. Certificates are not transferable. There is no fee for registration. The retailer certificates have no expiration date and (unlike the resale certificates discussed below) are valid until cancelled by the retailer.

LIABILITY; COLLECTION FROM CUSTOMERS. For each reporting period, the seller is liable to the State for the tax and fees on taxable sales, rentals and services sold during that period, whether or not they have been collected from the customer.

A seller is not required to pass the service provider tax onto the customer. If a seller chooses to pass the tax on, the tax must be identified as a "service provider tax" and subject to the schedules provided below. The seller must add the sales and service provider tax to the sale or rental price according to the following schedules:

For sales, rentals and services taxable at 5%. For sales of less than $1.00, the following schedule applies:

Sales Price		
From	To	Tax
$0.00	$0.10	$0.00
$0.11	$0.20	$0.01
$0.21	$0.40	$0.02
$0.41	$0.60	$0.03
$0.61	$0.80	$0.04
$0.81	$1.00	$0.05

On all sales of $1.00 or more, 5 cents is added for each unit of $1.00 plus the amount indicated above for fractional parts of $1.00.

For sales and rentals taxable at 7%. For sales of less than $1.00, the following schedule applies:

Sales Price		
From	To	Tax
$0.00	$0.07	$0.00
$0.08	$0.21	$0.01
$0.22	$0.35	$0.02
$0.36	$0.49	$0.03
$0.50	$0.64	$0.04
$0.65	$0.78	$0.05
$0.79	$0.92	$0.06
$0.93	$1.00	$0.07

On all sales of $1.00 or more, 7 cents is added for each unit of $1.00 plus the amount indicated above for fractional parts of $1.00.

For services taxable at 10%. For sales of less than $1.00, the following schedule applies:

Sales Price		
From	To	Tax
$0.00	$0.10	$0.00
$0.11	$0.20	$0.02
$0.21	$0.40	$0.04
$0.41	$0.60	$0.06
$0.61	$0.80	$0.08
$0.81	$1.00	$0.10

On all sales of $1.00 or more, 10 cents is added for each unit of $1.00 plus the amount indicated above for fractional parts of $1.00.

Where the tax to be paid includes a fraction of one cent, the fraction is not required to be paid where it is less than one-half cent. A full cent, however, must be paid where the fraction is one-half cent or more.

When several purchases are made together, the tax is computed on the total price of the several items, except that purchases taxed at 5%, 7% and 10% must be separately totaled. Cards showing the tax by brackets may be obtained from Maine Revenue Services, and will be furnished to sellers as registration certificates are issued. The bracket system is intended to enable the seller to recover from customers an amount as nearly as possible equivalent to the seller's own tax liability. Even though no tax is added on individual sales of less than 11 cents (8 cents with respect to the 7% rate and 11 cents with respect to the 10% rate), all sales of taxable items must be included in the taxable sales upon which the seller must pay tax.

The recycling assistance fee is collected at a flat rate of $1 on each item subject to the fee. It is not a part of the "sale price" of the item on which it is imposed for purposes of computing the sales tax. The same is true for the oil premium.

The tax and recycling assistance fee must be paid directly to Maine Revenue Services by the purchaser on purchases made outside of Maine for use in Maine. On such purchases, the purchaser is liable for payment unless the purchaser has taken a receipt from the seller which shows that the tax (and the fee, if applicable) has been collected.

SALES FOR RESALE. When any person in the business of selling tangible personal property or taxable services buys them for resale, that person is not required to pay, and the supplier is not required to collect, any tax. **However, the supplier must require the purchaser to furnish a resale certificate.**

RESALE CERTIFICATES. The purpose of the resale certificate is to protect the seller from possible liability for the tax, since without a resale certificate the burden of proving a sale is for resale is on the person making it. Maine Revenue Services (MRS) will issue a sales tax resale certificate to active registered retailers reporting annual gross sales of $3,000 or more. Resale certificates will be mailed to existing retailers for each qualifying period and provisional certificates will be provided to new qualifying businesses with their “Retailer” certificate. Use of the resale certificate must be limited to the types of items ordinarily purchased for resale by that business. Retailers reporting annual gross sales of less than $3,000 will **not** be issued resale certificate, but will pay sales tax when they purchase items for resale and claim a credit on the next sales tax return that they file. **In the case of regular customers purchasing for resale, one resale certificate is sufficient to cover subsequent purchases until the date of expiration.** In other cases a separate resale certificate should be obtained with each order. Even when selling to a customer who has provided a resale certificate, the seller should treat every sale as taxable unless the purchaser specifies in the order that the goods are for resale.

The resale certificate will protect the seller only if it is taken in good faith. The good faith of the seller will be questioned if the seller has knowledge of facts that would lead to a reasonable inference that the purchaser does not intend to resell the property, such as knowledge that a purchaser of particular merchandise is not engaged in the business of selling that kind of merchandise. **Sales to manufacturers, contractors, wholesalers, or retailers are taxable retail sales if the items purchased will be used by the purchaser, rather than resold to someone else.** Purchasers who avoid payment of tax through deliberate misuse of resale certificates are subject to prosecution.

TRANSACTIONS NOT TAXABLE. Apart from what is specifically defined as a taxable service in the sales tax law, there is no tax on services in general, such as haircuts or cleaning and pressing charges. However, if a service is a part of a sale of tangible personal property, the charge for the service is a part of the taxable sale price of the property even if it is stated separately on the invoice to the customer. The only exception to this general rule is when charges for installation or repair services, other than installation or repair to telecommunications equipment, or for shipment directly to the location of the purchaser by common or contract carrier or the U.S. mail are stated separately from the cost of the property. In other words, in the case of repairs to an automobile involving replacement parts, if the total charge is $200.00, the tax is based on the entire charge unless the labor and parts are separately stated on the bill. If the labor is $80.00 and the parts are $120.00, and the amounts are so stated on the bill, the tax is computed only on the parts.

There is no Maine sales or service provider tax on a sale or service where delivery is made by the seller to a point outside of Maine, or where the seller arranges for delivery by common carrier, contract carrier, or the United States mail to a point outside of Maine.

EXEMPTIONS. The Sales and Use Tax Law provides exemptions for sales to certain types of organizations, and sales of certain kinds of tangible personal property. All of the same exemptions apply to the recycling assistance fee and to the service provider tax, unless otherwise indicated.

A. Exempt organizations. Sales to the United States government, the state of Maine, and political subdivisions of the state of Maine (such as counties, cities and towns), or to any agency of any of the above governments, are exempt from tax. Also exempt from tax are sales to:

- incorporated hospitals;
- incorporated nonprofit medical clinics whose sole mission is to provide free medical care to the indigent or uninsured;
- regularly organized churches;
- monasteries and convents;
- schools;
- incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia;
- certain incorporated nonprofit educational organizations;
- certain libraries;
- incorporated fire departments;
- incorporated nonprofit ambulance services, and air ambulance services that are limited liability companies whose members are nonprofit organizations;
- incorporated volunteer nonprofit search and rescue organizations;
- incorporated nonprofit veterans' memorial cemetery associations;
- incorporated nonprofit Vietnam veterans registries;
- nonprofit corporations incorporated for the sole purpose of conducting medical research or operating educational television or radio stations;
- certain community mental health, mental retardation, and substance abuse facilities;
- incorporated nonprofit hospice organizations;
- incorporated private nonprofit residential child care licensed by the Department of Health and Human Services;
- certain nonprofit youth organizations;
- incorporated nonprofit dental health centers;
- incorporated nonprofit nursing homes licensed by the Department of Health and Human Services;
- incorporated nonprofit residential care facilities and incorporated nonprofit assisted housing programs for the elderly licensed by the Department of Health and Human Services;
- incorporated nonprofit home health care agencies certified under the United States Social Security Act of 1965;
- incorporated nonprofit biological and ecological research laboratories;
- incorporated nonprofit rural community health centers;
- regional planning commissions;
- incorporated nonprofit historical societies and museums;

- incorporated nonprofit memorial foundations that primarily provide cultural programs free to the public;
- licensed incorporated nonprofit nursery schools and day care centers;
- certain church-affiliated residential homes;
- community action agencies;
- incorporated nonprofit child abuse and neglect councils;
- statewide organizations that advocate for children;
- incorporated nonprofit emergency shelter and feeding organizations;
- incorporated nonprofit residential facilities for medical patients and their families;
- incorporated nonprofit organizations whose sole purpose is to fulfill the wishes of children with life-threatening diseases;
- local branches of incorporated international nonprofit charitable organizations which lend medical supplies and equipment;
- incorporated nonprofit animal shelters; (only for goods used in the operation of the shelter or in the care of the animals) **(NOT EXEMPT FROM SERVICE PROVIDER TAX)**
- incorporated nonprofit providers of certain support systems for single-parent families;
- nonprofit housing development organizations;
- nonprofit home construction organizations;
- incorporated nonprofit organizations providing certain services for hearing-impaired persons;
- state-chartered credit unions;
- qualified Pine Tree Development Zone businesses; **(ONLY FABRICATION SERVICES ARE EXEMPT FROM SERVICE PROVIDER TAX)**
- eye banks;
- centers for innovation and;
- qualified community wind power generators. **(ONLY FABRICATION SERVICES ARE EXEMPT FROM SERVICE PROVIDER TAX)**

Except in the case of sales to government agencies, the seller should collect the tax unless the purchaser provides an exemption certificate issued by Maine Revenue Services as provided in Rule No. 302.

B. Exempt commodities. The following kinds of tangible personal property are exempt from sales tax:

- grocery staples for human consumption;
- prescription medicines for humans (does not include medical marijuana);
- prosthetic devices, including hearing aids and eyeglasses;
- diabetic supplies;
- positive airway pressure equipment and supplies;
- goods essential for the care of seeing eye dogs;
- automobiles sold to amputee veterans;
- gasoline and other motor vehicle fuels subject to Maine excise tax;
- jet fuel;
- fuels used for home cooking or heating;
- gas and water for residential use;
- the first 750 kWh per month of electricity for residential use;
- fuels for use in burning blueberry fields;

- fuel oil or coal, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale;
- tree seedlings for use in commercial forestry;
- feed, hormones, pesticides, antibiotics and medicines used in aquacultural production;
- seed, fertilizer, pesticides, insecticides, fungicides, weed killers, and defoliants used in commercial production of an agricultural or silvicultural crop;
- breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production and sales of antiseptics and cleaning agents used in commercial agricultural production, including the raising and keeping of equines;
- organic bedding material for farm animals and hay;
- bait sold to commercial fishermen;
- fuel used in a commercial fishing vessel;
- purchases of certain parts and supplies made on or after October 1, 2012 for use in the operation, repair or maintenance of a windjammer ;
- certain depreciable machinery and equipment and repair parts for qualifying equipment, when sold to commercial farmers and fishermen who have been issued a certificate of exemption;
- tangible personal property which becomes an ingredient or component part of, or which is consumed or destroyed or loses its identity directly and primarily in either the production of tangible personal property for later sale or lease, other than lease for use in this State or the production of tangible personal property pursuant to a contract with the United States Government or an agency thereof;
- machinery and equipment used directly and primarily in either the production of tangible personal property for later sale or lease or the production of tangible personal property pursuant to a contract with the United States Government or any agency thereof, and repair parts for qualifying machinery and equipment;
- machinery and equipment used directly and exclusively in research and development;
- returnable containers;
- plastic bags used by a redemption center to sort, store or transport returnable beverage containers
- containers and packaging and shipping materials when sold for packing or shipping tangible personal property either sold by the shipper or packaged and transported by the shipper;
- railroad track materials;
- cabin, deck, and engine supplies for ships engaged in interstate or foreign commerce;
- vehicles, rolling stock, or watercraft, to be placed in use by the purchaser as an instrumentality of interstate commerce within 30 days and used by the purchaser in interstate commerce at least 80% of the time for the next two years;
- motor vehicles, semitrailers, and camper trailers sold or leased to non-residents for immediate removal from Maine;
- motor vehicles sold or leased to a Maine business for immediate removal from this state and used exclusively in the business' out of state business activity;
- watercraft sold to non-residents for removal within 30 days of delivery from Maine (exemption reduced to 60% of the sales price if the watercraft remains in Maine for more than 30 days during the first 12 months following delivery);

- sales, use or lease of aircraft and sales of repair and replacement parts exclusively for use in aircraft or in the significant overhauling or rebuilding of aircraft or aircraft parts or components from July 1, 2011 to June 30, 2015
- snowmobiles and ATV's sold to nonresidents;
- snowmobiles and snowmobile trial grooming equipment sold to snowmobile clubs incorporated under the provisions of Title 13-B and used directly and exclusively for grooming trails;
- automobiles purchased by dealers, which will be furnished for use to driver education programs without consideration or for a consideration of not more than one dollar per year;
- loaner vehicles sold to new vehicle dealers;
- camper trailers or motor homes sold on or after October 1, 2012 to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers
- meals served by schools to students and faculty;
- meals sold by a nonprofit auxiliary organization of the American Legion in connection with a fund raising event sponsored by the auxiliary organization;
- meals served by youth camps licensed by Department of Health and Human Services
- meals served by a retirement facility to its residents when participation in the meal program is a condition of occupancy or the cost of the meals is included in or paid with a comprehensive fee that includes the right to reside in a residential dwelling unit and meals or other services
- meals served by hospitals to patients;
- meals sold to certain area agencies on aging for providing meals to the elderly;
- meals to residents of certain incorporated nonprofit church-affiliated congregate housing facilities;
- goods and services sold by elementary or secondary schools and school-sponsored organizations;
- goods and services sold by a civic, religious or fraternal organization which is not a registered retailer at a bazaar, fair, rummage sale, picnic or similar event;
- publications issued on a regular schedule at least four times per year;
- self-help literature on alcoholism sold to alcoholics anonymous groups;
- sales by funeral directors in connection with funeral services;
- air or water pollution control facilities certified as such by the Department of Environmental Protection;
- animal waste storage facilities;
- used manufactured housing;
- costs other than materials included in the price of new mobile and modular homes; not to exceed 50% of the sale price;
- sales of tangible personal property to be physically incorporated in portable classrooms for lease to schools;
- construction materials sold to contractors for incorporation into realty of exempt organizations;
- products for internal human consumption sold through coin-operated vending machines by a person more than 50% of whose gross receipts from retail sales of tangible personal property are from sales through vending machines;

- items purchased with federal food stamps distributed by the Department of Health and Human Services;
- 95% of the sale price of fuel and electricity purchased for use at a manufacturing facility. The remaining 5% of the sale price is subject to the 5% general sales tax rate;
- electricity sold to net energy billing customers for which no money is paid to the electricity provider;
- off-peak residential electricity used for space heating or water heating by means of an electric thermal storage device
- advertising or promotional materials printed on paper and purchased for the purpose of subsequently transporting such materials outside the State for use by the purchaser outside the State.
- sales tax paid on electricity and depreciable machinery and equipment purchased or leased for use directly and primarily in agricultural production, aquacultural production or commercial fishing, or on materials used in the construction of fish passage facilities built in accordance with plans and specifications approved by the Department of Inland Fisheries and Wildlife or the Department of Marine Resources, is refundable upon application to the Maine Revenue Services.
- rentals of living quarters that are exempt from tax include rentals: (1) at camps entitled to exemption from property tax as benevolent and charitable or literary and scientific institutions; (2) in hospitals; (3) to any student when necessitated by attendance at a school; and (4) to any person who has resided continuously for 28 days at any one hotel, rooming house, tourist or trailer camp if the person does not maintain a primary residence at some other location or is residing away from his or her primary residence in connection with employment or education. Any tax paid during the initial 28 day period must be refunded by the retailer;

TRADE-IN CREDIT. Tax on the sale or use of motor vehicles, watercraft, aircraft, chain saws, special mobile equipment, trailers and truck campers is levied at the same rate (5%) as on other property; but when any one of the above items is traded in toward the sale price of another item of the same kind, the tax is charged only on the difference between the price and the amount allowed for trade-in. This does not apply to any other type of property or to motor vehicles, watercraft, aircraft, chain saws, trailers, truck campers or special mobile equipment exchanged between dealers from inventory.

RETURNS. Sales and Use Tax and Service Provider Tax Returns are required to be filed by registrants each month, except those registrants whose total tax liability normally is less than $600 per month may request authorization to file on a less frequent basis. Tax returns are due on the 15th of the month following the reporting period. If the 15th of the month falls on a weekend or holiday, the return is due on the next business day.

Some tax returns are subject to a mandatory electronic filing. Rule 104 "Electronic Filing of Maine Tax Returns", requires electronic filing of sales, use, and service provider tax returns. The Rule may be viewed on our website at: http://maine.gov/revenue/rules

Sales, Use and Service Provider Tax returns may be filed electronically through the internet. Go to http://maine.gov/revenue/ and click on "Electronic Services".

Alternatively, returns may be filed electronically through a touch-tone telephone. Contact Maine at 207-624-9693 to inquire about the TeleFile system.

Taxpayers unable to file using the internet or a telephone may request a waiver. Taxpayers with waivers from electronic filing will receive paper returns from Maine Revenue Services that must be filed on or before the 15th day of the month following the end of the reporting period, **whether or not any tax is due.**

Persons who are not required to be registered as sellers, but who make purchases subject to Maine use tax on a regular basis, are required to file returns only in those periods in which tax is due.

DEDUCTIONS FROM GROSS RECEIPTS. The following should be included on the exempt sales line of your sales tax return:

1. Sales of exempt commodities.
2. Sales for resale.
3. Sales to exempt organizations.
4. Sales of property or services delivered or shipped by the seller to a location outside of Maine.
5. Adjustments of tax previously reported, such as sales canceled for full refund after tax had been reported; sales or services determined to be exempt after tax had been reported; cash discounts taken after tax had been reported; and any other allowable credits.
6. Adjustments of tax previously reported that later is determined to be uncollectible should be deducted from gross sales on the "Bad Debt Credit" line when the debt is actually charged off on the books of the seller.

PAYMENT. Payment of the amount due must be made when the return is filed.

Sales and use taxes collected from customers are deemed to constitute a special fund in trust for the State Tax Assessor. Intentional failure to collect, truthfully account for and pay over trust fund taxes at the time required by law is a Class D crime (in the case of a person who has a prior conviction, a Class C crime). A person who is responsible as an officer, director, member, agent or employee for collection or payment of a business's trust fund taxes is subject to prosecution under this statute and can also be held personally liable for the unpaid taxes. Furthermore, if collected sales taxes are not paid over and are dealt with by the retailer as the retailer's own, then the retailer may be charged with theft. Theft of property in excess of $5,000 is a Class B crime.

Each seller and/or service provider may be required to file electronic tax payments. Rule 102 "Electronic Funds Transfer (EFT)" requires any person who has a combined liability to the State during the prior calendar year that meet certain thresholds to remit <u>all</u> Maine tax payments electronically. This can be accomplished by using either the **ACH credit method** (this is when a taxpayer initiates a transfer of funds from their bank to the State of Maine for a specific payment amount) **or ACH debit method** (this is where Maine Revenue Services will initiated an electronic transfer of funds per the taxpayer's instruction to withdraw funds from the taxpayer's designated bank account for a specific payment amount). All tax payments that are subject to this rule must use the ACH credit or ACH debit method. For more information on electronic tax payments please refer to our website, at: http://maine.gov/revenue/rules.

INTEREST. Any person who fails to pay any tax on or before the due date will be charged interest on the unpaid tax. An extension of time for filing a return does not extend the

time for payment of the tax. For a listing of current and past interest rates, see http://www.maine.gov/revenue/incomeestate/Interest.htm.

PENALTIES. Maine law provides civil penalties for failure to file a return, for failure to pay taxes when due, and for filing a false return.

A. Failure to file return. Any person who fails to file a return on or before the due date or if the return is not filed but the tax due is assessed by the Assessor, the person may be charged a penalty of $25.00 or 10% of the tax due, whichever is greater. If the return is not filed within 30 days after the person receives a formal demand that the return be filed, the penalty is $25.00 or 25% of the tax due.

B. Failure to pay tax. Any person who fails to pay any tax on any return or any assessment on or before the due date may be charged a penalty of 1% of the unpaid tax for each month or fraction thereof during which the failure continues, up to a limit of 25% of the unpaid tax. Any person who fails to pay a tax assessment for which no further administrative or judicial review is available may be charged an additional penalty of 25% of the tax due if payment of the tax due is not made within 10 days after the person receives a demand for payment.

C. False return. Any person who files a return that results in an underpayment of tax because of negligence or intentional disregard of the law or of any ruling or rule of the State Tax Assessor, without intent to defraud, may be charged a penalty of $25.00 or 25% of the deficiency, whichever is greater. Any person who files a return that results in an underpayment of tax because of fraud with intent to evade the tax may be charged a penalty of $75.00 or 75% of the deficiency, whichever is greater.

RECORDS. Each seller and/or service provider must keep adequate records, in a format accessible to the assessor's authorized representative, to determine:

Sales/Use Return Records:

1. Gross sales. This is the total amount of revenue generated by the business for this reporting period and includes: taxable sales; exempt sales; all services, labor, and services that are also reported on a separate service provider return and; out of state sales.
2. Deductions allowed by law and claimed in filing returns. This includes: sales for resale; sales to exempt organizations; sales made outside of Maine; nontaxable labor charges; bad debts written off from federal 1040; sales of services that are reported on a separate service provider tax return.
3. The total amount of sales of food prepared by the retailer (taxed at 7%).
4. The total amount of rentals of living quarters, including casual rentals, in hotels, rooming houses, tourist or trailer camps.
5. The total amount of rentals of automobiles on a short-term basis (taxed at 10%) and long-term rentals of automobiles (taxes at 5%).
6. The purchase price of all tangible personal property and taxable services purchased for resale and of all tangible personal property and taxable services purchased for use in Maine.
7. The number of tires and lead-acid batteries sold and the amount of fees collected.
8. The total amount of premiums due on sales of motor vehicle oil sold or distributed in Maine.

9. The value of prepaid wireless fees charged and collected.

Service Provider Return Records:

1. Gross services. This includes all services required to be reported on the Maine Service Provider Tax return.
2. Exempt services. This includes services for resale; services to exempt organizations and; services sold to out of state customers.
3. The total taxable amount of services of: extended cable TV & satellite services; fabrication services; video rentals; rentals of rent-to-own furniture & audio media & equipment; telecommunication services; private nonmedical institution services, community support services for persons with mental health diagnoses, community support services for persons with mental retardation or autism, and home support services.

All records must be retained for six years. See Maine Revenue Services Rule 103 for more details concerning recordkeeping requirements.

TAX AS SHOWN IN ADVERTISEMENTS AND BILLS. A seller cannot advertise that no sales tax will be charged on otherwise taxable items or that no sales tax will be charged on certain days or period of time (otherwise known as a tax holiday). It is illegal for any seller to advertise or hold out or state to the public or to any consumer that the sales tax or any portion of it will not be collected, or will be absorbed by the retailer, or that if collected it will be refunded. If the retailer does not state the amount of the tax separately from the sale price of tangible personal property or taxable services, the retailer shall include a statement on the sales slip or invoice presented to the purchaser that the stated price includes Maine sales tax. Service provider taxes imposed must be separately stated and labeled as "Service Provider Tax," this cannot be combined with sales taxes imposed, even on the same invoice.

PURCHASE OF BUSINESS. Any person purchasing a business or the stock-in-trade in bulk of a business should make sure that the previous owner has paid in full all sales and use taxes owed by the business. If the person selling the business has not paid those taxes, the person purchasing the business is required to withhold the amount of the unpaid taxes, interest and penalties from the purchase price. If the purchaser fails to do this, the purchaser can be held liable for the taxes, interest and penalties.

Any person contemplating the purchase of a business who does not have certain knowledge that the sales and use tax liability of the business has been paid should request the seller to obtain a tax clearance letter from the Compliance Division of Maine Revenue Services.

RULES. The following rules regarding sales, use and service provider tax have been adopted:

No. 102 -Electronic Funds Transfer
No. 103 -Record Keeping and Retention
No. 104 -Electronic Filing of Maine Tax Returns
NO. 110 – Requests for Advisory Rulings
No. 301 -Sales for Resale and Sales of Packaging Materials
No. 302 -Sales to Government Agencies and Exempt Organizations
No. 303 -Sales to Industrial Users
No. 304 -Sales Tax Return and Payments
No. 308 -Direct Payment Permits

No. 318 -Instrumentalities of Interstate or Foreign Commerce
No. 321 -Meals Provided in the Wild
No. 323 -Commercial Agricultural Production and Commercial Fishing
No. 324 -ConnectME Tax Reimbursements
No. 401 -Service Provider Tax -- Return and Payment of Tax

INSTRUCTION BULLETINS. The following "Instruction Bulletins" have been prepared covering specific areas of the Law:

No. 1 -Service Stations and Auto Repair Shops
No. 2 -Funeral Directors
No. 3 -Photographers and Photofinishers
No. 4 -Contractors and Subcontractors
No. 5 -Shoe Repair
No. 6 -Watch and Jewelry Repairs
No. 8 -Small Sales and Sales by Coin-Operated Vending Machines
No. 9 -Casual and Infrequent Sales
No. 10 -Radio and Television Repair
No. 11 -Barbers and Beauticians
No. 12 -Grocers
No. 13 -Sales of Fuel and Utilities
No. 14 -Seed, Feed, Fertilizer and Other Items Used in Agricultural and Aquacultural Production
No. 15 -Auctioneers
No. 16 -Financial Institutions
No. 17 -Printers, Publishers, Engravers and Bookbinders
No. 18 -Stonecutters and Monument Dealers
No. 20 -Lease and Rental Transactions
No. 21 -Florists
No. 22 -Manufacturers
No. 23 -Packing, Packaging, and Shipping Materials
No. 24 -Vehicle Dealers
No. 25 -Coupons and Gifts
No. 27 -Sales of Prepared Food
No. 28 -Installing Tangible Personal Property in Real Property
No. 29 -Deduction for Bad Debts
No. 30 -Transportation Charges
No. 31 -Sales of Mobile and Modular Homes
No. 32 -Rentals of Living Quarters
No. 35 -Nonresident Wood Operators (also available in French)
No. 36 -Exempt Organizations
No. 38 -Advertising Agencies and Graphic Designers
No. 39 -Sale Price Upon Which Tax is Based
No. 41 -Medicines, Medical Equipment and Prosthetic Devices
No. 42 -Original Registration of Vehicles - Taxable/Exempt
No. 43 -Registration of Out-of-State Sellers
No. 44 -Depreciable Machinery and Equipment for Use in Commercial Fishing
No. 45 -Depreciable Machinery and Equipment for Use in Commercial Agriculture
No. 46 -Fabrication Services
No. 47 –Original Registration of Watercraft, Snowmobiles, and All-Terrain Vehicles

No. 48 -Recycling Assistance Fee
No. 49 -Depreciable Machinery and Equipment for Use in Commercial Aquacultural Production
No. 51 –Veterinarians
No. 52 – Pine Tree Development Zones
No. 53 - Warranties, Service Contracts and Maintenance Agreements
No. 54 – Resale Certificates
No. 55 – Service Provider Tax
No. 56 – Telecommunications

Copies of the Sale, Use, and Service Provider Tax Laws, Rules and Instructional Bulletins are available from Maine Revenue Services, Sales, Fuel, and Special Tax Division, PO Box 1060, Augusta, Maine 04332-1060 or can be downloaded from our website at http://www.maine.gov/revenue.

GENERAL INFORMATION BULLETINS. From time to time a General Information Bulletin, covering matters of current interest to sellers, is published by Maine Revenue Services. These bulletins contain important information about the rights and obligations of persons registered under the Sales and Use Tax Law. Please read them carefully. They are available on our website at http://www.maine.gov/revenue.

QUESTIONS. If you have any questions about Sales, Use or Service Provider Tax Law as it relates to your business, please contact us at Maine Revenue Services, Sales, Fuel and Special Tax Division, PO Box 1060, Augusta, Maine 04332-1060. Walk in taxpayer assistance is available in our main office at 26 Edison Drive in Augusta. Our telephone number is (207) 624-9693.

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. This material can be made available in alternate formats.

Printed Under Appropriation 01037