MAINE REVENUE SERVICE
SALES, FUEL & SPECIAL TAX DIVISION

A REFERENCE GUIDE TO THE SALES AND USE TAX LAW

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12th Edition

The information contained in this booklet 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 Maine Revenue Service interpretations and determinations regarding issues commonly faced by businesses. It is not intended to be all inclusive.

Requests for information on specific situations are encouraged. They should be in writing, contain full information as to the transaction in question and be directed to:

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Summary of Major Changes from 11th Edition

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SALES AND USE TAX HISTORY

On May 3, 1951, the Governor of the State of Maine approved legislation imposing a sales and use tax at the rate of 2% on retail sales to be effective beginning July 1, 1951. The legislature also provided approximately 22 exemptions and exclusions.

Since 1951 many new exemptions and exclusions have been enacted. In total there are well over 100 different sales tax exemptions in addition to the items and services that are excluded from the tax base.

The following chart summarizes the tax rate and major changes in the tax base over the years:

Year	***Rate increased to:***	***Tax Base broadened to include:***
1957	3%	
1959		Rentals of living quarters
1963	4%	
1965		Telephone and telegraph services
1967	4.5%	
1969	5%	
1977		Rentals of automobiles on short term basis
1984		Cigarettes, liquor, extended cable tv
1986	7% on rental of living quarters and short term rentals of automobiles	Fabrication services
1989	10% on alcoholic drinks	Rentals of video tapes and video equipment
1990		Rentals of video games
1991	6% general rate; 7% meals and drinks	Snack foods
1993		Gross receipts tax on nursing homes and restaurants (7%)
1994	10% on short term rentals of automobiles	
1995		Long term rentals of automobiles
1998	General rate decreased to 5.5%	
2000	General rate decreased to 5%	
2001	7% on all food prepared by retailer	
2004		Service Provider Tax Private non-medical institution services added
July 1, 2005		Casual rental of living quarters Community support services Day habilitation services Personal support services Residential training services
Oct 1, 2005		Extended satellite television service
Oct. 1, 2007		Premiums on oil changes Extended warranties on automobiles
Aug. 1, 2008		Syrup and Soft Drink Tax[1] Premiums on oil changes repealed and replaced with premiums on bulk gasoline and diesel engine oil

[1] Due to the pending people's initiative to repeal this tax, the effective date is no longer August 1, 2008. Information regarding this tax has not been incorporated in this reference guide. Please check Maine Revenue's website for updated information at www.maine.gov/revenue.

As you can see by this historical summation, the sales and use tax law has been constantly amended over the years. It is a major undertaking to administer a law that is subject to change each year and educate the public in a timely manner to obtain compliance.

SALES TAX

To summarize the sales tax law, one sentence could be quoted from the statute.

> ***A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. §1811***

This statement says it all provided one has a basic understanding of the terms used. The Law contains many definitions to clarify the meanings of various terms found within the statute. The most important of these definitions are "tangible personal property", "taxable services", "sale", and "retail sale".

TANGIBLE PERSONAL PROPERTY

"Tangible personal property" is defined as follows:

> ***...personal property that may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses, but does not include rights and credits, insurance policies, bills of exchange, stocks and bonds and similar evidences of indebtedness or ownership. "Tangible personal property" includes electricity. "Tangible personal property" includes any computer software that is not a custom computer software program. §1752(17)***
>
> ***"Custom computer software program" means any computer software that is written or prepared exclusively for a particular customer. "Custom computer software program" does not include a "canned" or prewritten program that is held or exists for a general or repeated sale, lease or license, even if the program was initially developed on a custom basis or for in-house use. An existing prewritten program that has been modified to meet a particular customer's needs is a "custom computer software program" to the extent of the modification, and to the extent that the amount charged for the modification is separately stated. § 1752(1-E)***

Thus, sales and use tax applies to anything that can be seen, felt and touched. This is easy to visualize in the case of vehicles, appliances, tables and chairs, our clothes, etc. The gray area begins with tangible products that are generated as a result of a service being performed for the purchaser. For instance, blueprints by a surveyor, financial statements by an accountant, a will drawn up by a lawyer, etc. A discussion in the area of services is provided later in this guide.

TAXABLE SERVICES

Sales of services in general are not taxable. However, certain services are specifically subject to sales tax as follows:

- ***Rental of living quarters in any hotel, rooming house, tourist or trailer camp;***
- ***Rental or lease of an automobile;***
- ***Transmission and distribution of electricity;***
- ***Extended Service contract on an automobile; and***
- ***Prepaid calling service.***
  §1752(17-B)

Other services that are subject to a service provider tax rather than a sales tax include:

- ***Telecommunications service;***
- ***Installation, maintenance or repair of telecommunications equipment;***
- ***Ancillary services;***
- ***Extended cable and extended satellite television service;***
- ***Fabrication services;***
- ***Rental of video media and video equipment;***
- ***Rental of furniture, audio media and audio equipment pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105.***
  §2552

Once again definitions in the statute play an important role in clarifying these terms which are discussed in the "Taxable Services" and the "Service Provider Tax" sections of this guide.

SALE

A sale is defined as:

> ***...any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes leases and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts are deemed by the State Tax Assessor to be in lieu of purchase. § 1752(13)***

In order for a sale to occur, two things must happen. An item or service must be transferred to another party and that party must pay for it somehow. The most common type of sale occurs by selling property in exchange for cash. However, two people could agree to exchange property without any further cash payment or a person could agree to transfer property in exchange for services rendered. In either case a sale still exists.

Installment and lay-away sales

Sometimes a sale occurs but the purchaser has the transaction financed. For instance a person may obtain a loan from a bank to purchase an automobile or the person presents a charge card to pay for the purchase. These transactions are sales and would be reported as a sale in the month in which the transaction occurs. If the seller of the goods

offers its customers the ability to pay over time, the sale would be reported in the month in which the goods are transferred to the customer. For instance, on June 20th a hardware store customer purchases a new circular saw, charges the amount to their "store account" and walks away with the saw. The sale is recorded in June. With regards to lay-away sales, however, the customer is paying over time but does not receive the goods until the entire transaction has been paid in full. Lay-away payments should be considered as "deposits" with the sale occurring in the month in which the final payment is made and the goods are transferred to the customer. For instance, on September 10th a customer places on lay-away 5 items to be used as Christmas gifts totaling $200.00 plus $10.00 tax, and makes ten weekly payments of $21.00. On November 18th a final payment is received and the goods are transferred to the customer. The sale would be booked in November.

RETAIL SALE

Retail sale means:

...any sale of tangible personal property or a taxable service in the ordinary course of business. §1752 (11)

Thus the sale of a refrigerator in an appliance store is a retail sale and subject to tax since the refrigerator is tangible personal property and the sale is in the ordinary business of the appliance store. The same applies to taxable services such as the rental of a video tape in a video store. However, if the appliance store was to sell their office desk, the desk is tangible but not an item they ordinarily sell in their store. The sale of the desk is not a retail sale but rather a casual sale.

The definition of "retail sale" continues to specifically state situations included in the term as follows:

(1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later;

(2) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived through sales from vending machines. The tax must be paid by the retailer to the State;

(3) A sale in the ordinary course of business by a retailer to a purchaser who is not engaged in selling that kind of tangible personal property or taxable service in the ordinary course of repeated and successive transactions of like character; and

(4) The sale or liquidation of a business or the sale of substantially all of the assets of a business, to the extent that the seller purchased the assets of the business for resale, lease or rental in the ordinary course of business, except when:

(a) The sale is to an affiliated entity and the transferee, or ultimate transferee in a series of transactions among affiliated entities, purchases the assets for resale, lease or rental in the ordinary course of business; or

(b) The sale is to a person that purchases the assets for resale, lease or rental in the ordinary course of business or that purchases the assets for transfer to an affiliate, directly or through a series of transactions among affiliated entities, for resale, lease or rental by the affiliate in the ordinary course of business.

For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct and indirect affiliates.

In the first inclusion, a transaction that is financed is a retail sale even though the title to the property does not pass to the purchaser until a later date. In the second inclusion, sales to a person primarily engaged in making vending machine sales of food products are retail sales. In the third inclusion, the sale by a retailer to a person of property that that person does not ordinarily sell is a retail sale. And in the fourth inclusion, the sale of goods that a business had purchased for resale is a retail sale even when sold as part of a sale or liquidation of the business. In all cases, tax applies to the sale unless it is otherwise exempt.

The definition of "retail sale" <u>excludes</u> the following:

(1) Any casual sale;

(2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;

(3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented, on a short-term basis;

(4) The sale to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;

(5) The sale to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more; or

(6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services; or.

(7) The sale to a person engaged in the business of renting furniture, or audio media and audio equipment of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105.

(8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953.

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

(10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale; or

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale.

These exclusions have the effect of an exemption, since if they are excluded from the definition of retail sale, they are not subject to tax. For instance:

- the sale of my television to my neighbor is a casual sale and is not subject to tax; (There are certain casual sales, discussed below, that are specifically taxed in the law.)
- the sale of items in an estate if sold by a personal representative who is not engaged in business is not taxable;
- Subsections 3 through 9 provide exclusions for items associated with taxable transactions, such as auto rentals, video rentals, etc. (This was enacted to avoid paying tax on the purchase of the item as well as collect tax on the rentals.)

- Subsections 10 through 13 provide exclusions for goods and services purchased for resale by registered retailers and non-resident retailers. Note that these exclusions do not apply if the resale of the item will be at casual sale. For instance if an individual purchases a refrigerator, the individual is not in the business of making sales of tangible personal property and cannot escape paying tax by claiming the refrigerator will be resold to a friend, even if that resale does in fact occur. With regards to the purchase of tangible personal property for resale, these exclusions also state that the resale of the item must also be in the form of tangible personal property. For instance, the sale of lumber to a carpenter to build a house is a retail sale and cannot be purchased exempt for resale since the sale of the finished product is a sale of "real" property not personal property.

CASUAL SALES

Although the definition of "retail sale" excludes casual sales, the statute does impose tax on certain casual sales as follows:

> ***The tax imposed by chapters 211 to 225 shall be levied upon all casual rentals of living quarters in a hotel, rooming house or tourist or trailer camp and upon all casual sales involving the sale of trailers, truck campers, motor vehicles, special mobile equipment except farm tractors and lumber harvesting vehicles or loaders, watercraft or aircraft except those sold for resale at retail sale or to a corporation, partnership, limited liability company or limited liability partnership when the seller is the owner of a majority of the common stock of the corporation or of the ownership interests in the partnership, limited liability company or limited liability partnership. This section does not apply to the rental of living quarters rented for a total of fewer than 15 days in the calendar year, except that a person who owns and offers for rental more than one property in the State during the calendar year is liable for collecting sales tax with respect to the rental of each unit regardless of the number of days for which it is rented. § 1764***

You will note a similarity in these items in that most require some form of registration with either Dept. of Motor Vehicles or Dept. of Inland Fisheries and Wildlife. The statute further requires that tax must be paid as a prerequisite to registration. Therefore, rather than the casual seller bearing the responsibility of collecting the tax on such a sale, which would be administratively impractical, tax is collected by the registering agency.

More information on this topic can be found in the "EXEMPTIONS" section of this book.

USE TAX

Each state that imposes a sales tax has a complementary use tax that simply provides if a sales tax has not been paid on purchases for use within Maine, a use tax is due. The statute reads in part:

> ***A tax is imposed, at the respective rate provided in section 1811, on the storage, use or other consumption in this State of tangible personal property or a service, the sale of which would be subject to tax under section 1764 or 1811.....When tangible personal property purchased for resale is withdrawn from inventory by the retailer for the retailer's own use, use tax liability accrues at the date of withdrawal. §1861***
>
> "***Storage" includes any keeping or retention in this State of tangible personal property. §1752 (15)***
>
> ***"Storage" or "use" does not include keeping or retention or the exercise of power over tangible personal property brought into this State for the purpose of subsequently transporting it outside the State for use by the purchaser thereafter solely outside the State, or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the State and thereafter used by the purchaser solely outside the State.***
> ***§1752 (16)***
>
> ***"Use" includes the exercise in this State of any right or power over tangible personal property incident to its ownership, including the derivation of income, whether received in money or in the form of other benefits, by a lessor from the rental of tangible personal property located in this State. §1752 (21)***

Use tax is a substitute for sales tax. All states that have a sales tax also impose a use tax that is intended in part to minimize unfair competition between sales made instate and those made out-of-state. The use tax rate is the same as the sales tax rate.

Use tax applies when sales tax has not been charged. Purchases made out-of-state are the most common type of transactions subject to a use tax. For instance, if a retailer purchases goods from a supplier located in Massachusetts, use tax applies. A Maine resident or business does not escape sales tax by purchasing out-of-state. Some of the more common taxable items are office supplies and equipment, computer hardware, software and supplies, janitorial supplies, fax machines and supplies, photocopiers and supplies and books. If a retailer removes goods from inventory that are being held for resale, and makes use of them, use tax applies. Use tax, in this case, is based on the cost of the item to the retailer, not on the retail selling price.

The same exemptions that apply to sales tax apply to use tax. Common exempt goods are magazines and newspapers published at least quarterly and goods purchased for resale. A retailer would report any use tax liabilities on the current month's sales tax

return. If purchases are made in a state that charges sales tax and the purchase was taxed, no additional tax is due in Maine provided the tax was equal to or more than Maine's rate. If the tax is less than Maine's rate, the retailer owes the difference. For instance if another state's rate is 3% and Maine's rate is 5%, a Maine use tax of 2% is due.

Some out-of-state companies charge sales tax because they have a presence in Maine that requires them to register, collect and remit sales tax. Others voluntarily register. Use tax does not apply if a supplier has charged a Maine sales tax.

TAX RATES

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. The rate of tax is 7% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; 7% on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; 10% on the value of rental for a period of less than one year of an automobile, including a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; 7% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services. Value is measured by the sale price, except as otherwise provided. The value of rental for a period of less than one year of an automobile is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee. §1811

To summarize § 1811, the rate of 5% applies to all sales of:

- tangible personal property
- rental or lease of an automobile for more than one year
- prepaid calling arrangements
- transmission and distribution of electricity

The rate of 7% applies to all sales of:

- prepared food
- alcoholic drinks sold from establishments which are licensed to sell alcoholic drinks for on-premises consumption
- certain rentals of living quarters.

The rate of 10% applies to all:

- short-term rentals of automobiles.

Use tax rates are applied the same way as sales tax.

The 5% Service Provider Tax imposed in §2552, and as explained later in this document, applies to all:

- fabrication services
- telecommunications services
- installation, maintenance and repair of telecommunications equipment
- ancillary services
- extended cable and extended satellite television services
- rental of video media, video games and video equipment
- rental of furniture, audio media, audio equipment and home electronics
- private nonmedical institution services
- community support services for persons with mental health diagnoses
- community support services for persons with mental retardation or autism
- home support services

LIABILITY FOR PAYMENT OF TAX

The sales tax is a levy on the purchaser, not the seller.

The liability for, or the incidence of, the tax imposed by this Part is declared to be a levy on the consumer. The retailer shall add the amount of the tax to the sale price and may state the amount of the tax separately from the sale price of tangible personal property or taxable services on price display signs, sales or delivery slips, bills and statements which advertise or indicate the sale price of that property or those services. §1753

However, the seller is obligated to collect the tax from the purchaser.

Every retailer shall add the sales tax imposed by chapters 211 to 225, or the average equivalent of that tax, to his sale price, except as otherwise provided, and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price. §1812

The taxes collected by a seller are considered to be held in trust for the State.

.... (t)he liability for the taxes or fees and the interest or penalty on taxes or fees is enforceable by assessment and collection, in the manner prescribed in this Part, against the person and against any officer, director, member, agent or employee of that person who, in that capacity, is responsible for the control or management of the funds or finances of that person or is responsible for the payment of that person's taxes. §177

SALE PRICE

"Sale price" is defined as follows:

> ***...the total amount of a retail sale valued in money, whether received in money or otherwise. § 1752(14)***

Pursuant to this definition, tax applies not only to cash sales, but also to credit sales, and to transactions where the sale price is paid in part or in whole by barter, rendition of services, or any other valuable consideration. "Sale price" includes the following:

Sale price includes certain services

✍ ***Any consideration for services that are a part of a retail sale; § 1752(14), sub-§A(1)***

Sales tax applies to the full charge for the goods sold, <u>including any charges for services which are a part of the sale</u>. For example, the charge by a caterer to prepare and serve food for a reception not only covers the cost of the food, but also the cost of preparation and service. Tax applies to the entire charge, since preparing and serving the food are services which are part of the sale. Even though charges for preparation and serving are separately stated, tax would still apply to these charges.

Alteration Charges

When a merchant offers goods for sale, and undertakes to alter them to the customer's requirements, the charges for such alterations are part of the sale price on which tax is based, whether separately stated or not. For example, a customer selects a coat. However, certain alterations are necessary before the coat is satisfactory as a piece of wearing apparel for the customer. The merchant or someone contracted by the merchant performs the alterations and charges the customer an additional $10 alteration fee. The alteration charges are considered a part of the sale price upon which tax is based, even though such charges are separately stated.

Fabrication Charges

Charges for production, fabrication or processing of tangible personal property are included in sale price when performed on tangible personal property belonging to the fabricator. Accordingly, the point at which title passes to the customer is of no relevance in determining the taxability of such charges. For example, a customer enters into a contract with a boat builder to construct a boat in accordance with certain plans and specifications. The charges for the labor of building the boat would be taxable regardless of whether title to the materials passes to the customer before or after the production occurs. For services performed on tangible personal property furnished directly or indirectly by the customer, see the Service Provider Tax explanation of fabrication services.

Assembly Charges

Some types of furniture and equipment are sold either on a knocked down, or unfinished, or on an assembled, or finished basis; the assembled or finished item being priced correspondingly higher. Charges for assembling or finishing, in such cases, are part of the taxable sale price, whether separately stated or not.

In all the above cases, the alteration, fabrication, assembly or finishing of the article sold constitute "services which are a part of (the) sale" and are taxable whether separately stated or not.

Sale price includes more than cash sales

> ✍ ***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. § 1752(14), sub-§A(2)***

Tax applies not only to cash sales, but also to credit sales, and to transactions where the sale price is paid in part or in whole by barter, rendition of services, or any other valuable consideration. The total selling price of a product constitutes its sale price regardless of the fact that the price may be broken down into components of cost of materials, labor and services performed on the product prior to the sale.

Trade-ins

When property is sold, with an allowance being made for traded-in property, tax applies to the entire sale price, including the allowance for trade-in. Thus, if a refrigerator is sold for $800, the customer paying $700 in cash and $100 by way of allowance on a traded in refrigerator, tax is based on the full price of $800.

Allowable trade-in credits

However the law provides an exception to this rule.

> ***When one or more items in one of the following categories are traded in toward the sale price of another item in that same category, the tax imposed by this Part must be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade. This section does not apply to transactions between dealers involving exchange of the property from inventory:***
>
> ***1. Motor vehicles;***
> ***3. Watercraft;***
> ***4. Aircraft;***
> ***6. Chain saws;***
> ***7. Special mobile equipment;***
> ***8. Trailers; or***
> ***9. Truck campers.***

The trade-in credit allowed by this section is not available unless the items traded are in the same category, except that when a truck camper is taken in trade for a camper trailer or a camper trailer is taken in trade for a truck camper, the tax must be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade. §1765

Trailer. "Trailer" means a vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks. "Trailer" includes a camper trailer as defined in section 1481, subsection 1-A. § 1752(19-A)

Truck camper. " Truck camper" means a slide-in camper designed to be mounted on a truck body to provide temporary living quarters for recreational, camping, travel or other use. § 1752(20-A)

Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. "Motor vehicle" includes an all-terrain vehicle as defined in Title 12, section 7851 and a snowmobile as defined in Title 12, section 7821. § 1752(7)

Special mobile equipment. "Special mobile equipment" means any self-propelled vehicle not designed or used primarily for the transportation of persons or property that may be operated or moved only incidentally over the highways, including, but not limited to, road construction or maintenance machinery, farm tractors, lumber harvesting vehicles or loaders, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well drillers and wood sawing equipment. § 1752(14-B)

Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft designed for use as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, which are customarily used in the operations of the watercraft. § 1752(24)

Aircraft. "Aircraft" means any powered contrivance designed for navigation in the air except a rocket or missile. § 1752(1-A)

Thus whenever one of the above items is traded against the same type of item, the tax would be computed on the difference. For sales tax purposes, trade-in allowances only apply to the above listed items. Retailers who sell any vehicles mentioned above are advised to obtain the Bureau's Instruction Bulletin #24 which provides more detail in this area.

Core charges

Customers who purchase certain property that can be reconditioned and resold by the seller are encouraged to bring their used property to the seller by being charged what is often called a “core charge”. The core charge is usually refunded or credited to the customer when the used property is brought to the seller. Core charges are considered part of the selling price of the new property being purchased and are subject to 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 selling 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 selling 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 nor are core charges allowable as trade-in credits.

Sale price does not include vendor discounts.

The definition continues to **exclude** the following charges:

✍ ***Discounts allowed and taken on sales; § 1752(14),¶B(1)***

If a 2% allowance is made for payment within a stated time, <u>and this allowance or discount is actually taken by the customer</u>, tax will apply to the stated price less the discount, or the amount actually paid.

For example, two customers purchase $100 worth of taxable goods, with 2% being allowed for prompt payment. Customer A pays promptly and thus takes the 2% discount: tax is based upon a sale price of $98. Customer B does not pay promptly and does not take the 2% discount: tax is based upon a sale price of $100.

On the other hand, if interest is charged on overdue accounts, tax does <u>not</u> apply to the interest so charged.

Coupons and rebates are another form of discount although not always deductible from the sale price. Coupons are issued by either a manufacturer of the product or by a retailer. The application of sales tax in each case differs.

Manufacturers' Coupons

When a retailer accepts a manufacturers' coupon, the retailer does not recognize any loss in the profit made on the sale. The retailer is reimbursed for the face value of the coupon by the manufacturer. In other words, the patron uses the coupon like cash and the retailer receives the cash when the coupons are redeemed with the manufacturer. The sale price on which tax is based is the total selling price before deducting the value of the coupons.

Example: A customer, when purchasing laundry detergent, redeems a coupon issued by the manufacturer of the detergent. The sale price of the detergent is $2.29 and the face value of the coupon is $.25. The sales tax is computed on $2.29; the sale price before deducting the value of the coupon.

Retailer's Coupons

When a retailer issues a store coupon, the retailer is reducing the price of the item purchased with the coupon by an amount equal to the face value of the coupon. The retailer reduces its profit on the sale and the value of the coupon is not recovered from any other party. This type of coupon is a seller's discount that is deducted from the sale price before computing the sales tax.

Example: A drug store publishes in an advertising flyer its own store coupon offering $.50 off the purchase of a particular shampoo. The shampoo sells for $2.89. The sales tax is computed on $2.39, the sale price after deducting the value of the coupon.

Rebates

Similarly, rebates are treated as a seller's discount if the retailer is the one providing the rebate. However, rebates are more commonly provided by manufacturers and for the same reason stated above, are not deducted from the sale price before computing tax. This remains true even if the rebate is assigned by the purchaser to the seller.

Gift Certificates

When a customer purchases a gift certificate, they are simply exchanging cash for another form of cash from the retailer. The purchase of a gift certificate is therefore not a taxable transaction. It is not until the gift certificate is presented to pay for a purchase of tangible personal property or service that the transaction is taxed, assuming that the goods or services are taxable. The sale price of the purchased goods is not reduced by the amount of the gift certificate before calculating the sales tax.

Sales tax paid on goods returned under warranty is refundable

✍ ***Allowances in cash or by credit made upon the return of merchandise pursuant to warranty; § 1752(14),¶B(2)***

When an adjustment of price is made by a retailer on the return of defective merchandise that has been warranted, the adjustment, or allowance, is deductible on a subsequent sales tax return of the retailer if the original sale was taxable and was so reported by the retailer.

For example, a tire is sold with a 30-month warranty, adjustment being based upon period of use. Assuming the tire was sold for $30.00 with an allowance of $1.00 per month for the period by which the tire fails to meet the warranty. If the tire is returned for failure after 24 months, the allowance would be $6.00. The purchaser would be entitled to refund of $6.00 plus sales tax on this amount; and the retailer would deduct $6.00 on its next sales tax return. Usually such adjustments are made as the result of a written warranty, as in the case of an automobile tire. It is not necessary that the warranty be in writing, since there is a general unwritten warranty that goods are not defective for the purpose for which they are intended.

While an adjustment of sales tax liability may be made for allowance by warranty, whether written or not, an adjustment cannot be made where the merchandise is returned as unsatisfactory, not because of written warranty or because it is defective and so fails to meet an unwritten warranty; but because the purchaser finds it is not suited for the purchaser's purpose. In the latter case, unless the full purchase price is refunded, no adjustment of sales tax can be made.

For example, a customer purchases a snow blower. After using it for a short time the customer finds it is not powerful enough. There is neither failure to meet a written warranty nor any defect in the machine. The customer returns it to the dealer and is allowed 85% of the original purchase price. There is no adjustment permitted so far as sales tax is concerned.

Sales tax paid on goods returned is refundable if the full price is refunded

✍ ***The price of property returned by customers, when the full price is refunded either in cash or by credit; § 1752(14), ¶B(3)***

If merchandise is returned by the customer and the full purchase price is refunded, either in cash or by credit toward other purchases, sales tax charged would

be refunded to the customer or included in the credit. The retailer would deduct the original purchase price of the item on a subsequent sales tax return.

If, in connection with such returned merchandise, the retailer makes a standard service charge, the transaction will nevertheless be considered as a refund of the full purchase price if the service charge is separately shown and so identified on the invoice to the customer or in the records of the retailer. The customer would be entitled to a refund of the entire sales tax paid on the original transaction. For example, a retailer makes a standard service charge of $1.00 in all cases where merchandise is returned by the customer for refund. The invoice or credit memo to the customer indicates "purchase price refunded $30.00, less service charge $1.00 - net $29.00". The retailer should treat this as a refund of the full purchase price and also refund the sales tax originally paid on the $30.00 sale. Note, however, that except for deduction of a standard service charge, the refund must be of the entire purchase price. For example, if an item has been used by the customer and the retailer therefore refunds less than the full purchase price (the transaction not involving an express or implied warranty), no adjustment of sales tax can be made.

Installation and repair charges may not be taxable

✍ ***The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated; § 1752(14), ¶B(4)***

If an appliance store sells a dishwasher but also agrees to install it for a fee, the installation labor charge would not be taxed if separately stated from the purchase price of the dishwasher. If not separately stated, the total charge is subject to tax.

When repair parts or accessories are installed in an item owned by the customer, and the charge for installation or repair labor is separately stated from the charge for the parts or accessories, only the materials portion of the sale is subject to tax. If labor and materials are not separately stated, but invoiced as one bundled price, the entire amount charged to the customer is taxable. (See Instructional Bulletin #53 for handling of repairs under warranties, service contracts and maintenance agreements.)

Installation, maintenance and repair of telecommunications equipment is subject to the service provider tax. A discussion of the taxation of telecommunications can be found in this guide under the topic of “Services”.

Tips are generally not taxable

> ✍ ***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, restaurant or other eating establishment to its employees as wages; § 1752(14),¶B(5)***

An amount charged or collected in lieu of a gratuity or tip, as a specifically stated service charge, when the amount so charged is to be disbursed by a hotel, motel, restaurant or other eating establishment to its employees as wages is not part of the taxable base. An amount or flat percentage charged or collected in lieu of a gratuity is not part of the selling price provided the gratuity is disbursed by the seller to the employee as wages. If not disbursed to the employee, the gratuity is part of the selling price.

Certain excise taxes are not subject to a sales tax

> ✍ ***The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax; § 1752(14), ¶B(6)***

Examples of federal retailer's excise taxes are the 10% federal luxury tax and the 12% heavy vehicle tax. Generally speaking, federal excise taxes imposed on automobiles, tires, firearms, tobacco, liquor and sporting goods are manufacturers' excise taxes and are taxable as part of the sale price. As a result, the total selling price of cigarettes and beer, for instance, are taxable even though federal excise taxes are embedded in the retail price.

Certain delivery charges are taxable

> ✍ ***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 the transportation occurs by means of common carrier, contract carrier or the United States mail; § 1752(14), ¶B(7)***

Transportation charges are exempt from sales tax if **all three** of the above requirements are met, namely:

1) Shipment is made directly to the purchaser

It is not necessary that shipment be made directly from the location of the seller, so transportation charges associated with a so-called "drop shipment" may be exempt if the other requirements are met. The cost of transporting the property sold to the location of the **seller** is always part of the taxable sale price of the property, whether or not it is separately stated to the customer.

Examples of situations in which transportation charges are subject to tax because they are not for shipment directly to the location of the purchaser are:

i. "Home party" sales where the goods ordered at the party are shipped to the representative and then delivered by the representative to the customers;

ii. The cost of shipping property (such as inventory) from the manufacturer to the retailer ("incoming freight"), even though that cost is separately stated on the invoice to the customer;

iii. Catalog or special order sales made at a retail location where the goods are shipped to the retailer and picked up by the customer at the retail location.

2) Charges are separately stated

Although advisable, it is not essential that the transportation charges be separately stated on the invoice of the seller. Any verifiable record showing the amount of the transportation charge as a separate item, such as a bill of lading, is acceptable evidence to substantiate a deduction for transportation charges. In the absence of a verifiable record, no deduction can be allowed. An estimate of the cost of transportation, by either the seller or the purchaser, is not acceptable.

Shipping and handling

The cost of transportation is not separately stated when it is combined with charges for other services as in the case of a "shipping and handling" charge.

A charge for delivery by the seller is taxable

3) Shipment is made by common or contract carrier or the US Mail

Charges for delivery by the seller are part of the sale price for purposes of computing the sales tax. There are no circumstances under which the seller of tangible personal property can be a common or contract carrier with respect to that property.

Lemon law fee is exempt

✍ ***The fee imposed by Title 10, section 1169, subsection 11; § 1752(14), ¶B(8)***

This excludes the $1 lemon law arbitration fee from taxation

Lead-acid battery deposits are exempt

✍ ***The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B. §1752(14), ¶B(10)***

This excludes the $10 lead acid battery deposit from taxation. The lead-acid battery deposit, required by 38 M.R.S.A., §1604, requires the retailer to charge a $10.00 deposit to the consumer if no used battery is presented at the time of sale.

Recycling assistance fees

✍ ***The fee imposed by section 4832, subsection 1; § 1752(14), ¶ B(9)***

This excludes the recycling assistance fees from taxation. The recycling assistance fee is not to be confused with the lead-acid battery deposit. The recycling fee is in addition to the $10.00 deposit and applies even though the deposit may not be applicable.

OTHER FEES ADMINISTERED BY MAINE REVENUE

RECYLCING ASSISTANCE FEES

A fee is imposed on the retail sale in this State of new tires and new lead-acid batteries in the amount of $1 per tire or lead-acid battery. A fee in the same amount is imposed on the storage, use or other consumption in this State of tires and lead-acid batteries purchased new in this State by the user or purchased outside the State by the user the fee imposed by this section has been paid. § 4832(1)

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 applies to all items in each category whether used for residential, commercial or industrial purposes unless specifically exempted. The fee is applied in the same manner as sales and use tax. Any exclusion, exemption or credit provided in the sales and use tax law also applies to the recycling assistance fee. Bulletin 48 provides more detail on this subject.

Lead-acid batteries

"Lead-acid battery" means a device designed and used for the storage of electrical energy through chemical reactions involving lead and acids. § 4831(2)

The law is specific in applying the fee to only batteries which involve lead and acids. These are most commonly used to store electrical energy for motorized vehicles, such as automobiles, trucks, motorcycles, etc. "Lead-acid batteries" include those sold for security systems installed in real property. "Lead-acid batteries" do not include those sold for motorized wheelchairs and tricarts.

Tires

"Tire" means the device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer and is designed to support the load of the motorized vehicle or trailer.
§ 4831(4)

"Motorized vehicle" means any self-propelled vehicle, including motorcycles, construction and farm vehicles and other off-road vehicles, not operating exclusively on tracks. § 4831(3)

Trailer" means any vehicle without motive power that is designed to be drawn by a motorized vehicle.
§ 4831(5)

Only tires to be attached to a motorized vehicle or trailer are subject to the fee. For purposes of this fee, retread tires are used tires and are not subject to the fee. "Tires" include those sold for airplanes and lawn and garden tractors but do not include those sold for motorized wheelchairs, tricarts and push-type lawn mowers.

PREMIUMS ON MOTOR VEHICLE OIL CHANGES

> ***In addition to any other tax or charge imposed under state or federal law, a premium is imposed on all motor vehicle oil changes sold in the State at retail in the amount of $1 per oil change on a vehicle with a gross vehicle weight of under 10,000 pounds, $2 on a vehicle with a gross vehicle weight of 10,000 pounds to 25,999 pounds and $3 on a vehicle with a gross vehicle weight of 26,000 pounds or more. Any person that owns a fleet of vehicles and performs oil changes on those vehicles shall pay a premium of $1 for each oil change performed on each vehicle in the fleet with a gross vehicle weight of under 10,000 pounds, $2 for each vehicle with a gross vehicle weight of 10,000 pounds to 25,999 pounds and $3 for each vehicle with a gross vehicle weight of 26,000 pounds or more. All premiums must be paid monthly to the State Tax Assessor. By the 20th day of each month, the State Tax Assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the premium collected under this subsection in the previous month. When notified by the State Tax Assessor, the State Controller shall transfer that amount to the fund.***
> ***10 MRSA, §1020(6)***

The definition of "sale price" excludes

> ***(12) The premium on motor vehicle oil changes imposed by Title 10, section 1020, subsection 6. §1752, sub-§B(12)***

From October 1, 2007 to July 31, 2008 a premium was imposed on all motor vehicle oil changes sold at retail in this State in the amount of $1 per oil change (if the vehicle's gross weight is under 10,000 lbs), $2 per oil change (if the vehicle's gross weight is 10,000 lbs to 25,999 lbs) and $3 per oil change (if the vehicle's gross weight is 26,000 lbs or more). Any person who owned a fleet of vehicles (defined as 3 or more registered to the same person) and who performed their own oil changes was also subject to the premium. All premiums were to be paid monthly to the State Tax Assessor and were dedicated to the Waste Motor Oil Revenue Fund.

A "motor vehicle oil change" was defined as "the changing of any lubricating oil classified for use in an internal combustion engine, transmission, gearbox, differential or hydraulics in a motor vehicle." A "motor vehicle" was defined as "a self-propelled vehicle not operated exclusively on tracks but does not include … a snowmobile … an all-terrain vehicle … and a motorized wheelchair or an electric personal assistive mobility device."

> ***In addition to any other tax or charge imposed under state or federal law, effective August 1, 2008 a premium is imposed on bulk motor vehicle oil sold or distributed in the State as provided in this subsection. A motor vehicle oil dealer that makes the first sale or distribution of bulk motor vehicle oil in the State shall pay the premium. Gasoline***

> ***engine bulk motor vehicle oils are subject to a premium of $1.10 per gallon. Diesel engine bulk motor vehicle oils are subject to a premium of 35¢ per gallon. All premiums must be paid to the State Tax Assessor and are subject to the administrative provisions of Title 36, Parts 1 and 3, as though they were a sales tax liability. By the 20th day of each month, the State Tax Assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the premium collected under this subsection in the previous month. When notified by the State Tax Assessor, the State Controller shall transfer that amount to the fund. 10 MRSA, §1020(6-A)***

Effective August 1, 2008 a new premium is imposed on bulk sales of oil to replace the premiums imposed on each oil change. The new premium is $1.10 per gallon for gasoline engine bulk motor vehicle oils and 35¢ per gallon for diesel engine bulk motor vehicle oils sold or distributed in the State. Unlike the premium imposed on oil changes, this premium is imposed on the "motor vehicle oil dealer that makes the first sale or distribution of bulk motor vehicle oil in the State". All premiums must be paid monthly to the State Tax Assessor.

The statute provides the following definitions:

> ***"Bulk motor vehicle oil" means all motor vehicle oil other than prepackaged motor vehicle oil. 10 MRSA, §1020(1)(A-1)***
>
> ***"Prepackaged motor vehicle oil" means motor vehicle oil sold in a container with a volume not in excess of 5 gallons. 10 MRSA, §1020(1)(H)***
>
> ***"Motor vehicle oil" means any lubricating oil classified for use in the crankcase of an internal combustion engine, including but not limited to natural, synthetic, and rerefined motor oils, whether or not in retail containers. 10 MRSA, §1020(1)(F)***
>
> ***"Diesel engine bulk motor vehicle oil" means diesel engine bulk motor vehicle oil meeting the performance requirements of American Petroleum Institute CJ-4 standards and all preceding specifications under those standards, inclusive of all viscosity grades. 10 MRSA, §1020(1)(A-2)***
>
> ***"Gasoline engine bulk motor vehicle oil" means gasoline engine bulk motor vehicle oil meeting the performance requirements of American Petroleum Institute SM and International Lubricant Standardization and Approval CommitteeGF-4 standards and all preceding specifications under those standards, inclusive of all viscosity grades. 10 MRSA, §1020(1)(C-1)***
>
> ***"Motor vehicle oil dealer" means any person, firm, or corporation engaged in the business of producing, packaging, or otherwise preparing motor vehicle oil for market, or selling, or distributing motor vehicle oil. 10 MRSA, §1020(1)(G)***

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TAXABLE SERVICES

The taxation of services is not new to Maine. In fact Maine has taxed services since 1959 when it began to tax rentals of living quarters. In 1965, it was telephone and telegraph services; in 1977 short term rentals of automobiles; in 1984 extended cable television services; in 1986 fabrication services and custom computer programming; in 1989 rentals of video tapes; in 1995 long-term rentals of automobiles; in 1999 certain rent-to-own transactions; in 2004 the creation of the service provider tax and in 2005 the addition of extended satellite television services. In all of these situations, no sale of tangible personal property exists. Rather a service is being rendered.

In determining if a service is taxable, some are clearly exempt and others are clearly taxable. Only sales of services defined as taxable services by statute are taxable. However, transactions do occur somewhere in the middle that make such a determination more difficult.

Another distinction is whether a sale is treated as a sale of services, tangible personal property, or intangible property. Historically the Bureau has regarded financial reports, wills and blueprints as intangibles. The purchaser is obtaining the technical services of the provider even though the provider, in turn, presents an instrument to convey thoughts, ideas or research of the provider. The value of the transaction is in the service being rendered. On the other hand the Bureau is sometimes faced with determining if a transaction is a service or is a sale of tangible personal property wherein a service is provided but results in a transfer of tangible personal property. For instance the production of such items as brochures and audio and video tapes, requires a high degree of technical expertise. The cost of production is mainly creative time and labor and the cost of materials used in the production is relatively small. However, the value of this transaction is in the tangible personal property being produced and transferred.

As previously mentioned, sales of services in general are not taxable. However, the statute identifies certain services that are specifically subject to sales tax.

- ***Rental of living quarters in any hotel, rooming house, tourist or trailer camp;***
- ***Rental or lease of an automobile;***
- ***Transmission and distribution of electricity; and.***
- ***Extended Service contract on an automobile; and***
- ***Prepaid calling service.***

  §1752(17-B)

Certain other services are subject to the service provider tax rather than the sales tax. Explanation of these services is also included in this guide and can be found at the end of this section.

- ***Telecommunications service;***
- ***Installation, maintenance and repair of telecommunications equipment;***
- ***Ancillary services;***
- ***Extended cable and extended satellite television service;***
- ***Fabrication services;***
- ***Rental of video media and video equipment;***
- ***Rental of furniture, audio media and audio equipment pursuant to a rental purchase agreement as defined in Title 9-A, section 11-105.***
  §2552

TRANSIENT RENTALS

✍ ***Rental of living quarters in any hotel, rooming house, tourist or trailer camp; § 1752(17-B)***

The following definitions found in the sales and use tax law provide the foundation for determining the type of living quarters that are taxable.

Living quarters. "Living quarters" means sleeping rooms, sleeping or housekeeping accommodations, and tent or trailer space. § 1752(6)

Hotel. "Hotel" means every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests and tenants. § 1752(4)

Rooming house. "Rooming house" means every house, cottage, condominium unit, vacation home, boat, vehicle, motor court, trailer court or other structure or any place or location kept, used, maintained, advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings. § 1752(12)

Tourist camp. "Tourist camp" means a place where tents or tent houses, or camp cottages or other structures are located and offered to the public or any segment thereof for human habitation.
§ 1752(19)

Trailer camp. "Trailer camp" means a place with or without service facilities where space is offered to the public for tenting or for the parking and accommodation of camper trailers, motor homes or truck campers used for living quarters. The rental price includes all service charges paid to the lessor. § 1752(20)

Generally, the amount paid for occupancy of these rooms or spaces are subject to the sales tax. There are situations, however, where a rental charge is not for the rental of living quarters and would not be taxable or is a rental that is specifically exempt.

Incidental Charges at Hotels

☞ When a hotel offers separate facilities (such as a golf course or tennis courts) that are not a part of the rental of living quarters, and where any charges for those facilities are in fact extra and are paid only by persons who make use of the facilities and are shown as a separate item on the bill, those charges are not subject to tax. Tax does apply to the amount billed for extra services that are a part of the rental of a room in a hotel or boarding house, whether or not separately stated. Some examples of services that are considered a part of the rental of living quarters include extra charges for use of a cot or crib or for use of cooking facilities.

Rental of Public Rooms

☞ Rental by a hotel of a dining room, assembly room or other area not intended for use as living quarters is not taxable. When a hotel rents a room designed as living quarters, such as a hospitality suite with bedrooms, the rental will be considered taxable regardless of the use actually made of the room by the person renting it.

Rentals of Video Media and Video Equipment.

☞ The Maine <u>service provider tax</u> applies to rentals of video media, video games and video equipment for noncommercial playback. A hotel that rents any of these items is liable for the service provider tax on the rentals. Taxable rentals include not only rentals of VHS and DVD movies and players, but also rentals of video equipment for use at business conferences, seminars and the like. Purchases of video media and video equipment for rental by a hotel are not taxable.

Tent and Trailer Space

☞ The rental of space for the pitching of tents or the parking of motor homes, travel trailers and camper trailers is taxable. The rental price includes all service charges paid to the lessor, whether or not those charges are separately collected or stated. If the tents or trailers themselves are rented, that rental is also taxable.

Occupancy for 28 days or more

☞ The law provides an exemption that reads:

> ***Continuous residence; refunds and credits. Rental charged to any person who resides continuously for 28 days or more at any one hotel, rooming house, tourist camp or trailer camp if:***
>
> ***A. The person does not maintain a primary residence at some other location; or***
>
> ***B. The person is residing away from that person's primary residence in connection with employment or education.***
>
> ***Tax paid by such a person to the retailer under section 1812 during the initial 28-day period must be refunded by the retailer. If the tax has been reported and paid to the State by the retailer, it may be taken as a credit by the retailer on the return filed by the retailer covering the month in which the refund was made to the tenant.***
> ***§ 1760(20)***

Rental charged to any person who resides continuously for 28 days or more in the same hotel, rooming house, tourist camp or trailer camp is nontaxable if the living quarters are the person's primary residence, or if the rental is in connection with education or employment. This exemption applies, for instance, to apartment rentals (as it is a person's primary residence), rentals to college students (as it is for education) and rentals to such people as construction workers (as it is for employment reasons). If tax has been paid by the person during the initial 28-day period, that tax should be refunded by the retailer (lessor). If the retailer (lessor) has reported and paid the tax to the State, the retailer should take a corresponding credit on the Sales and Use Tax Return filed for the period in which the refund or credit occurred by adjusting the taxable rentals figure shown on the return.

Living Quarters Furnished To Employees

The law also provides another exemption that reads:

> ***Certain meals and lodging. Meals or lodging provided to employees at their place of employment when the value of those meals or that lodging is allowed as a credit toward the wages of those employees.***
> ***§ 1760(75)***

Tax does not apply to rentals of living quarters that are furnished by an employer to an employee, at premises controlled by the employer, and solely for the convenience of the employer provided the charge is allowed as a credit toward the wages of the employee.

Specific Exemptions

☞ The sales and use tax law provides the following specific exemptions from tax:

> ***Camps. Rental charged for living quarters, sleeping or housekeeping accommodations at camps entitled to exemption from property tax under section 652, subsection 1. § 1760(17)***
>
> ***Certain institutions. Rental charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings. § 1760(18)***
>
> ***Schools. Rental charged for living quarters, sleeping or housekeeping accommodations to any student necessitated by attendance at a school as defined in subsection 16. § 1760(19)***
>
> ***"School" means a public or incorporated nonprofit primary, secondary or postsecondary educational institution that has a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keeps and furnishes to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank. § 1752(14-E)***

Casual Rentals

> ***The tax imposed by chapters 211 to 225 must be levied upon all casual rentals of living quarters in a hotel, rooming house or tourist or trailer camp … This section does not apply to the rental of living quarters rented for a total of fewer than 15 days in the calendar year, except that a person who owns and offers for rental more than one property in the State during the calendar year is liable for collecting sales tax with respect to the rental of each unit regardless of the number of days for which it is rented. § 1764***

☞ A person who has only one room or a single camp for rent is required to register as a retailer and collect the 7% sales tax unless rental is for fewer than 15 days each year. Property that is placed in the hands of a real estate agent or other person engaged in the business of renting or managing rentals of living quarters is not a casual rental but is subject to sales tax in the same manner as that of a hotel.

Forfeited room deposits or cancellation fees

☞ The definition of "sale price" excludes the following:

> ***(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival.***
> ***§1752(14), sub-§B(11)***

When a patron rents a room, it is customary for the establishment to require a deposit to hold the room. If the patron cancels or fails to show up on the date of arrival, the deposit, or a portion of the deposit, is forfeited by the patron. The statute distinguishes between amounts which are deemed to be rentals of living quarters and those amounts which are deemed cancellation fees.

If a patron cancels his or her reservation on or prior to the scheduled date of arrival and the establishment retains a "cancellation fee", the fee is not subject to Maine sales tax. However, if the patron fails to show on the scheduled date of arrival, any amount forfeited to the establishment is treated as rental of living quarters and is subject to the 7% tax.

PREPAID CALLING ARRANGEMENTS

✍ ***Prepaid calling service; § 1752(17-B)***

"Prepaid calling service" is defined as:

> ***... the right to access exclusively telecommunications services that must be paid for in advance that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed, and that is sold in predetermined units or dollars, the number of which declines with use in a known amount. The sale or recharge of the service is considered a sale within the State if the transfer for consideration takes place at the vendor's place of business in the State. If the sale or recharge of prepaid calling service does not take place at the vendor's place of business, the sale or recharge is deemed to take place at the customer's shipping address, or if there is no item shipped, at the customer's billing address or the location associated with the customer's mobile telephone number. The sale of the service is deemed to occur on the date of the transfer for consideration of the service. §1752(8-B)***

Prepaid calling cards and other calling arrangements are taxable at the time of sale. The "sale price" is the card's or arrangement's full face value. In the event the sale or "recharge" does not occur at a vendor's place of business, the sale is deemed to take place at the customer's billing address.

TRANSMISSION AND DISTRIBUTION OF ELECTRICITY

- ***Transmission and distribution of electricity. § 1752(17-B)***

Electricity is provided by two separate companies; an electricity supplier, and a transmission and distribution (T&D) company. The electricity supplier sells electricity to consumers in a competitive market. The T&D company delivers the electricity over lines which they maintain and service. The sale of electricity is a taxable sale of tangible personal property. The charge for the transmission and distribution of the electricity is a taxable service and is likewise subject to tax.

EXTENDED WARRANTY ON AUTOMOBILE

- ***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. § 1752(17-B)***

- ***"Retail sale" does not include: The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration. §1752(11)(B-9)***

- ***"Automobile" means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks. "Automobile" includes a pickup truck or van with a registered gross vehicle weight of 6,000 pounds or less. §1752(1-B)***

Effective September 20, 2007, sales tax applies to 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. The sale of the extended warranty is taxable, while the parts used in subsequent repairs are exempt. Prior to this date, the sale of an extended warranty was a nontaxable service and any parts associated with subsequent repairs were taxable. Note that this change applies to the sale of extended warranties on **automobiles (including ATV's)** only. The sale of extended warranties on any other property continues to be exempt.

RENTAL OR LEASE OF AUTOS

- ***Rental or lease of an automobile. § 1752(17-B)***

Since definitions play a crucial role in taxation, the term "automobile" has the following definition:

> ***"Automobile" means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks. "Automobile" includes a pickup truck or van with a registered gross vehicle weight of 6,000 pounds or less. §1752(1-B)***

Automobiles include, but are not limited to, SUVs, so-called jeeps and scouts and pick-up trucks. Passenger vans are also automobiles even if retrofitted for another use, such as a service vehicle. Automobiles do not include those which have more than 4 wheels, such as dual rear wheel pick-ups, cargo vans and motor homes.

Rentals of automobiles fall into two categories: short term and long term. Within long term rentals, there could be a number of different types of transactions. The tax consequences in each category differ.

Short term rentals

Rentals for less than 12 months to one person are deemed to be short-term rentals and are subject to a 10% tax. Typically these are daily rental operations. Taxable rentals include all charges for the rental of the automobile, including ***maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. (§1811)*** Rentals do not include cancellation charges or sales of gasoline.

All rental payments made pursuant to a rental executed in Maine are subject to Maine tax whether the automobile is to be used exclusively in Maine or outside the state. Alternatively, rental payments associated with a rental executed outside the state is not subject to Maine's tax even if the automobile is used exclusively in Maine. Rentals to agencies of government and to organizations that are exempt from sales tax are exempt on the same basis as other retail sales.

As previously mentioned, the definition of "retail sale" excludes "***(t)he sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis"***. Automobiles purchased exclusively for short term rental are purchased tax exempt. However, if any other use is made of the automobile, the lessor becomes subject to a use tax based on the lessor's purchase price.

Long term rentals

Rentals or leases of automobiles for 12 months or more are long term leases. With regards to automobiles only, the tax base for long term leases differ from any other type of vehicle or equipment. The statute states:

> ***"Rental or lease of an automobile for one year or more must be taxed at the time of the lease or rental transaction at 5% of the following: the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee." § 1811, ¶ 3***

As a result, the statute provides that sales tax is computed on the total of three categories:

- total lease payments
- trade-in equity
- cash down payment

Total lease payments

Total lease payments are arrived at by multiplying the lease payment by the number of payments in the lease term. If the lease indicates that the 36 monthly payments of $300.00 are due on the 10th of each month, the tax base for this category is $10,800. Taxes, such as federal luxury tax, excise and sales taxes, are allowable exclusions from the tax base. Ancillary services such as registration fees, life/disability insurance, warranties and management services, are excluded only if separately stated from the lease payment. For example, if the lease stated above is inclusive of ancillary services, the tax base remains the same. It is immaterial that the $300 could be broken down into a variety of charges. If on the other hand, the lessor bills the lessee $150 for ancillary services in addition to the $300 each month, these services would not be taxable.

Floating interest rates: Leases that have floating interest rates should use the rate effective at the time the lease is executed in determining the total lease payments. However, a reconciliation will be required at the end of the term to determine if any tax adjustment is necessary. For example, at the beginning of a lease it is determined that the lease payment is $350.00 based on the current interest rate and the term is for 24 months. The total lease payments which are part of the tax base and subject to tax amounts to $8400.00. During the lease the interest rate fluctuates to a degree that the actual total of the lease payments amounts to $9000.00. A tax adjustment of $30.00 (presuming the rate is 5%) is necessary on the last lease payment for the extra $600.00 in payments.

Trade-in equity

Trade-in equity is the value of any kind of trade-in which is a cost reduction to the lease. For instance if a vehicle is taken in trade with a value assigned to it in the amount of $3000.00 with no lien, the $3000.00 must be added to the tax base. If a lien was involved and the customer owed $1000.00, the net amount, or $2000.00, is added to the tax base. If the lien is greater than the trade-in value, no equity exists and no value is added (or deducted) from the tax base.

Cash Down Payment

Cash down represents any initial cash payment which is a cost reduction to the lease. Cash down includes rebates applied to the lease. It does not include pre-payment of lease payments or payments of sales tax, excise tax, registration fees and other required "up front" costs that are disbursed by the lessor.

Special situations

Open-end leases

Open-end leases may or may not have a stated lease term. Thus total rental payments may not be determinable in advance. If a term is determinable and the term is 12 months or more, such as a 12 month lease with monthly renewals thereafter, the lease will be considered a long term lease. The tax base would be computed on the total of the known lease payments. Monthly renewals would be taxed at the rate of 5% on each payment as they accrue.

If a term is not determinable or the designated term is less than 12 months, the lease will be considered a short-term lease. Each lease payment should be taxed as they accrue at the short-term tax rate of 10%.

A Terminal Rental Adjustment Clause (TRAC) lease is an example of an open-end lease. However, at the end of the lease, the final lease payment is adjusted either upward or downward based upon the condition of the vehicle. Since this represents additional rent due or credit for overpaid rentals, an adjustment to tax is necessary. If there is an increase in the rental payment, additional tax is due. If there is a credit adjustment, a tax credit is appropriate.

Lease extensions

In the event a lease is extended, tax is to be computed once again. The lease will continue to be regarded as a long term lease even though the extension may be for a term of less than 12 months. If the term is known, the tax base would include the payment multiplied by the additional number of months. If the term is not determinable, tax would be computed on each payment as they accrue.

Early Termination of Lease or removal from state

There is no provision in the sales and use tax law for the refund of any sales tax, in the case where a lease on which tax has been collected is terminated prior to the end of its term or where the property covered in a lease executed in Maine is subsequently removed from the state.

Leases to non-residents

Out-of-state residents that enter into a long term lease of an automobile with a Maine dealer are exempt from Maine sales and use tax provided the automobile is immediately removed from the state and the purchaser executes an “Immediate Removal Affidavit”. (See §1760, sub-§23-C)

LEASES

Although leases in general are not a “taxable service”, the area of leasing requires a discussion of the different tax treatments of leases. There are generally four types of lease transactions;

- a true lease
- a lease with option to purchase
- a lease in lieu of purchase and
- an open end lease.

True Lease

In a true lease, the lessor enters into a lease agreement with a lessee for a stated period of time and the property is to be returned to the lessor at the conclusion of the lease term. The lessor is making a taxable use of the property through the derivation of rental income. The lessor is liable for a use tax, due at the beginning of the lease, based on the lessor's cost of the property. If the property is returned to the lessor and leased to another party, no additional use tax is due. No sales tax is charged to the lessee nor are lease payments subject to tax.

Lease with option to purchase

In a lease with option to purchase, the same liability to the lessor exists as stated in a true lease. However, at the end of the term, the lessee has the option to purchase the property for a stated amount, fair market value or some other value. If the option is exercised, a taxable sale occurs and sales tax would be charged at that time to the lessee based on the option price, including any amounts previously paid as rentals and applied to that price.

Lease in lieu of purchase including automobiles

In a lease in lieu of purchase, the lessee will acquire title at the end of the lease term. This type of lease is deemed a "sale" at the commencement of the lease. The lessee would be charged sales tax up front based on the total lease payments. (Finance charges which are separately stated may be excluded from the taxable base.) Leases with nominal purchase options, such as $1.00, are considered leases in lieu of purchase. In addition, TRAC leases may qualify as leases-in-lieu of purchase, depending on the contractual terms.

Trade-ins on leased property

Trade-in credits are only allowed in transactions involving the "sale" of certain vehicles. Trade-in credits are not allowed on leased property unless the lease is in lieu of

Leases to exempt organizations

Leases to exempt organizations are treated no differently than the leases mentioned above with the following exceptions: rentals and leases of automobiles, interim rentals and leases in lieu of purchase, being “sales”, are exempt when rented/leased to a sales tax exempt organization. In the case of a lease with option to purchase, the lease is taxable as previously described, while the sale that occurs when the option is exercised is exempt.

Interim Rentals

The Sales and Use Tax Law contains a special provision to cover situations where tangible personal property that had been purchased for resale is rented as an incident to holding the property for resale. This does not apply to situations where the purchase of the property was for rental purposes and the ultimate sale of the property is incidental only. Nor does it apply to short-term or long-term rentals or leases of automobiles.

The law permits the retailer in such cases to elect to collect and remit sales tax on rental payments rather than pay a use tax on the purchase price. Sales tax on rentals is to be passed on to the original and any subsequent lessees. If the property is rented to a person for more than one year or the retailer makes other use of the property, other than rental or sale, the election is void and the retailer is liable for use tax on the property.

Retailers must maintain supporting documentation of the rentals for audit purposes.

Software licenses

Unlike a sale, a software license provides the user with the authorization to only use the software without title to the software transferring to the user. A software license is therefore treated as a lease. Software licenses that are issued and renewed annually are taxable to the lessor based upon the purchase price. If the software lessor is also the developer of the software, the cost of the product is based upon the lessor’s material costs.

A software license will be considered a lease in lieu of purchase when the license is perpetual or for 10 years or more with no annual renewals. In this situation, the lessor would collect a sales tax from the lessee at the commencement of the lease based upon the total amount of lease payments.

SERVICE PROVIDER TAX

A 5% service provider tax applies to the following services:

- ***Extended cable and extended satellite television service;***
- ***Fabrication services;***
- ***Rental of video media and video equipment;***
- ***Rental of furniture, audio media and audio equipment pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105.***
- ***Telecommunications service;***
- ***The installation, maintenance or repair of telecommunications equipment;***
- ***Ancillary services;***
- ***Private non-medical institution services***
- ***Community support services for persons with mental health diagnosis***
- ***Community support services for persons with mental retardation or autism***
- ***Home support services***

§2552*(1)*

Value is measured by the sale price. The liability for, or the incidence of, the tax imposed by this section is declared to be a levy on the seller. If a seller includes this tax on a customer's bill, it must be shown as a separate line item and identified as a service provider tax. §2552(2)

Unlike the sales tax, the service provider tax is imposed on the provider. The provider can pass this cost on to the purchaser, and if this happens, the provider must disclose the tax as a "service provider tax". The value on which the tax is imposed is the transaction's "sale price".

Sale Price

"Sale price" means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the cost of materials used, labor or service cost, interest, losses and any other expense of the seller. "Sale price" includes any consideration for services that are a part of a sale. "Sale price" does not include:

A. Discounts allowed and taken on sales;

B. Allowances in cash or by credit made upon the return of services pursuant to warranty;

C. The price of services rejected by customers when the full sale price is refunded either in cash or by credit;

D. The amount of any tax imposed by the United States or the State on or with respect to the sale of a service, whether imposed upon the seller or the consumer; or

E. The cost of transportation from the service provider's place of business or other point from which shipment is made directly to the purchaser, as long as those charges are - separately stated and the transportation occurs by means of common carrier, contract carrier or the United States Postal Service. §2551(15)

TELECOMMUNICATIONS SERVICE

- ***Telecommunications service; § 2552(E)***

"Telecommunications services" means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point or between or among points.

"Telecommunications services" includes transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether the service is referred to as "Voice over Internet Protocol" services or is classified by the Federal Communications Commission as enhanced or value added.

"Telecommunications services" does not include:
A. Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser when the purchaser's primary purpose for the underlying transaction is to obtain the processed data or information;
B. Installation or maintenance of wiring or equipment on a customer's premises;
C. Tangible personal property;
D. Advertising, including, but not limited to, directory advertising;
E. Billing and collection services provided to 3rd parties;
F. Internet access service;
G. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of those services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service as defined in 47 United States Code, Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers as defined in 47 Code of Federal Regulations, Section 20.3;
H. Ancillary services; or
I. Digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ringtones. **§ 2551,** ***sub-§20A***

The following are exempt from the service provider tax:

- ***Sales of prepaid calling service; § 2557, sub-§32***

- ***Sales of international telecommunications service; § 2557, sub-§33***

"International telecommunications service" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. For purposes of this subsection, "United States" includes a territory or possession of the United States.
§ 2551, sub-§5-A

- ***Sales of interstate telecommunications service. § 2557, sub-§34***

"Interstate telecommunications service" means a telecommunications service that originates in one state, territory or possession of the United States and terminates in a different state, territory or possession of the United States. For purposes of this subsection, "state" includes the District of Columbia. § 2551, sub-§5-B

"Telecommunications service" is broadly defined to include all telecommunications services and then provides a list of services that are excluded. Two of the exclusions (installation, maintenance and repair of telecommunications equipment and ancillary services) are subject to the service provider tax as a separately stated service. Additionally, three exemptions are provided in the statute for prepaid calling services (since these are taxable under the sales tax law), international calls and interstate calls. As a result, telecommunications service includes calls made within Maine which also terminate in Maine. The monthly charge for line service is taxable as well as long distance calls within Maine, but calls that originate or terminate outside of Maine are exempt.

"Telecommunications service" is not restricted to entities that provide telephone line service. It also includes voice over internet protocol (VOIP).

Installation, maintenance and repair of telecommunications equipment

- ***The installation, maintenance or repair of telecommunications equipment; §2552(F)***

"Telecommunications equipment" means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. "Telecommunications equipment" includes all transmission media that are used or capable of being used in the provision of 2-way interactive communications, including, without limitation, copper wire, coaxial cable and optical fiber, except those

transmission media designed and primarily used to transmit electricity. "Telecommunications equipment" does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information. §2551, sub-§19

Labor charges for installation, maintenance or repair of telecommunications equipment are subject to the service provider tax. "Telecommunications equipment" not only includes the familiar telephone, but also cellular telephones, TDD's, two-way radios, modems, fax machines, telephone switching equipment and telephone wiring, including copper wire, coaxial cable and optical fiber. The definition of telecommunications equipment states that the equipment need only be capable of being used in the provision of 2-way interactive communications. This tax applies to any person who installs or repairs telecommunications equipment and could include electricians and contractors as well as those ordinarily providing telecommunications services. For instance, if an electrician installs telephone wire and coaxial cable in a new home being constructed, that electrician's labor is subject to the service provider tax.

When telecommunications equipment is a component of another piece of equipment (a fax as part of a copier or a modem as part of a computer), repair charges allocable only to the telecommunications equipment is subject to tax.

Ancillary Services

✍ ***Ancillary services; §2552(L)***

"Ancillary service" means a service that is associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing service, directory assistance, vertical service and voice mail service.

"Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

"Directory assistance" means an ancillary service of providing telephone number information or address information or both.

"Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services and offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections. "Vertical service" includes conference bridging service.

> ***"Conference bridging service" means an ancillary service that links 2 or more participants in an audio or video conference call and may include the provision of a telephone number. "Conference bridging service" does not include the telecommunications services used to reach the conference bridge.***
>
> ***"Voice mail service" means an ancillary service that enables the customer to store, send or receive recorded messages. "Voice mail service" does not include a vertical service that the customer may be required to have in order to use the voice mail service.***

"Ancillary services" are additional charges associated with telecommunications services. "Ancillary services" is a separately distinguished service subject to the service provider tax. Examples of "ancillary services", include, but are not limited to, charges for billing services, directory assistance, caller-id, setting up conference calls, and voice mail.

Mobile Telecommunication Services

> ***"Mobile telecommunications services" means commercial mobile radio service as defined in 47 Code of Federal Regulations, Section 20.3 as in effect on June 1, 1999. For purposes of sourcing, "mobile telecommunications services" does not include air-ground radiotelephone service as defined in 47 Code of Federal Regulations, Section 22.99 as in effect on June 1, 1999. §2551(6)***

The definition of telecommunications service in Maine's law is in conformity with federal statute with regards to the sourcing of mobile telephone services. In summary, Maine can only apply its statute on calls associated with a customer whose place of primary use is in Maine. "Place of primary use" is defined as:

> ***… the street address representative of where a customer's use of mobile telecommunications services primarily occurs, which must be either the residential street address or the primary business street address of the customer and must also be located within the licensed service area of the home service provider. For purposes of determining the place of primary use, "customer" means the person or entity that contracts with the home service provider for mobile telecommunications services, or, if the end user of such services is not the contracting party, the person that is the end user of such services. The term "customer" does not include a reseller of mobile telecommunications services, or a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area. §2551, sub-§8***

Special rules addressing the responsibilities of a home service provider have also been enacted as follows:

> ***1. Sourcing rule; identifying place of primary use. Mobile telecommunications services provided to a customer whose place of primary use is located in this State, the charges for which are billed by or for the customer's home service provider, are deemed to be provided at the customer's place of primary use. A home service provider is responsible for obtaining and maintaining a record of a customer's place of primary use. Subject to subsection 2 and if the home service provider's reliance on the information provided by its customer is in good faith, the home service provider:***
>
> ***A. May rely on the applicable residential or business street address supplied by the home service provider's customer; and***
>
> ***B. May not be held liable for any additional taxes under this Part based on a different determination of the place of primary use.***
>
> ***2. Correction of place of primary use; determination by assessor. If the assessor determines that the address used by a home service provider as a customer's place of primary use does not meet the definition provided by section 2551, subsection 8, the assessor shall notify the customer in writing of that determination and provide the customer an opportunity to demonstrate that that address is the customer's place of primary use. If the customer fails to demonstrate to the assessor's satisfaction within 30 days from the time it receives notice from the assessor, or within another time period as the assessor may allow, that the address in question is the customer's place of primary use, the assessor shall provide the home service provider with the proper address to be used as the customer's place of primary use. The home service provider shall begin using the address provided by the assessor as the customer's place of primary use within 30 days from the date it receives notice of the assessor's determination.***
>
> ***3. Hold harmless provision; use of electronic database or enhanced zip code. A home service provider is entitled to the hold harmless protections provided by the federal Mobile Telecommunications Sourcing Act, Public Law 106-252, Section 1, 114 Stat. 2, 2000.***
>
> ***4. Bundled services. Notwithstanding any other provision of this chapter, otherwise nontaxable charges that are aggregated with and not separately stated from taxable mobile telecommunications charges are subject to taxation unless the home service provider can, to the satisfaction of the assessor, reasonably identify such charges from books and records kept in the regular course of its business. A customer may not rely upon the nontaxability of bundled services unless the customer's home service provider separately states the otherwise nontaxable services or the home service provider elects, after receiving written notice from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business and that reasonably identify the nontaxable charges.***

> ***5. Certain preexisting contracts. Subject to subsection 2, a home service provider may treat the address used by it for purposes of the tax imposed by this chapter for any customer under a service contract or agreement in effect on July 28, 2002 as that customer's place of primary use for the remaining term of the service contract or agreement, excluding any extension or renewal period. §2556***

Additional questions and answers on the topic of Mobile Telecommunications can be found in a special notice issued by MRS on July 1, 2002. (See Sample Document section.)

EXTENDED CABLE & SATELLITE TELEVISION SERVICES

✍ ***Extended cable and satellite television service; §2552(A)***

"Extended cable and satellite television service" is defined as:

> ***... all cable and satellite television service that is in addition to the minimum service which can be purchased from a cable and satellite television supplier including the use of associated equipment for which a charge is made. It does not include installation of the associated equipment for which a separate charge is levied. § 2551, sub-§2***

Cable and satellite television service is therefore taxed only on programming that the subscriber may elect to receive over and above the basic service. For instance, if a cable company offers a basic package of 18 channels, the charge for this "basic" service is exempt. If the subscriber elects to purchase anything more than this, those charges would be taxable. Examples of taxable charges are: 1) the purchase of an extended package of additional channels, 2) movie or sports channels, 3) connections to additional sets, 4) pay-per-view programs or 5) use of special equipment like remote controls or converter boxes. Installation charges are not subject to tax, whether for basic or extended service, provided the charge is separately stated.

Since the definition of "retail sale" in the sales tax law does not include "the sale, to a person ***"engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services; "***, the purchase of converter boxes by the cable or satellite company is exempt from sales and use tax since the rental of the box is taxable as "extended cable and satellite television service".

FABRICATION SERVICES

✍ ***Fabrication services; § 2552(1)(B)***

"Fabrication services" as defined below are subject to the service provider tax as a taxable service.

> ***"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" does not include the production of tangible personal property if a sale to the consumer of the tangible personal property so produced would be exempt or otherwise not subject to tax under Part 3. §2551, sub-§3***
>
> ***The tax imposed by this chapter does not apply to connection with: Sales to a construction contractor or its subcontractor of fabrication services that are to be physically incorporated in, and become a permanent part of, real property for sale to any organization or government agency provided exemption under this section, except as otherwise provided by section 2560. §2557(31)***

"Fabrication services" are those that change materials provided to a fabricator into a different form, character or composition. Fabrication is very similar to manufacturing except that the materials are already owned by the end user. The end user contracts with the fabricator to convert the materials into something different. For instance, Mr. X has some antique floor boards and contracts with a carpenter to make a table. The labor charge by the carpenter is a "fabrication service" that is subject to tax.

"Fabrication services" do not include the charge for attaching, affixing or applying a completed item of tangible personal property to other tangible personal property, or to real property. For example, having a painting mounted into a frame is not fabrication.

As the definition states, if the product being fabricated is, under the sale tax law in Part 3, an exempt item or the services are being performed for an exempt organization, the services are likewise exempt. For more information on “fabrication services”, please refer to Instructional Bulletin #46.

RENTAL OF VIDEO MEDIA AND GAMES

✍ ***Rental of video media and video equipment; §2552(1)(C)***

The statute defines "video media and video equipment" as follows:

> ***"Video media" means prerecorded magnetic tapes used for noncommercial playback of images and sound on video equipment, and other electronic audio and video media that provide for noncommercial interactive utilization by a person or persons, including***

> ***digital video discs. "Video equipment" means equipment used to play video media, equipment used for recording images and sound for subsequent noncommercial playback and equipment used for noncommercial interactive utilization of electronic audio and video media. §2551, sub-§21***

Rentals of video media and video games, as well as the equipment used to record or playback video media and games are subject to tax. Late charges and movie passes, since they represent payment for rentals, are also taxable. Fees charged for rewinding tapes is considered a service charge and is not taxable.

The inclusion of the term "noncommercial" was intentional in order to not subject rentals of movies by theaters to a tax. The typical daily rental of video media and video games, such as Nintendo and Sega, along with the related equipment are the items targeted for taxation.

As mentioned in the definition of "retail sale" in the sales tax law, a retail sale does not include ***"the sale, to a person engaged in the business of renting audio or video media and audio or video equipment, of audio or video media or audio or video equipment for rental"***. Purchases of these items are not subject to sales or use tax since the subsequent rentals are taxed.

RENTAL OF FURNITURE, AUDIO MEDIA AND EQUIPMENT

Rentals of furniture, audio media and audio equipment are taxable only in those establishments that enter into rental-purchase agreements as defined in M.R.S.A., Title 9-A, §11-105, sub-§7.

> ✍ ***Rental of furniture, audio media and audio equipment pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105.***
> ***§ 2552(1)(D)***

Furniture is defined as:

> ***...the following movable items that are intended to make a room or establishment useful for human habitation.***
>
> ***A. "Furniture" includes:***
>
> ***(1) Living room furniture, including, but not limited to, sofas, love seats, loungers, recliners, chairs, end tables, coffee tables, curio cabinets, home entertainment centers, book shelves and floor and table lamps;***
>
> ***(2) Bedroom furniture, including, but not limited to, headboards, footboards, bed frames, mattresses, box springs, dressers, chests of drawers, mirrors, armoires, nightstands, bunk beds, roll-away beds and chests;***

(3) Baby furniture, including, but not limited to, cribs, dressers and changing tables;

(4) Dining room furniture, including, but not limited to, tables, chairs, dinette sets, hutches and dry sinks;

(5) Patio and outdoor furniture, including, but not limited to, tables, chairs, umbrellas, porch swings and gliders;

(6) Office furniture including, but not limited to, desks, chairs, tables, workstations, movable partitions, shelving, file cabinets, coat racks and couches; and

(7) Home electronic devices including home appliances, home computers, televisions, stereos and radios.

B. "Furniture" does not include:

(1) Items that are affixed to real property such as sinks, toilets, built-in cabinets or light fixtures; or

(2) Furnishings such as carpeting, artwork, draperies or blinds.

§2551, sub-§4

Rent-to-own establishments are liable for the service provider tax on rental payments as they occur. As provided in the definition of "retail sale" in the sales tax law, a retail sale does not include ***"the sale, to a person engaged in the business of renting furniture, or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105."***. Purchases of the items listed in the definition of "furniture" as well as audio and audio equipment are not subject to sales or use tax since the subsequent rentals are taxed.

The following four services only pertain to those persons providing these services under contract with the Department of Health and Human Services ("DHHS"). Reimbursements from DHHS include the service provider tax. Maine Revenue Services has limited information regarding these services outside of the definitions listed below which are found in Title 36. Specific questions regarding what are included in these services should be directed to DHHS.

PRIVATE NONMEDICAL INSTITUTION SERVICES

"Private nonmedical institution services" means services, including food, shelter and treatment, that are provided by a private nonmedical institution. §2551(11)

"Private nonmedical institution" means a person licensed by the Department of Human Services or the Department of Behavioral and Developmental Services to provide private nonmedical institution services to 4 or more MaineCare-eligible and other residents in single or multiple facilities under a written agreement with the Department of Human Services or the Department of Behavioral and Developmental Services. "Private nonmedical institution" does not include a health insurance organization, hospital, nursing home or community health care center. §2551(10)

COMMUNITY SUPPORT SERVICES FOR PERSONS WITH MENTAL HEALTH DIAGNOSES

"Community support services for persons with mental health diagnoses" means rehabilitative services provided to adults at least 18 years of age or to emancipated children that are provided in the context of a supportive relationship 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 in that person's current living situation or another living situation of that person's choice. "Community support services for persons with mental health diagnoses" includes only those services provided by a designated community support services provider licensed by and operating under a contract with the Department of Health and Human Services for such services, whether the provider is reimbursed through participation in the MaineCare program or with state grant funds. "Community support services for persons with mental health diagnoses" includes only those services provided to persons with mental health diagnoses. §2551(1-A)

COMMUNITY SUPPORT SERVICES FOR PERSONS WITH MENTAL RETARDATION OR AUTISM

"Community support services for persons with mental retardation or autism" means services:

A. That are provided by community-based agencies to children or adults with mental retardation or autism and include assistance with the acquisition, retention or improvement of self-help, socialization and adaptive living skills; and

B. That take place in a nonresidential setting separate from the home or facility in which the child or adult resides, except when a physician has ordered that such services be provided in the child's or adult's home, and focus on enabling the child or adult to attain or maintain maximum functional levels.

"Community support services for persons with mental retardation or autism" includes only those services provided by designated agencies under a contract with the Department of Health and Human Services. §2551(1-B)

HOME SUPPORT SERVICES

"Home support services" means services provided to adults with mental retardation or autism, including direct assistance with eating, bathing, dressing, personal hygiene and other activities of daily living. These services include only those services provided by designated agencies under a contract with the Department of Health and Human Services and:

A. May include assistance with instrumental activities of daily living such as assistance with the preparation of meals, but does not include the cost of the meals themselves;

B. If specified in the adult's care plan, may include such housekeeping chores as bed making, dusting and vacuuming that are incidental to the care furnished, or are essential to the health and welfare of the adult; and

C. May be provided by a provider unrelated to the adult or by an adult relative other than an adult recipient's spouse, but may not be provided in the same setting where residential training is provided.

§2551(7-B)

A number of exemptions exist when services are provided to certain exempt organizations. See §2557. Services can be sold exempt when sold to another service provider for resale.

In addition to many exclusions found in the definitions already mentioned, the sales and use tax law also provides numerous exemptions. In fact they could be grouped in the following categories:

- Exempt goods
- Exempt services
- Nonprofit organizations
- Certain establishments

EXEMPT GOODS

This section has been categorized into sub groups for easier reference. These groups are food items, medical items, printed items, building materials, commerce items, agriculture and animals, vehicles, fuels and manufacturing.

FOOD ITEMS

Grocery staples

Grocery staples. "'Grocery staples' means food products ordinarily consumed for human nourishment.

'Grocery staples' does not include spirituous, malt or vinous liquors; soft drinks, iced tea, sodas or beverages such as are ordinarily dispensed at bars or soda fountains or in connection with bars or soda fountains; medicines, tonics, vitamins and preparations in liquid, powdered, granular, tablet, capsule, lozenge or pill form, sold as dietary supplements or adjuncts, except when sold on the prescription of a physician; water, including mineral bottled and carbonated waters and ice; dietary substitutes; candy and confections; and prepared food. §1752(3-B)

Reference should be made to Instructional Bulletin #12 which provides a detailed list of taxable and nontaxable items commonly sold in a grocery store.

Specific items that remain taxable regardless of where sold are: candy and confections, including any bars covered in chocolate or primarily containing candy, such as Twix® bars and Kudo® bars or any “jelly-like” substance primarily containing sugar or corn syrup, such as Gummie Bears® and jelly beans; candied and glazed fruit; chewing gum; breath mints; iced tea; soft drinks and other carbonated drinks.

Prepared food

Another important exclusion to the definition of “grocery staples” is “prepared food” which is defined as follows:

"’Prepared food’ means:
A. Meals served on or off the premises of the retailer;

B. Food and drinks that are prepared by the retailer and ready for consumption without further preparation; and

C. All food and drinks sold from an establishment whose sales of food and drinks that are prepared by the retailer account for more than 75% of the establishment's gross receipts.

'Prepared food' does not include bulk sales of grocery staples."
§ 1752, sub-§8-A

All "prepared food" is taxable at the rate of 7% regardless of where sold. The following explains the different terms found in the definition of "prepared food".

Meals served on or off the premises of the retailer

This category includes any meal sold by any retailer whether served at the retailer's place of business or off site. It includes all food or drink prepared for consumption at tables, chairs or counters or from trays, glasses, dishes or other tableware provided by the retailer. Common retailers included in this category are restaurants, fast food chains, cafeterias, caterers and other eateries providing sit down service.

Sandwiches requiring no further preparation and food heated by the retailer are considered "meals", whether prepared by the retailer or a third party, and regardless of the type of retailer making the sale.

Food and drink prepared by the retailer and ready for consumption without further preparation

This category includes all food and drink that is prepared by any retailer and that is ready to eat. "Prepared by the retailer" means:

- Food prepared for sale in a heated state regardless of cooling which may have occurred prior to the sale. Some examples are hot dogs, hamburgers, hot sandwiches, pizza, chicken pieces and rotisserie chicken.

- Mixing or combining two or more food ingredients for sale as a single item, such as bakery items, sandwiches, deli platters, salads and desserts.

- Food or drink prepared from syrups or mixes, such as soda fountain drinks, slush-type drinks, soft-serve ice cream and milk shakes.

- Food or drink sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins or straws.

- Food that is prepared for sale in self-serve areas, such as salad bars and self-serve food carts.

Example 1: A snack bar prepares hot dogs, hamburgers, sandwiches, fountain drinks, slush-type drinks and soft serve ice cream. All these products are taxable at the rate of 7%.

Example 2: A grocery store prepares sandwiches, hot chicken, cole slaw, potato salad and also prepares food for a salad bar where customers can create their own salads. All these items are taxable at the rate of 7%, except those excluded as "bulk sales of grocery staples" as explained below.

Example 3: A convenience store sells hot dogs, pizza slices, sandwiches, hot coffee, fountain drinks, and slush-type drinks. All these items are taxable at 7%.

Example 4: A bakery prepares and sells bread and bread products, doughnuts, muffins, pastries, cakes, pies and hot coffee. All these items are "prepared by the retailer" and taxable at 7%, except those excluded as "bulk sales of grocery staples" as explained below.

Food and drink sold from an establishment that is predominately in the business of selling prepared food for immediate consumption (75% rule)

This category attempts to identify those retailers who are similar in nature to a restaurant rather than a grocery store. A retailer who falls under this category is required to charge 7% tax on all of its sales of food and drinks requiring no further preparation, whether prepared by the retailer or not. The two factors to compare are 1) sales of food prepared by the retailer and 2) total sales. If dividing (1) by (2) generates a percentage of more than 75%, the retailer is affected by this category.

"Sales of food prepared by the retailer" include all food that the retailer prepares, including hot food, hot drinks, sandwiches, bakery items, soda fountain drinks, slush-type drinks, ice cream served in a cup, cone or dish, and milkshakes. "Total sales" include all receipts by the retailer, including grocery staples, prepared food, cigarettes, beer, wine, soda, candy, gasoline, and periodicals; rental income from the rental of space at the retailer's site, such as space for vendors, room rentals and campsite rentals; and revenue generated at the retailer's site from other sources, such as admittance fees and equipment rentals.

A retailer who meets the 75% rule must collect 7% tax on all sales of food or drink requiring no further preparation, not just on food prepared by that retailer. (See exception below for bulk sales of grocery staples.) Sales of individually packaged pastries, chips, cookies, etc. and drinks including soda, water, juice, milk, etc. and candy would all be taxed at 7% along with the food prepared by the retailer.

A retailer who does not meet the 75% rule must collect 7% tax on only those sales of food prepared by the retailer as mentioned in the prior section. Sales of otherwise taxable items, such as soda, beer, wine, candy, ice, cigarettes, etc. would continue to be taxed at 5%. Sales of grocery staples, including snack items, milk, juice, etc. would all be exempt.

Example 1: A convenience store prepares and sells sandwiches, pizzas, and soda fountain drinks. In addition it sells convenience foods, a small line of grocery staples, candy, beer, wine, cigarettes and gasoline. Its total sales for the year are $500,000. Sales of "prepared food" (sandwiches, pizzas and soda fountain drinks) for the year are $125,000. Because only 25% of its total sales are prepared food, this store would charge 7% tax only on its prepared food.

Example 2: A sandwich shop prepares and sells sandwiches, pizzas, pasta dishes, hot dogs, hamburgers, and soda fountain drinks. In addition it sells chips, pastries, candy, soda, water, beer, juices and milk. Its total sales for the year are $300,000. Sales of "prepared food" (sandwiches, pizzas, pasta dishes, hot dogs, hamburgers, and soda fountain drinks) for the year are $240,000. Since more than 75% of its total sales are prepared food (80%), this retailer would charge 7% tax on all its sales of food and drink that do not require further preparation (chips, pastries, candy, soda, water, beer, juices and milk).

Exclusion for bulk sales of grocery staples

The definition of "prepared food" does provide one exclusion. "Bulk sales of grocery staples" are exempt regardless of the location from which they are sold. Some examples of food prepared by the retailer that qualify as bulk sales of grocery staples are:

- pies, cakes, desserts and bread and bread products, except those packaged as a single serving
- donuts, muffins, pastries, cookies, etc. sold in quantities of 6 or more
- products sold in the "deli case", such as salads, luncheon meats and cheese, except sandwiches and food prepared for sale in a heated state regardless of cooling which may have occurred prior to the sale
- ice cream packaged in quart or larger containers, maple syrup, jam, jellies, pickles, honey, and spaghetti sauce

For retailers who meet the 75% rule, "bulk sales of grocery staples" also include:

- a bag of coffee
- salad dressing
- drinks, including milk and juice, in quart or larger containers
- potato chips, corn chips and similar items packaged in 6 ounce or larger containers
- packages of cookies, crackers, etc. except those packaged as a single serving

Liquor sold in licensed establishments

Liquor sold in establishments that are licensed for on-premises consumption of liquor is subject to a 7% sales tax. "Liquor" includes spirits, wine and malt liquor.

Certain meals

Sales of meals:

A. Served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school;

B. To patients of institutions licensed by the Department of Health and Human Services for the hospitalization or nursing care of human beings, or to patients or residents of institutions licensed by the Department of Health and Human Services under Title 22, Subtit1e 6 or Title 22, section 1781;

C. By hospitals, schools, long-term care facilities, food contractors and restaurants to incorporated nonprofit area agencies on aging for the purpose of providing meals to the elderly;

D. To residents of incorporated nonprofit church-affiliated congregate housing facilities for the elderly in which at least 75% of the units are available for leasing to eligible lower-income residents;

E. Served by colleges to employees of the college when the meals are purchased with debit cards issued by the colleges; and

F. Served by youth camps licensed by the Department of Health and Human Services and defined in rules adopted by the Department of Health and Human Services as a combination of program and facilities established for the primary purpose of providing an outdoor group living experience with social, recreational, spiritual and educational objectives for children and operated and used for 5 or more consecutive days during one or more seasons of the year, including day camps, residential camps and trip and travel camps.
§ 1760(6)

School meals. Sales of meals made in the school lunchroom during the normal school day, or by a school or student organization at a school event where it is evident that those in attendance are mainly students and teachers, will be considered exempt. If, however, meals are served to students or teachers by a caterer or other person not associated with the school, such sales are taxable.

American Legion Auxiliary

Sales of meals and related items and services by a nonprofit auxiliary organization of the American Legion in connection with a fund-raising event sponsored by the auxiliary organization if the meals and related items and services are provided in a room that is separate from the lounge facilities, if any, of the American Legion and patrons are prohibited from taking alcoholic beverages from the lounge facilities to the separate room where the meals and related items and services are provided. §1760(84)

Food stamp purchases

Sales of items purchased with federal food stamps or Women, Infants and Children, WIC, Special Supplemental Food Program food instruments distributed by the Department of Human Services. § 1760(54)

Sales through vending machines

Sales through vending machines. Sales of products for internal human consumption when sold through vending machines by a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. § 1760(34)

The status of products sold through vending machines depends upon the product being sold and the type of business activity of the retailer. "Vending machines" do not include "snack boxes" that require purchasers to be on their honor in paying for the selected item.

This exemption only applies to products for internal human consumption by a person who primarily is a vending company. Although the exemption exists for the sale, the items are subject to tax based on the seller's cost.

"Products for internal human consumption" means:

"edible products sold for human nutrition or refreshment and containers or instruments provided simultaneously for the consumption of these products. It does not include spirituous, malt or vinous liquors, medicines, tonics, vitamins, dietary supplements or cigarettes." § 1752(5-A)

Items that come within the scope of this definition are sandwiches, chips, ice cream, candy, soft drinks and other food items. Also included within this definition are the paper plates, cups, utensils and packaging materials for these items. Chewing gum is **not** for "internal human consumption."

Items, other than those mentioned above, when sold through vending machines are retail sales and subject to tax on the selling price. Examples of such items are cigarettes, toys, gum, health and beauty aids, and other goods not for "internal human consumption." The retailer would purchase these items free of tax by presenting the supplier with a resale certificate.

A retailer may sell a combination of the items mentioned above. Or the retailer may be engaged in other activities besides vending machines such as a lunch counter or a cafeteria. The following discusses the two categories that a vending machine operator would fall into and the tax consequences of each.

When More Than 50% of Retail Sales Are Through Vending Machines.

For retailers in this situation only, vending machine sales of products for internal human consumption are not taxed on the selling price. However the products are taxed at the retailer's cost. The Law allows the purchase of these items free of tax for resale if the supplier is provided a resale certificate. Purchases are then reported as "taxable purchases" on the sales tax return. This exemption applies only to items for internal human consumption. Other items sold through vending machines are taxed on their selling price.

When 50% or Less of Retail Sales are Through Vending Machines.

Vending machine operators who receive 50% or less of their gross receipts from retail sales through vending machines do not qualify for this exemption. Such retailers must report their entire vending machine sales based on the selling price.

Residential water

Residential water. Sales of water purchased for use in buildings designed and used for both human habitation and sleeping, with the exception of hotels. § 1760(39)

Similar to coal, oil and wood, this exemption applies to all buildings designed for human habitation and sleeping, but it specifically excludes hotels. All other commercial uses are taxable. Sales of bottled water delivered by the seller is governed by who the purchaser is.

This exemption does not apply to sales of bottled water in retail stores, such as grocery stores, c-stores, department stores and the like. These sales are taxable since they are governed by the definition of “grocery staple” which specifically excludes water.

Certain meals and lodging

Meals or lodging provided to employees at their place of employment when the value of those meals or that lodging is allowed as a credit toward the wages of those employees. § 1760(75)

See also "Transient Rentals".

MEDICAL ITEMS

Medicines

Sales of medicines for human beings sold on doctor's prescription. § 1760(5)

"Medicines" means antibiotics, analgesics, antipyretics, stimulants, sedatives, antitoxins, anesthetics, antipruritics, hormones, antihistamines, oxygen, vaccines and other medications and drugs used in the prevention, diagnosis or treatment of disease or injury. "Sold on doctor's prescription" means that the medicine is dispensed or administered by a medical professional authorized by law to prescribe medicines for human beings or sold by a licensed pharmacist in accordance with a prescription issued by a medical professional authorized to prescribe medicines for human beings.

Bandages, dressings, sutures, swabs, hypodermics, instruments and similar items that may be used in the diagnosis and treatment of injury or disease, but which are not medicines, are subject to tax whether sold to an individual or to a medical professional for use in the medical practice. Sales to individuals of "over-the-counter" drugs without a written prescription are also taxable, even if the drug is purchased on the advice or recommendation of a physician. However, there is no tax on nonprescription medicines purchased by a doctor for use in the doctor's medical practice.

Sales of medicines originally prescribed by a doctor on a refillable prescription are exempt when the prescription is refilled.

Prosthetic devices

Sale of prosthetic aids, hearing aids or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity; § 1760(5-A)

"Prosthetic aids" means devices surgically implanted in or worn by the patient as a substitute for a functioning part of the human body. Artificial limbs and artificial eyes; mammary prostheses and brassieres specifically designed to accommodate mammary prostheses; ostomy appliances; enteral feeding devices; dentures, crowns, caps and materials actually used in the repair or replacement of teeth such as dental amalgam and cement; and cardiac pacemakers are examples of items that qualify for exemption as prosthetic aids. Repair parts for items that meet the definition of "prosthetic aids" are also exempt.

Items ordinarily worn for cosmetic purposes, such as wigs, false eyelashes and makeup, are taxable whether or not the need for them results from a medical condition.

Orthopedic or therapeutic devices and appliances that do not replace a functioning part of the human body are not prosthetic aids. Articles of this type are taxable unless they constitute "artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity". In order to be exempt under this provision, a device must be actually designed, constructed or altered for the use of a particular individual. Sales of standardized or stock devices such as trusses, supports, neck or back braces, orthopedic shoes, athletic supporters, support hosiery, arch supporters, elastic bandages and similar items are taxable unless they are designed, constructed or altered for the use of a particular individual to correct or alleviate physical incapacity.

Sales of hearing aids and sales of batteries and repair parts for hearing aids are exempt from tax as are sales of prescription eyeglasses and contact lenses, repair or replacement parts and lenses for prescription eyeglasses.

Nonprescription sunglasses, opera glasses, magnifying glasses, platform magnifiers and similar items are taxable. Cleaning solutions and supplies for contact lenses and eyeglasses are taxable.

Diabetic supplies

All equipment and supplies, whether medical or otherwise, used in the diagnosis or treatment of diabetes; § 1760(33)

Sales of insulin, antidiabetic drugs, testing supplies such as Clinitest, Clinistix and Tes-Tape, and other items used only in the treatment of diabetes are exempt from tax. Sales of hypodermic syringes and needles to diabetic patients are exempt.

Sales of items that are not used only in the diagnosis or treatment of diabetes, and which are not prescription medicines, should be regarded as taxable unless the purchaser has provided evidence such as a statement from a doctor that the patient has been diagnosed as diabetic, and unless the purchaser states that the items being purchased are to be used in the treatment of diabetes.

Crutches and wheelchairs

Crutches and wheelchairs for the use of invalids and crippled persons and not for rental. § 1760(5-A)

Crutches, canes, walkers and wheelchairs sold for the use of sick, injured or disabled persons are exempt. Sales of crutches, canes, walkers and wheelchairs for rental use are taxable.

There is no exemption in the Sales and Use Tax Law for items other than crutches, canes, walkers and wheelchairs purchased to alleviate or compensate for impaired mobility. Some examples of items that are subject to tax are wheelchair lifts, modifications to motor vehicles to make them operable by handicapped persons and motor vehicles that have been so modified, and materials used in the construction of wheelchair ramps or other alterations to real property to make it accessible to handicapped persons.

PRINTED ITEMS

Publications

Sales of any publication regularly issued at average intervals not exceeding 3 months. § 1760(14)

Generally, this exemption applies to newspapers and magazines issued at least on a quarterly basis.

Self-help literature on alcoholism

Sales of self-help literature relating to alcoholism to alcoholics anonymous groups. § 1760(57)

Advertising and Promotional material

Sales of 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 thereafter solely outside the State. § 1760 (80)

If a retailer purchases printed advertising or promotional materials, like flyers, pamphlets or brochures, for the purpose of mailing them directly out-of-state or for inclusion as "stuffers" in goods being delivered out-of-state, the purchase is exempt from tax. If the materials purchased are partially taxable and partially exempt (mailed in-state and out-of-state), the retailer should pay tax on the entire purchase and apply to the bureau for a refund on the exempt portion.

DONATED MERCHANDISE

Donations to non-profit organizations

No use tax may be imposed on the donation of merchandise by a retailer to an organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3), as amended, when the merchandise has been returned to the retailer by the purchaser and the retailer then gives to the purchaser an allowance in cash or by credit pursuant to warranty or when the full price of the merchandise returned is refunded, either in cash or by credit, to the purchaser. §1863

A use tax is not imposed on the donation of merchandise by a retailer from inventory to an organization if sales to that organization are exempt from sales tax under section 1760. §1864

BUILDING MATERIALS

Manufactured housing

Sales of:
A. Used manufactured housing; and
B. New manufactured housing to the extent of all costs, other than materials, included in the sale price, but the exemption may not exceed 50% of the sale price. § 1760(40)

"Manufactured housing" has the same meaning as defined in Title 10, section 9002, subsection 7. § 1752(6-C)

This exemption does have a limitation however. When new manufactured housing is sold, the sales tax applies to either the portion of the sale price that represents the cost of materials or 50% of the sale price, whichever is greater. No sales tax applies to sales of manufactured housing that has been permanently incorporated into real property by the seller, although the seller would be subject to a tax on its purchase of the home. Sales of used manufactured housing are exempt.

The tax imposed by this Part on the sale or use of manufactured housing, except when the dealer has collected the tax in full, must be paid by the purchaser to the State Tax Assessor. The assessor shall provide a tax receipt to the purchaser. Upon request by the municipal officials or the Maine Land Use Regulation Commission, the receipt must be made available by the purchaser to certify that the tax has been paid, pursuant to Title 30-A, section 4358, subsection 4 or Title 30-A, section 7060, subsection 1, paragraph C.

A valid bill of sale from a dealer showing that the tax has been collected in full serves to certify that the tax has been paid, pursuant to Title 30-A, section 4358, subsection 4, or Title 30-A, section 7060, subsection 1, paragraph C, in lieu of a tax receipt provided by the assessor. § 1952-B

The above section is used in conjunction with municipalities issuing building permits. In effect a purchaser of manufactured housing must show proof that tax has been paid as a prerequisite to obtaining a building permit.

Portable classrooms

Sales of tangible personal property to be physically incorporated in and become a part of portable classrooms for lease to schools entitled to exemption under subsection 16. If the portable classrooms are used for an otherwise taxable use within 2 years from the date of the first use, the lessor shall become liable for the use tax based on the original sale price. § 1760(58)

Construction contracts with exempt organizations

Sales to a construction contractor or its subcontractor of tangible personal property that is to be physically incorporated in, and become a permanent part of, real property for sale to any organization or government agency provided exemption under this section, except as otherwise provided by section 1760-C. § 1760(61)

This exemption only applies to property that will become physically attached to the realty of the exempt organization. It does not apply to supplies used by the contractor nor to any machinery or equipment purchased by the contractor, even though the equipment is being purchased specifically for the exempt job. For purposes of this exemption, contractors also include sub-contractors.

If a contractor has an inventory of property on which tax has been paid and subsequently uses the property on an exempt job, the contractor would be eligible for refund provided the property meets the requirements stated above.

Railroad track materials

Railroad track materials purchased and installed on railroad lines located within the boundaries of the State. The track materials shall include rail, ties, ballast, joint bars and associated materials, such as bolts, nuts, tie plates, spikes, culverts, steel, concrete or stone, switch stands, switch points, frogs, switch ties, bridge ties and bridge steel. § 1760(52)

COMMERCE ITEMS

Ships stores

Sale of cabin, deck, engine supplies and bunkering oil to ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce. § 1760(4)

Bunkering oil in this exemption refers to any fuel used to propel the vessel as opposed to used in the operation of any equipment, such as cranes, hoists and generators.

Packaging materials

Sales of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials to:

A. Persons engaged in the business of packing, packaging, shipping and transporting tangible personal property; or
B. ***Persons for use in packing, packaging or shipping tangible personal property sold by them or on which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business that are transferred to the possession of the purchaser of that tangible personal property; § 1760(12-A)***

This exemption includes materials that are used to insure the delivery of the contents in physically good condition. Examples include, but are not limited to, the following items:

Bags	Crates	Sawdust
Bindings	Dry ice	Styrofoam
Boxes	Ice	Tapes
Containers	Labels	Twines
Cores	Paper	Wrappings

There is no distinction between non-returnable and returnable packaging materials. The exemption applies to both. In addition the exemption does not apply unless the materials pass into the possession of the customer of the shipper.

This exemption only applies when the purchaser uses the packaging materials to package and ships goods being transported by the purchaser, to package or ship goods that are being sold by the purchaser or on which a service of cleaning, pressing, dyeing, washing, repairing or reconditioning has been performed by the purchaser. For example, an individual contracts with a moving company to transport their household items to another town. Or a gift shop sells a product to a customer and agrees to ship the product to the customer's home. The box, stuffing, labels and tape used to package the item for shipment are exempt from tax. Likewise, a dry cleaning business is exempt from paying tax on hangers, plastic, twine and wrapping paper used to package the garments that have been cleaned for a customer.

Packaging items used by a business to store goods are subject to tax.

Delivery out of state

Sales of tangible personal property when the seller delivers the property to a location outside this State or to the United States Postal Service, a common carrier or a contract carrier hired by the seller for delivery to a location outside this State, regardless of whether the property is purchased F.O.B. shipping point or other point in this State and regardless of whether passage of title occurs in this State. This exemption does not apply to any subsequent use of the property in this State. §1760 (82)

When a retailer makes a sale and delivers the product to the purchaser, the sale is complete upon delivery. If the retailer delivers the product to a point outside Maine, the sale is exempt from Maine sales tax. The delivery must be made with the retailer's own vehicle or the retailer must contract with a common or contract carrier to make the delivery.

If the purchaser takes delivery within Maine, it is a taxable sale, even though the purchaser immediately removes the property from the state. However, there are exceptions (explained below) for certain vehicles, watercraft, all-terrain vehicles and snowmobiles purchased by nonresidents.

Catalog Sales and Internet Sales

A retailer that solicits sales through a catalog or internet web site must collect tax on sales made to customers in Maine if the retailer has "nexus" (a substantial physical presence) in Maine. Retailers registered in Maine selling goods to Maine residents must collect Maine sales tax since the retailer has a presence in Maine and the sale occurs in Maine. This is true regardless if the sale occurred in the retailer's store, if the goods are ordered over the telephone or if the goods are ordered through the retailer's homepage.

If the retailer receives orders through mail-order or the internet from non-residents and the goods are shipped out-of-state, the sale is not taxable in Maine. If the retailer is not required to register in Maine, the sales are not subject to Maine's sales tax but the purchaser is subject to Maine's use tax on such a purchase.

AGRICULTURE AND ANIMALS

Aquacultural production and bait

Sales of feed, hormones, pesticides, antibiotics and medicine for use in aquacultural production and sales of bait to commercial fishermen. § 1760(7-A)

Commercial Agricultural Crop production

Sales of seed, fertilizers, defoliants and pesticides, including, but not limited to, rodenticides, insecticides, fungicides and weed killers, for use in the commercial production of an agricultural crop. § 1760(7-B)

Animal Agricultural production

Sales of breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production. Animal agricultural production includes the raising and keeping of equines. § 1760(7-C)

Bedding material

Sales of organic bedding materials for farm animals and hay. § 1760(78)

It is important to note that these exemptions differ based on the use of the products. For instance, with regards to the production of an agricultural crop, the products listed in §1760(7-B) are only exempt if sold to a person engaged in a commercial activity, whereas the products used in aquacultural production and animal agricultural production are <u>not</u> restricted to commercial use only. As a result, vegetable

seeds, seedlings and fertilizer used in home gardens are taxable. This exemption does not apply to activities such as fertilizing lawns and golf courses, use of insecticides by a woods operation and defoliating under power lines or telephone lines since an agricultural crop is not being commercially produced.

Since animal agriculture production is not restricted to commercial activities, the products listed in §1760(7-C) above are exempt if used for any agricultural animal, such as cows, pigs, chickens, goats, llamas, alpaca, sheep. Animal agricultural production also includes the raising and keeping of equines. Thus hay, bedding material and medicines for horses, whether used as a pet or for commercial purposes, are exempt. For more information on this topic, please refer to Instructional Bulletin #14.

Seedlings for commercial forestry use.

Sales of tree seedlings for use in commercial forestry. § 1760(73)

Seeing eye dogs

Seeing eye dogs. Sales of tangible personal property and taxable services essential for the care and maintenance of seeing eye dogs used to aid any blind person. § 1760(35)

Commercial Farming, Fishing and Aquaculture

See the end of this section for a comprehensive discussion of the exemptions and refunds available to those engaged in commercial agricultural production, commercial fishing and commercial aquacultural production.

VEHICLES

Automobiles to amputee veterans

Sales of automobiles to veterans who are granted free registration of such vehicles by the Secretary of State under Title 29-A, section 523, subsection 1. § 1760(22)

Loaner vehicles purchased by new vehicle dealers

The use of a loaner vehicle provided by a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, to a service customer pursuant to a manufacturer's or dealer's warranty. §1760(21-A)

"Loaner vehicle" means an automobile to be provided to a motor vehicle dealer's service customers for short-term use free of charge pursuant to the dealer's franchise, as defined in Title 10, section 1171, subsection 6. §1752(5-C)

Certain vehicles purchased by nonresidents

Sales or leases of the following vehicles to a person that is not a resident of this State, if the vehicle is intended to be driven or transported outside the State immediately upon delivery:

A. Motor vehicles, except

(1) Automobiles rented for a period of less than one year; and

(2) All-terrain vehicles and snowmobiles as defined in Title 12, section 13001;

B. Semitrailers;

C. Aircraft; and

E. Camper trailers, including truck campers.

If the vehicles are registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price. §1760(23-C)

Certain vehicles purchased or leased by qualifying resident businesses.

The sale or lease of a motor vehicle, except an automobile rented for a period of less than one year or an all-terrain vehicle or snowmobile as defined in Title 12, section 13001, to a qualifying resident business if the vehicle is intended to be driven or transported outside the State immediately upon delivery and intended to be used exclusively in the qualifying resident business's out-of-state business activities.

For purposes of this subsection, "qualifying resident business" includes any individual, association, society, club, general partnership, limited partnership, limited liability company, trust, estate, corporation or any other legal entity that:

A. Is organized under the laws of this State or has its principal place of business in this State; and

B. Conducts business activities from a fixed location or locations outside the State.

If the vehicle is not used exclusively in the qualifying resident business's out-of-state business activities or is registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price. §1760(23-D)

Watercraft sold to nonresidents

Sales of watercraft to a person that is not a resident of this State, when the watercraft is intended to be sailed or transported outside the State immediately upon delivery by the seller; sales to a person that is not a resident of this State, under contracts for the construction of a watercraft intended to be sailed or transported outside the State immediately upon delivery by the seller, of materials to be incorporated in the watercraft; and sales to a person that is not a resident of this State for the repair, alteration, refitting, reconstruction, overhaul or restoration of a watercraft intended to be sailed or transported outside the State immediately upon delivery by the seller, of materials to be incorporated in the watercraft. Unless the watercraft is present in the State, for a purpose other than temporary storage, for more than 30 days during the 12-month period following its date of purchase or is registered in Maine without also being registered in another state or documented with a location in this State, within 12 months of the date of purchase, the purchaser is exempt from the use tax. § 1760(25)

All-terrain vehicles

Sales of all-terrain vehicles, as defined in Title 12, section 13001, purchased by an individual who is not a resident of this State; §1760(25-A)

Snowmobiles purchased by a nonresident

Sales of snowmobiles, as defined in Title 12, section 7821, subsection 5, purchased by an individual who is not a resident of this State; §1760(25-B)

Unlike certain vehicles and watercraft mentioned above, all-terrain vehicles and snowmobiles sold to nonresidents do not need to be immediately removed from the state in order to qualify for exemption.

Automobiles used in driver education programs

Sales to automobile dealers, registered under section 1754-B, of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without consideration or for a consideration of not more than $1 a year, and used exclusively by such schools in driver education programs. §1760(21)

Aircraft

Sales or leases of aircraft that weigh over 6,000 pounds, that are propelled by one or more turbine engines or that are in use by a Federal Aviation Administration classified 135 operator. §1760(88)

Certain vehicles used in interstate or foreign commerce

> ***Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation that exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate commerce. § 1760(41)***

In order to qualify for this exemption, three criteria must be met. The vehicle must be:

- placed in use by the purchaser
- used within 30 days of purchase in interstate or foreign commerce
- used in interstate or foreign commerce more than 80% of the time within the next 2 years after purchase

A vehicle that is leased and used in interstate or foreign commerce is considered to be used by the lessee, not the purchaser, as an instrumentality of interstate or foreign commerce. Consequently, leased vehicles, including leased vehicles that are operated by the lessor, do not qualify for this exemption.

Use of a vehicle in intrastate and local operations is not use as an instrumentality of interstate or foreign commerce. Vehicles are considered to be used in intrastate or local operations when they are carrying cargo that both originates and terminates within the State of Maine.

Time means a day or portion of a day during which the vehicle is actually being used to carry cargo or dispatched to a specific location for the purpose of being loaded with cargo. For example, if a vehicle carried cargo or was on route to be loaded with cargo during 500 days in the 2-year period following the date of purchase, it has met the 80% use requirement if during 400 of those days the cargo was in interstate or foreign commerce.

The State Tax Assessor may for good cause extend by up to 60 days the time for placing the vehicle in use as an instrumentality of interstate or foreign commerce.

It is not necessary that the purchaser apply for the extension, but good cause must be documented in the records of the purchaser. Good cause does not exist when the extension is required because of the taxpayer's negligence or failure to make a good faith effort to place the vehicle in use in interstate or foreign commerce within 30 days from the date of purchase.

This exemption applies only to vehicles, railroad rolling stock, aircraft, and watercraft. Repair parts, operating supplies and accessories are not exempt. Accessories purchased as part of a vehicle are exempt from Maine sales or use tax if the vehicle qualifies for exemption. Accessories purchased separately from the vehicle are taxable.

So-called glider kits are considered repair parts rather than vehicles. The purchase of a glider kit is subject to tax whether or not the vehicle on which it will be mounted is used by the purchaser as an instrumentality of interstate or foreign commerce.

Certain property purchased out-of-state

Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29-A, section 101, subsection 7, and if the owner is an individual who was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

A-1. If the property is a watercraft that is registered outside the State by an owner who is an individual who was a resident of another state at the time of purchase and the watercraft is present in the State not more than 30 days during the 12 months following its purchase for a purpose other than temporary storage;

A-2. If the property is a snowmobile or all-terrain vehicle as defined in Title 12, section 13001 and the purchaser is an individual who is not a resident of the State;

A-3. If the property is an aircraft not exempted under subsection 88 and the owner at the time of purchase was a resident of another state or tax jurisdiction and the aircraft is present in this State not more than 20 days during the 12 months following its purchase, exclusive of days during which the aircraft is in this State for the purpose of undergoing "major alterations," "major repairs" or "preventive maintenance" as those terms are described in 14 Code of Federal Regulations, Appendix A to Part 43, as in effect on January 1, 2005.

For the purposes of this paragraph, the location of an aircraft on the ground in the State at any time during a day is considered presence in the State for that entire day, and a day must be disregarded if at any time during that day the aircraft is used to provide free emergency or compassionate air transportation arranged by an incorporated nonprofit organization providing free air transportation in private aircraft by volunteer pilots so children and adults may access life-saving medical care; or

B. For more than 12 months in all other cases.

Property, other than automobiles, watercraft, snowmobiles, all-terrain vehicles and aircraft, that is required to be registered for use in this State does not qualify for this exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State. If property required to be registered for use in this State was not required to be registered for use outside this State, the owner must be able to document actual use of the property outside this State for more than 12 months prior to its registration in this State. For purposes of this subsection, "use" does not include storage but means actual use of the property for a purpose consistent with its design. §1760(45)

Certain Snow Grooming Equipment

Sales to incorporated nonprofit snowmobile clubs of snowmobiles and snowmobile trail grooming equipment used directly and exclusively for the grooming of snowmobile trails. §1760(90)

FUEL and UTILITIES

Certain motor fuels

Sales of:

A. Motor fuels upon which a tax at the maximum rate for highway use has been paid pursuant to Part 5 or a comparable tax of any other state or province;

B. Internal combustion engine fuel, as defined in section 2902, bought and used for the purpose of propelling jet or turbojet engine aircraft; and

D. Diesel internal combustion engine fuel bought and used from July 1, 2007 to June 30, 2008 for the purpose of operating or propelling a commercial groundfishing boat.[2]
§ 1760(8)

"Commercial groundfishing boat" means a boat that is federally permitted to harvest northeast multispecies operated by a person who holds a commercial fishing license issued by the State and used for harvesting northeast multispecies. As used in this subsection, "northeast multispecies" has the same meaning as in 50 Code of Federal Regulations, Section 648.2 (2006). §1752(1-H)

[2] This exemption was **not** continued beyond June 30, 2008.

Whenever motor fuels are subject to the excise (road) tax, sales tax does not apply. However, there are situations where the excise tax is refundable in the gasoline and special fuel statutes, such as fuel used off the highways of this state. In those situations the refund is adjusted to retain the use tax that would otherwise apply.

Fuel for burning blueberry lands

Sales of all fuels used in burning blueberry fields. § 1760(9-A)

Coal, oil and wood

Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of 5 gallons or less is presumed to meet the requirements of this subsection. § 1760(9)

"Other buildings designed both for human habitation and sleeping" include hotels, boarding homes, nursing homes, overnight cabins, orphanages, homes for the aged and convalescent homes. Any other commercial use would be taxable. It is important to point out that the exemption is for fuel when bought for cooking and heating "in" buildings designed "and used" for both habitation and sleeping. This exemption would not apply to fuel used in outside grills or fuel used in heating a garage or pool.

In situations where a heating system services both commercial and residential space, such as a neighborhood store with connected apartments, a partial exemption would be applicable based on the square footage of the residential area. See Bulletin #13 "Sales of Fuel and Utilities" for additional information.

Sales of kerosene or home heating oil in 5 gallon or less containers, whether they are prepackaged or directly pumped from a retail station, are presumed to be for purposes of residential cooking or heating and are exempt from sales tax. If a purchaser claims that a retail purchase of greater than 5 gallons is for residential cooking or heating, the seller must document the transaction with either an affidavit or a log.

Residential electricity

Sale and delivery of the first 750 kilowatt hours of residential electricity per month. For purposes of this subsection, "residential electricity" means electricity furnished to buildings designed and used for both human habitation and sleeping, with the exception of hotels. Where residential electricity is furnished through one meter to more than one residential unit and where the transmission and distribution utility applies its tariff on a per unit basis, the furnishing of electricity is considered a separate sale for each unit to which the tariff applies. For purposes of this subsection, "delivery" means transmission and distribution. § 1760(9-B)

Unlike coal, oil and wood, this exemption only applies to the first 750 kWh sold to homes, mobile homes, boarding homes and apartment houses. All commercial uses are taxable, including hotels and nursing homes.

In situations where an electrical system services both commercial and residential space, such as a neighborhood store with connected apartments, a partial exemption would be applicable based on the square footage of the residential area. See Bulletin #13 "Sales of Fuel and Utilities" for additional information.

Net energy billing customers

Sale or delivery of kilowatt hours of electricity to net energy billing customers as defined by the Public Utilities Commission for which no money is paid to the electricity provider or to the transmission and distribution utility. § 1760(80)

Residential gas

Sales of gas when bought for cooking and heating in buildings designed and used for both human habitation and sleeping, with the exception of hotels. § 1760(9-C)

Once again, this exemption is limited to those "residences" mentioned. All commercial uses are taxable.

In situations where gas services both commercial and residential space, such as a neighborhood store with connected apartments, a partial exemption would be applicable based on the square footage of the residential area. Note however that this exemption does not apply to hotels. "Bed and Breakfast" facilities fall under the "hotel" category. Areas dedicated to "Bed and Breakfast" guests are considered "commercial" use. See Bulletin #13 "Sales of Fuel and Utilities" for additional information.

Fuel oil or coal

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. § 1760(9-G)

Fuel and electricity used at a manufacturing facility

Ninety-five percent of the sale price of all fuel and electricity purchased for use at a manufacturing facility. § 1760(9-D)

See also the "Manufacturing" section on this issue.

MANUFACTURING

Certain items used in manufacturing

Production machinery and equipment, machinery and equipment used in research, ingredients and items consumed and destroyed in the manufacturing process. § 1760(31), (32) and (74)
See also the "Manufacturing" section on this issue.

PINE TREE DEVELOPMENT ZONES ("PTDZ")

Sales of tangible personal property to qualified PTDZ business

Beginning July 1, 2005, sales of tangible personal property to a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for use directly and primarily in one or more qualified business activities, as defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this subsection is limited for each qualified Pine Tree Development Zone business to sales occurring within a period of 10 years from the date the business is certified pursuant to Title 30-A, section 5250-O or until December 31, 2018, whichever occurs first. As used in this subsection, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first. §1760(87)

The PTDZ tax credits and benefits are available to certified businesses engaged in qualified activity for tax years beginning on or after January 1, 2004. The sales tax exemption began on July 1, 2005. To obtain certification, the business must apply to the Department of Economic and Community Development ("DECD") and meet the requirements for qualified business activity. In general, in order to be certified, a business must be engaged in a targeted business sector (manufacturing, financial services, selected technologies); must intend to expand the base level of employment with qualified employees; and the qualified employees must be new fulltime employees who are hired by a Pine Tree Development Zone business for work directly in one or more qualified business activities. Instructional Bulletin #52 has been created to fully explain this program. Also refer to the "Refunds and Credits" portion of this guide for refunds available to those constructing realty for a Qualified PTDZ business.

COMMUNITY WIND POWER GENERATORS

Sales of tangible personal property to qualified community wind power generators

> ***Beginning October 1, 2006, sales of tangible personal property to a qualified community wind power generator, as defined in section 2017, subsection 1, paragraph B, for use directly and primarily in the generation of electricity in this State at a community wind power generation facility, as defined in section 2017, subsection 1, paragraph A-1.. The exemption provided by this subsection is limited to sales occurring on or before December 31, 2011. §1760(89)***

Tax credits and benefits are available to certified businesses engaged as a qualified community wind power generator. To obtain certification, the entity must apply to the Public Utilities Commission and meet certain requirements. In general, in order to be certified, the entity must construct a community wind power generator with a capacity of not more than 10 megawatts that is powered entirely by wind energy and the entity will own title or controlling interest in that generator. The entity must also demonstrate that construction of this generator would not be possible but for the tax credits and benefits available under this program. Also refer to the “Refunds and Credits” portion of this guide for refunds available to those constructing realty for a certified community wind power business.

EXEMPT SERVICES

In addition to true services, there are limited exemptions provided in the statute that deal with services in general and "taxable services". Most of them deal with rentals of living quarters as previously discussed under "Transient Rentals".

Funeral services

Sales of funeral services. § 1760(24)

"Sales of funeral services" means sales of tangible personal property by a funeral director insofar as such sales are a necessary part of the preparation of a human body for burial, or a necessary part of the ceremony conducted by the funeral director prior to or in connection with the burial of a human body. Sales by funeral directors of caskets, vaults, boxes, clothing, crematory urns, or other similar items generally referred to as "funeral furnishings", are exempt from tax whereas items sold as an accommodation rather than as an integral part of the funeral service (or preparation therefore), such as sale of flowers, or items of a similar character, are taxable.

Certain rentals

Camps. Rental charged for living quarters, sleeping or housekeeping accommodations at camps entitled to exemption from property tax under section 652, subsection 1. § 1760(17)

Certain institutions. Rental charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings. § 1760(18)

Schools. Rental charged for living quarters, sleeping or housekeeping accommodations to any student necessitated by attendance at a school. § 1760(19)

Continuous residence; refunds and credits. Rental charged to any person who resides continuously for 28 days or more at any one hotel, rooming house, tourist camp or trailer camp if:

> ***A. The person does not maintain a primary residence at some other location; or***
>
> ***B. The person is residing away from that person's primary residence in connection with employment or education.***

Tax paid by such person to the retailer under section 1812 during the initial 28-day period must be refunded by the retailer. If the tax has been reported and paid to the State by the retailer, it may be taken as a credit by the retailer on the return filed by the retailer covering the month in which the refund was made to that tenant.
§ 1760(20) See also "Transient Rentals".

NONPROFIT ORGANIZATIONS

Exempt activities

The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes apply only if the property or service purchased is intended to be used by the person primarily in the activity identified by the particular exemption. The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes do not apply where title is held or taken by the person as security for any financing arrangement. Exemption certificates issued by the State Tax Assessor pursuant to section 1760 must identify the exempt activity and must state that the certificate may be used by the holder only when purchasing property or services intended to be used by the holder primarily in the exempt activity. If the holder of an exemption certificate furnishes that certificate to a person for use in purchasing tangible personal property or taxable services that are physically incorporated in, and become a permanent part of, real property that is not used by the holder of the certificate primarily in the exempt activity, the State Tax Assessor may assess the unpaid tax against the holder of the certificate as provided in section 141. When an otherwise qualifying person is engaged in both exempt and nonexempt activities, an exemption certificate may be issued to the person only if the person has established to the satisfaction of the assessor that the applicant has adequate accounting controls to limit the use of the certificate to exempt purchases.
§1760-C

Maine does not provide a blanket sales and use tax exemption for nonprofit organizations who have been granted a federal tax exemption, known as 501(c) organizations. Every organization that seeks relief from sales and use tax must approach the legislature with its proposal and seek the support of the legislature. As a result a wide array of nonprofit organizations exist in the statute. Each of the following exemptions is preceded with the language "incorporated nonprofit" and have been paraphrased. Referring to the statute for the full exemption is recommended.

- ***Nursing homes licensed by the Department of Health and Human Services***
  § 1760(16-B)
- ***Residential care facilities licensed by the Department of Health and Human Services § 1760(16-C)***
- ***Assisted housing programs for the elderly licensed by the Department of Health and Human Services §1760(16-D)***
- ***Home health care agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended § 1760(16-E)***
- ***rural community health centers § 1760(16-F)***
- ***dental health centers § 1760(16-G)***
- ***medical clinics whose sole mission is to provide free medical care to the indigent or uninsured §1760(16-G-1)***
- ***organizations organized for the sole purpose of conducting medical research §1760(16-H)***

- ***organizations organized for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology § 1760(16-I)***
- ***institutions operating educational television or radio stations § 1760(16-J)***
- ***organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia § 1760(16-L)***
- ***private residential child caring institutions which are licensed by the Department of Human Services as child caring institutions. § 1760(18-A)***
- ***fire departments and ambulance services § 1760(26)***
- ***memorial foundations that primarily provide cultural programs free to the public §1760(42)***
- ***historical societies and museums § 1760(42)***
- ***licensed nursery schools and day-care centers § 1760(43)***
- ***Sales to incorporated nonprofit organizations providing:***
  A. Temporary residential accommodations to pediatric patients suffering from critical illness or disease such as cancer or who are accident victims, to adult patients with cancer or to the families of the patients; or
  B. Temporary residential accommodations, or food, or both, to hospital patients or to the families of hospital patients. § 1760(46)
- ***Organizations that provide free temporary emergency shelter or food for underprivileged individuals in this State § 1760(47)***
- ***child abuse and neglect councils § 1760(49)***
- ***Veterans' Memorial Cemetery Associations; §1760(51)***
- ***Volunteer search and rescue organizations; §1760(53)***
- ***hospice organizations which provide a program or care for the physical and emotional needs of terminally ill patients; § 1760(55)***
- ***councils and local units of national scouting organizations; § 1760(56)***
- ***educational organizations which are receiving, or have received, funding from the Department of Education, and which provide educational programs specifically designed for teaching young people how to make decisions about drugs, alcohol and interpersonal relationships at a residential camp setting § 1760(59)***
- ***animal shelters (purchasing) tangible personal property used in the operation and maintenance of those shelters or in the maintenance and care of any animal, including wildlife, housed in those shelters § 1760(60)***
- ***local branches of international charitable organizations which provide, on a loan basis and free of charge, medical supplies and equipment to persons. § 1760(62)***
- ***organizations whose sole purpose is to fulfill the wishes of children with life-threatening diseases when their family or guardian is unable to otherwise financially fulfill those wishes § 1760(63)***
- ***monasteries and convents ... in their operation and maintenance. For the purpose of this subsection, "monasteries" and "convents" means the dwelling places of communities of religious persons; § 1760(65)***
- ***organizations engaged primarily in providing support systems for single-parent families for the development of psychological and economic self-sufficiency §1760(66)***

- ***local branches of organizations whose purpose is to construct low-cost housing for low-income people; § 1760(67)***
- ***organizations whose sole purpose is to create, maintain and update a registry of Vietnam veterans; § 1760(69)***
- ***organizations whose primary purposes are to promote public understanding of hearing impairment and to assist hearing-impaired persons through the dissemination of information about hearing impairment to the general public and referral to and coordination of community resources available to hearing-impaired persons. § 1760(70)***

Some of the organizations need only be incorporated or nonprofit.

- ***Incorporated hospitals; § 1760(16-A)***
- ***Church affiliated nonprofit organization which operates, under a charter granted by the Legislature, a residential home for adults; § 1760(44)***
- ***Nonprofit free public lending library which is funded in part or wholly by the State or any political subdivision or the federal government; § 1760(50)***
- ***Nonprofit youth organizations whose primary purpose is to provide athletic instruction in a nonresidential setting; § 1760(56)***
- ***Nonprofit organizations whose primary purpose is to develop housing for low-income people; § 1760(72)***
- ***Nonprofit organizations whose primary purpose is to obtain, medically evaluate and distribute eyes for use in corneal transplantation, research and education. §1760(77)***

CERTAIN ESTABLISHMENTS

Other entities also enjoy exemption from sales and use tax.

- ***Sales which this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State. § 1760(1)***

- ***The State or any political subdivision of the State, or to the Federal Government, or to any unincorporated agency or instrumentality of either of them or to any incorporated agency or instrumentality of them wholly owned by them. This exemption does not apply to corporations organized under Title IV, Part E of the Farm Credit Act of 1971, 12 United States Code, Sections 2211 to 2214.***
  § 1760(2)

In addition to the Federal Government, the State of Maine, and any county, city, town or plantation in the State of Maine, this exemption covers sales to:

School Districts in Maine;
Water, Power, Parking and other Districts in Maine established by legislative act as quasi-municipal corporations;
Village Corporation;
Maine Turnpike Authority.

In the case of the above no evidence of exemption in the case of a sale at retail will be required other than the invoice of the seller indicating sales to such exempt entity. Sales to other states or foreign countries or their subdivisions are not exempt from Maine sales tax.

Sales to employees of exempt entities

Sales directly to and paid for by a sales tax exempt entity are exempt. However, sales to employees of these organizations do not always meet this criteria. If a sale to an employee of such an organization is paid for by that employee, either with cash, personal check or personal credit card, the organization's exemption does not apply, even though the employee may be reimbursed for that expense. This includes sales to state employees, county/city/town employees and any employee of an organization mentioned in this section as being exempt from sales tax.

Federal Employees

The federal government issues credit cards for its employee purchases. The majority of the cards are direct-billed to the federal government and thus are exempt from tax. However, there are cards which are billed to the employee, for later reimbursement, which are taxable sales. The following describes these cards and their tax status:

Fleet card - states "For Official Government Fleet Use Only"
Purchases are centrally billed and exempt from sales tax

Purchase card - states "For Official US Government Purchases Only US Government Tax Exempt"
Purchases are centrally billed and exempt from sales tax

Travel Card - states "For Official Government Travel Only"
Purchases with cards which have a 0, 6, 7, 8 or 9 in the sixth digit are exempt. All others are taxable sales.

Integrated card - states "For Official Government Use Only"
Fleet and purchase type transactions are exempt.
Travel purchases are exempt if sixth digit is a 0, 6, 7, 8 or 9.

To see what these SmartPay credit cards look like, go to www.gsa.gov and make the following selections: Services; Charge Cards; GSA SmartPay; Business Owners; Recognizing the GSA SmartPay card.

- ***Schools – public or incorporated nonprofit primary, secondary or postsecondary educational institutions; §1760(16-K)***
- ***Regularly organized churches or houses of religious worship; §1760(16-M)***

- ***Mental health facilities or mental retardation facilities which are:***
  A. Contractors under or receiving support under the Federal Community Mental Health Centers Act, or its successors; or
  B. Receiving support from the Department of Mental Health and Mental Retardation pursuant to Title 34-B, section 3604, 5433 or 6204; § 1760(28)
- ***Materials for the construction, repair or maintenance of an animal waste storage facility certified by the Commissioner of Agriculture; § 1760(81)***
- ***Water pollution control facility, certified as such by the Commissioner of Environmental Protection, and any part or accessories thereof, or any materials for the construction, repair or maintenance of a facility; § 1760(29)*** See also "Manufacturing"
- ***Air pollution control facility, certified as such by the Commissioner of Environmental Protection, and any part or accessories thereof, or any materials for the construction, repair or maintenance thereof; § 1760(30)*** See also "Manufacturing"
- ***Regional planning commissions and councils of government, which are established in accordance with Title 30-A; § 1760(37)***
- ***Statewide organizations that advocate for children and that are members of the Medicaid Advisory Committee; § 1760(49)***
- ***Community action agencies designated in accordance with Title 22, section 5324, except sales, storage or use for activities that are mainly commercial enterprises; § 1760(49)***
- ***Credit unions that are organized under the laws of this State. This subsection shall remain in effect only for the time that federally chartered credit unions are, by reason of federal law, exempt from payment of state sales tax; § 1760(71)***
- ***Sales and leases to certain air ambulance services that are limited liability companies; §1760(26)***

The next exemption has no place in the above categories. This exemption is peculiar to all others in that it exempts the sales made <u>by</u> an organization.

School sales

Schools and school-sponsored organizations. Sales of tangible personal property and taxable services by public and private elementary and secondary schools that otherwise qualify as schools under subsection 16, and by student organizations sponsored by those schools, including booster clubs and student or parent-teacher organizations, as long as the profits from such sales are used to benefit those schools or student organizations or are used for a charitable purpose. § 1760(64)

Public and private elementary and secondary schools making sales of candy bars, calendars, yearbooks, clothing, etc. are exempt from charging tax on such sales, provided the profits are used to benefit the school or student organization or are used for a charitable purpose.

Casual Sales

The definition of "retail sale", as previously mentioned, excludes "any casual sale". Casual sales are therefore not subject to a sales or use tax. The statute defines a "casual sale" as follows:

> ***"Casual sale" means an isolated transaction in which tangible personal property or a taxable service is sold other than in the ordinary course of repeated and successive transactions of like character by the person making the sale. "Casual sale" includes transactions at a bazaar, fair, rummage sale, picnic or similar event by a civic, religious or fraternal organization that is not a registered retailer. The sale by a registered retailer of tangible personal property that that retailer has used in the course of the retailer's business is not a casual sale if that property is of like character to that sold by the retailer in the ordinary course of repeated and successive transactions. "Casual sale" does not include any transaction in which a retailer sells tangible personal property or a taxable service on behalf of the owner of that property or the provider of that service. §1752(1-D)***

The definition is actually divided into four types of situations where a casual sale exists. The first speaks to the majority of casual sales which affect all of us. These are sales made by any individual when selling property that they have owned and used. These individuals are not regularly engaged in the business of selling property and their activity of selling will only occur that one day, or at most, a few times a year.

The next situation specifically involves sales by civic, religious or fraternal organizations which are not registered retailers. Their sales at a bazaar, fair, rummage sale, picnic or similar event, are "casual sales" no matter what the duration. The Bureau also recognizes fund raising campaigns of limited duration involving the sale of such items as candy, light bulbs, novelties or other tangible personal property, as casual sales unless the organization is registered or required to be registered as a seller.

The definition of "retail sale" also states that purchases for resale are exempt, unless the resale will be at casual sale. As a result, unless the organization has a sales tax exemption for purchases they make, the organization will be required to pay sales or use tax on the purchase of goods that they will resell.

The next area speaks about sales made by retailers of items that they have used in their business. Most likely, such a sale would be casual in nature and be exempt. However, if the item being sold is the same type of item regularly sold by the retailer, then the sale is taxable. For instance, if an auto dealer decides to sell some of its office furniture, the sale is exempt as a casual sale. However, if an office equipment business sells furniture that it once had in inventory, but has been using for a time period, the sale is taxable.

The last area addresses the fact that casual sales do not include consignment sales. These are sales where a person has left goods with a registered retailer to sell on

that person's behalf. Ultimate sales of these goods are retail sales even though the goods do not belong to the retailer.

Some other examples of casual sales are:

- Sales made by a personal representative in the settlement of an estate, unless those sales continue the operation of a retail business or are made by a retailer.

- The sale of an entire business by the owner, with the exception of goods in inventory.

- Judicial sales, executions, etc., unless made by a registered retailer.

- Sales by a person engaged in a business or occupation such as manufacturing or farming, of used machinery, fixtures, equipment or similar items when the seller is not engaged in the business of selling those items.

The following are examples of transactions which, although they may appear to resemble casual sales, are deemed to be retail sales. Sales of the kinds listed below are subject to sales or use tax in the same way as other retail sales.

- Sales made in the ordinary course of business by a registered retailer on behalf of the owner, even though the owner is not in the business of making such sales. A retailer has the same duties when making sales of property belonging to another as when selling the retailer's own goods.

- Retail sales by a manufacturer, wholesaler, processor or jobber of the kinds of property ordinarily produced or sold by that business, even though retail sales are infrequent and comprise only a small fraction of the total sales of that business.

- Sales that are an integral part of a business, such as the sale of repossessed personal property by a bank or finance company, even though the sale of tangible personal property is not the primary activity of that business.

- Sales by lessors of personal property previously rented or leased.

Taxable Casual Sales

There are certain kinds of property which, by statute, are taxable even if sold at casual sale. The statute reads:

> ***The tax imposed by chapters 211 to 225 must be levied upon all casual rentals of living quarters in a hotel, rooming house or tourist or trailer camp and upon all casual sales involving the sale of trailers, truck campers, motor vehicles, special mobile equipment except farm tractors and lumber harvesting vehicles or loaders, watercraft or aircraft except those sold for resale at retail sale or to a corporation, partnership, limited liability company or limited liability partnership when the seller is the owner of a majority of the common stock of the corporation or of the ownership interests in the partnership, limited liability company or limited liability partnership. This section does not apply to the rental of living quarters rented for a total of fewer than 15 days in the calendar year, except that a person who owns and offers for rental more than one property in the State during the calendar year is liable for collecting sales tax with respect to the rental of each unit regardless of the number of days for which it is rented. § 1764***

The following provides definitions for the kinds of property mentioned:

> ***Trailer. "Trailer" means a vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks. "Trailer" includes a camper trailer as defined in section 1481, subsection 1-A. § 1752(19-A)***
>
> ***Truck camper. "Truck camper" means a slide-in camper designed to be mounted on a truck body to provide temporary living quarters for recreational, camping, travel or other use. § 1752(20-A)***
>
> ***Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. "Motor vehicle" includes an all-terrain vehicle as defined in Title 12, section 7851 and a snowmobile as defined in Title 12, section 7821. § 1752(7)***
>
> ***Special mobile equipment. "Special mobile equipment" means any self-propelled vehicle not designed or used primarily for the transportation of persons or property that may be operated or moved only incidentally over the highways, including, but not limited to, road construction or maintenance machinery, farm tractors, lumber harvesting vehicles or loaders, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well drillers and wood sawing equipment. §1752(14-B)***
>
> ***Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft designed for use as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, which are customarily used in the operations of the watercraft. § 1752(24)***

> ***Aircraft.*** ***"Aircraft" means any powered contrivance designed for navigation in the air except a rocket or missile. § 1752(1-A)***

If any of these items are sold at casual sale and the seller does not report and pay tax on the transaction, payment of use tax is due from the purchaser directly to the State. The statute also makes it a prerequisite to pay the use tax before any of the above items, except aircraft, are registered:

> ***Payment of tax on vehicles and watercraft. The tax imposed by this Part on the sale or use of any vehicle, snowmobile, all-terrain vehicle or watercraft must, except where the dealer has collected the tax in full, be paid by the purchaser or other person seeking registration of the vehicle, snowmobile, all-terrain vehicle or watercraft at the time and place of registration. In the case of vehicles, the tax must be collected by the Secretary of State and transmitted to the Treasurer of State as provided by Title 29-A, section 409. In the case of watercraft, snowmobiles and all-terrain vehicles, the tax must be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as provided by Title 12, sections 7793-A to 7793-E, 7824-A to 7824-F or 7854-A to 7854-E. § 1952-A***

Yard Sales

When individuals who are not in the business of selling goods dispose of their own used household items by selling them at a yard sale or similar event, or by placing an advertisement in the classified section of a newspaper, they are making casual sales. If the property sold is a motor vehicle, aircraft, watercraft, camper trailer, livestock trailer or special mobile equipment, the purchaser is responsible for payment of the tax directly to the State as previously stated.

So-called yard sales that are operated on a continuing basis or include items produced or acquired for resale by the seller are not casual sales. Persons who operate businesses of this type are required to register as sellers under the Sales and Use Tax Law and to collect, report and remit Maine sales tax in the same way as other retailers. If used household items are intermingled with items produced or acquired for resale, all sales are subject to tax.

1. Definitions. As used in this section, unless the context otherwise indicates, the following words have the following meanings.

A. "Commercial agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, agricultural composting operation as defined in Title 7, section 152, subsection 1, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and production of livestock, including the removal and storage of manure from that livestock.

A-1. "Commercial aquacultural production" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

> ***(1) All cultivating activities occurring at hatcheries or nurseries, from the egg, larval or spore stages to the transfer of the product to a growing site; and***
>
> ***(2) All cultivating activities occurring on water, from the receipt of fish, shellfish, seaweed or other marine plants from onshore facilities to the delivery of harvested products to onshore facilities for processing.***

B. "Commercial fishing" means attempting to catch fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport anglers to available fishing grounds.

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the Code and repair parts for that machinery and equipment:

> ***(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles, but excluding motor vehicles as defined in section 1752, subsection 7; attachments and equipment for the production of field and orchard crops; new or used machinery and equipment for use directly and primarily in production of milk, animal husbandry and production of livestock, including poultry; and new or used machinery and equipment not used directly and primarily in commercial agricultural production, but used exclusively to transport potatoes from a truck into a storage location;***
>
> ***(2) New or used watercraft, nets, traps, cables, tackle and related equipment necessary to and used directly and primarily in the operation of a commercial fishing venture, but excluding motor vehicles as defined in section 1752, subsection 7; or***

(3) New or used watercraft, machinery or equipment used directly and primarily for aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feeders and related equipment; power-generating equipment; tank water-level sensors; aboveground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights; but excluding motor vehicles as defined in section 1752, subsection 7.

2. Refund authorized. Any person, association of persons, firm or corporation that purchases electricity or that purchases or leases depreciable machinery or equipment for use in commercial agricultural production, commercial fishing or commercial aquacultural production must be refunded the amount of sales tax paid upon presenting to the State Tax Assessor evidence that the purchase is eligible for refund under this section.

Evidence required by the assessor may include a copy or copies of that portion of the purchaser's or lessee's most recent filing under the United States Internal Revenue Code that indicates that the purchaser or lessee is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and that the purchased machinery or equipment is depreciable for those purposes or would be depreciable for those purposes if owned by the lessee.

In the event that any piece of machinery or equipment is only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax must be prorated accordingly. In the event that electricity is used in qualifying and nonqualifying activities, any reimbursement of the sales tax must be prorated accordingly.

Application for refunds must be filed with the assessor within 36 months of the date of purchase or execution of the lease.

3. Purchases made free of tax with certificate. Sales tax need not be paid on the purchase of electricity or of a single item of machinery or equipment if the purchaser has obtained a certificate from the assessor stating that the purchaser is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and authorizing the purchaser to purchase electricity or depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the electricity or depreciable machinery or equipment must be used directly in commercial agricultural production, commercial fishing or commercial aquacultural production. In order to qualify for this exemption, the electricity must be used in qualifying activities, including support operations. § 2013

D. "Agricultural composting operation" means composting that takes place on a farm. "Agricultural composting operation" does not include an operation that involves nonorganic municipal solid waste or that composts municipal sludge, septage, industrial solid waste or industrial sludge. "Agricultural composting operation" does not include an operation that composts materials with a moderate or high risk of contamination from heavy metals, volatile and semivolatile organic compounds, polychlorinated biphenyls or dioxin. Title 17, §2805(1)

E. "Composting" means the controlled aerobic decomposition of organic materials to produce a soil-like product beneficial to plant growth and suitable for agronomic use. Title 17, §2805(1)

This section only applies to farmers and fishermen (including those engaged in aquaculture) who are engaged in commercial activities. Although this is a refund provision, it does provide an exemption for purchases made after certification. Prior to certification or in cases where the exemption card cannot be used to purchase a certain item, the purchaser can seek a refund. Upon application to the Bureau, an exemption card is issued to those persons who qualify. The exemption card can then be used to purchase qualifying depreciable machinery and equipment, including repair parts for such, free of tax. See "Exempt sale documentation" for more information on what records the retailer must obtain.

In order to qualify for this exemption, machinery or equipment must meet three tests. Machinery or equipment must:

1. be used directly in commercial production; and
2. be used primarily in commercial production; and
3. be depreciable for Federal Income Tax purposes.

"Directly" means those activities or operations which constitute an integral and essential part of commercial agricultural production or commercial fishing as distinguished from those activities or operations which are simply incidental, convenient or remote to commercial agricultural production or commercial fishing. "Directly" does not include support operations such as construction or repair facilities, machine shops, storage activities, administration or any highway transportation. Rule 323

"Primarily" means more than 50% of the time. Rule 323

Some of the more common items that would qualify for exemption are:

<u>Commercial Farmers</u>

Balers	Harvesters	Roto Tillers
Batteries	Hay & Forge Equipment	Seed Cutters
Carts		Seeders
Combines	Manure Spreaders	Sprayers
Conveyors	Milking Equipment	Tires
Cultivators	Mowers	Tractors
Feeders	Pickers	Wagons

Filters	Planters	Water Bowls
Grading Tables	Plows	
Harrows	Removable Stalls	
	Rotary Cutters	

Commercial Fishermen

Bait Bags	Filters	Net Floats
Batteries	Fire Extinguisher	Nets
Boats	Fish Scanner	Plotter
Buoys	Haulers	Pot Haulers
Bow Thruster	Hooks	Radar Equipment
CB Radio	Hoops	Rope
Chains	Hydraulics	Scanners
Color Sounder	Life Rafts	Seine Nets
Depth Sounder	Life Equipment	Tags
Depth Finder	Lights	Trap Stock
Draggers	Long Lines	Traps
Engines	Lorans	Vents
	Motors	Pneumatic Controls

Commercial Aquaculture

aboveground piping	anchors and anchor weights
boilers and related pumping systems	buoys
cables	diving equipment
feeders and related equipment	fish tanks
fish totes	fish-grading equipment
generators	nets
oxygen tanks	power generating equipment
pumping systems ropes	safety equipment
sea cage systems	shackles and other hardware
tank water-level sensors	water-heating systems
water-oxygenating systems	

The certificate of exemption may not be used to purchase any of the following items:

1. Nonqualifying machinery and equipment;

2. Motor vehicles, trailers, attachments for motor vehicles such as bulk bodies, fertilizer bodies and motor vehicle repair parts, snowmobiles, and ATV's;

3. Tools and Supplies, other than repair parts, such as lubricants, coolants, solvents, cleaning supplies, personal apparel;

4. Fuels;

5. Items incorporated in real property such as fencing, storage buildings, silos, special purpose buildings, heating or ventilation systems and construction materials;

6. Items which are not 100% depreciable equipment;

7. Items which are not commonly used in commercial agricultural production, commercial fishing or commercial aquacultural production such as lawn and garden tractors, lag tractors, backhoe tractors, fork lift trucks, grain bins, computers, office equipment and scraper blades.

"Retailer" means a person who makes retail sales or who is required to register by section 1754-A or 1754-B or who is registered under section 1756. §1752, sub-§10

Persons engaged in selling tangible personal property and taxable services which are subject to the sales and use tax are required to register with Maine Revenue Services to facilitate the collection of tax. Once registered, periodic reporting and remittance of the tax is required.

Registration Requirements

The statute identifies eight categories of sellers who must register for a seller's certificate under the Sales and Use Tax laws.

Every seller of tangible personal property or taxable services, whether or not at retail, that maintains in this State any office, manufacturing facility, distribution facility, warehouse or storage facility, sales or sample room or other place of business; § 1754-B(1A)

Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of the owner of that property or the provider of those services. § 1754-B(1H)

Registration is required if a retailer makes retail sales within Maine, whether the sales are of goods purchased by that retailer for resale or are goods consigned to the retailer and sold on the owner's behalf. Having any type of physical presence or nexus in this State, such as operating or maintaining a store, warehouse, office or repair facility, requires registration. If the retailer does no more than solicit sales by means of a catalog mailed into the State and the goods are delivered by common or contract carrier or the US mail, registration is not required.

Every seller of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople within this State, for retail sales within this State; § 1754-B(1B)

Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of a principal that is outside of this State if the principal is not the holder of a valid registration certificate; § 1754-B(1D)

Every agent, representative, salesperson, solicitor or distributor that receives compensation by reason of sales of tangible personal property or taxable services made outside this State by a principal for use, storage or other consumption in this State; § 1754-B(1E)

Retailers could also be subject to registration requirements even if no real property is maintained in this State. If an employee travels within the State, soliciting sales, registration is required. Persons who act as representatives, solicitors, salespersons or independent selling agents and receive commissions from sales made by the principal

would be required to be registered if the principal is not. For instance, if an independent selling agent promotes the retailer's product by conducting home parties or by using the retailer's catalog to solicit sales, the agent would be held accountable for registration unless the principal is registered. In these types of situations, it is recommended that the out-of-state retailer be registered for ease in administration; not only for the Bureau, but also for the agent and the retailer.

> ***Every person that manages or operates in the regular course of business or on a casual basis a hotel, rooming house or tourist or trailer camp in this State or that collects or receives rents from a hotel, rooming house or tourist or trailer camp in this State; § 1754-B(1F)***
>
> ***Every seller of tangible personal property or taxable services that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution. The following activities do not constitute a substantial physical presence for the purpose of this paragraph:***
>
> ***(1) Solicitation of business in this State through catalogs, flyers, telephone or electronic media when delivery of ordered goods is effected by the United States mail or by an interstate 3rd-party common carrier;***
>
> ***(2) Attending trade shows, seminars or conventions in this State;***
>
> ***(3) Holding a meeting of a corporate board of directors or shareholders or holding a company retreat or recreational event in this State;***
>
> ***(4) Maintaining a bank account or banking relationship in this State; or***
>
> ***(5) Using a vendor in this State for printing, drop shipping or telemarketing services.***
> ***§ 1754-B(1G)***

Retailers could also be subject to registration requirements even if an employee within Maine is not soliciting sales. For instance, the retailer may only have employees providing repair, installation or maintenance services within Maine or the retailer may be delivering its goods to Maine with its own vehicle. Delivery of goods by a common or contract carrier or the US mail does not constitute delivery by the retailer.

> ***Every lessor engaged in the leasing of tangible personal property located in this State that does not maintain a place of business in this State but makes retail sales to purchasers from this State;***
> ***§ 1754-B(1C)***

If a business is engaged in the leasing of tangible personal property within Maine and also makes retail sales to Maine customers, the business is required to register. A lessor is engaged in making retail sales when the lessor executes a "lease in lieu of purchase", accepts a lessee's option to purchase or sells previously rented property.

Voluntary Registration

In addition, any seller who is not required to register by any of the above, may voluntarily do so to collect our use tax.

> ***Every seller of tangible personal property or taxable services that is not required by section 1754-B to register may register upon those terms that the assessor prescribes. Upon registration, the seller has the rights and duties of a person required to be registered and is subject to the same penalties, except that the seller's liability may be limited to tax actually collected. The seller so registered may at any time surrender the seller's registration certificate and request that the registration certificate be canceled. Upon receipt of the certificate and request, the assessor shall grant the cancellation, if it appears to the assessor that the seller has satisfied all liability to the State and that the seller is not required by law to register. Upon surrender of the certificate, the seller must cease to collect sales or use taxes upon sales that occur on and after the date of the surrender. § 1756***

Rental of retail space

> ***A person who rents or leases space to more than 4 persons at one location for less than a 12-month period for the purpose of retail sales shall register with the State Tax Assessor. The form for application for registration and the registration certificates must be prescribed and furnished free of charge by the assessor. For each location where more than 4 persons rent or lease space for less than 12 months from the same person, the assessor shall issue a registration certificate, which must be conspicuously displayed at that location. By the 15th of each month following any month in which rental or lease activity has occurred, the person shall provide to the assessor the names, addresses and sales tax registration certificate numbers of those persons who have rented space during the previous month. Information returns must be prescribed and furnished free of charge by the assessor. Returns required under this section must be treated as returns filed under this Title and are subject to section 187-B. § 1754-A***

Persons who rent out space at flea markets, craft shows or any other event where retail sales are being made are also required to register with the Bureau and provide information concerning those persons making sales. The Bureau then verifies the information and obtains compliance from those who are not registered.

Registration for use tax only

Businesses that have no sales but make purchases that are subject to use tax are required to register for reporting purposes. Returns are due in the same manner as sales tax returns, but only in those months where liability exists.

> ***08. Use Tax Returns. Every person, not otherwise required to file sales and use tax returns, who regularly makes purchases for business use that are subject to Maine use tax must register with the State Tax Assessor to file use tax returns. Every person so registered must file a use tax return for each month in which taxable purchases were made. Use tax returns need not be filed for months during which no taxable purchases were made. Rule 304***

Registration procedure

> ***Application forms for sales tax registration certificates must be prescribed and furnished free of charge by the assessor. The assessor shall issue a registration certificate to each applicant that properly completes and submits an application form. A separate application must be completed and a separate registration certificate issued for each place of business. A registration certificate issued pursuant to this section is nontransferable and is not a license within the meaning of that term in the Maine Administrative Procedure Act.***
>
> ***When a retailer maintains a place of business in this State, the registration certificate must be conspicuously displayed at that place of business. In the case of a retailer that does not have a fixed place of business and makes sales from one or more motor vehicles, each motor vehicle constitutes a place of business. §1754-B(2)***

Registration with Maine Revenue Services is accomplished by submitting an application for registration, Form CR-1. This application is also the mechanism to register for any other tax that the Bureau administers, such as withholding and fuel excise taxes. Once the application is processed, a Retailer's Certificate is issued. This certificate must be displayed in a prominent place in the business. The certificate is valid until canceled by the taxpayer or revoked by the Bureau and is not assignable to a new owner. If the retailer operates more than one business, a separate certificate is necessary for each location.

Collection of Taxes

> ***The liability for, or the incidence of, the tax imposed by this Part is declared to be a levy on the consumer. The retailer shall add the amount of the tax to the sale price and may state the amount of the tax separately from the sale price of tangible personal property or taxable services on price display signs, sales or delivery slips, bills and statements which advertise or indicate the sale price of that property or those services. § 1753***

Tax is part of sale price

Every retailer shall add the sales tax imposed by chapters 211 to 225, or the average equivalent of that tax, to his sale price, except as otherwise provided, and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price. § 1812(1)

Unlawful to advertise no tax

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by chapters 211 to 225 will be assumed or absorbed by the retailer, or that it will not be added to or included in the selling price of the property sold, or if added or included that it or any part thereof will be refunded. Any person violating any part of this section shall be guilty of a Class E crime. § 1761

"Advertise" means to make a public announcement by any means whatsoever, including a notice or announcement in a radio or televised broadcast, newspaper, magazine, catalog, circular, handbill, sign, placard or billboard. §1752(1)

Although the economic burden of the sales tax falls upon the purchaser, the legal incidence of the tax rests squarely on the retailer. State v. Marcotte, 418 A.2d 1118 (Me. 1980) Every retailer is required to add sales tax to the selling price and, once added, the tax becomes a debt of the purchaser to the seller. If the purchaser fails to pay the tax, the debt is recoverable by the seller at law in the same way that the selling price would be. Although the retailer can advertise that tax is included in the selling price, **it is a crime for the retailer to state that the sales tax will be assumed, absorbed, refunded or not charged at all to the purchaser**. **Thus a seller cannot advertise that no sales tax will be charged on otherwise taxable items or that no sales tax will be charged on a certain day or period of time.**

Payment of taxes

The taxes imposed by chapters 211 to 225 on sales of tangible personal property and taxable services are due and payable at the time of the sale. Upon such terms and conditions as the State Tax Assessor may prescribe, the assessor may permit a postponement of payment to a date not later than the date on which the sales so taxed are required to be reported. §1952

Tax returns due on 15th

Every retailer shall file with the State Tax Assessor, on or before the 15th day of each month, a return made under the penalties of perjury on a form prescribed by the assessor. The return must report the total sale price of all sales made during the preceding calendar month and such other information as the assessor requires. The assessor may permit the filing of returns other than monthly. The assessor, by rule, may waive reporting nontaxable sales. Upon application of a retailer, the assessor shall issue a classified permit establishing the percentage of exempt sales. The classified permit may be amended or revoked if the assessor determines that the percentage of exempt sales is inaccurate. The assessor may for good cause extend for not more than 30 days the time for filing returns required under this Part. Every person subject to the use tax shall file similar returns, at similar dates, and pay the tax or furnish a receipt for the same from a registered retailer. § 1951-A(1)

Alternative filing for casual renters

A person whose only sales tax collection responsibility under this Title is the collection of sales tax on casual rentals of living quarters pursuant to section 1764 and whose sales tax liability in connection with those rentals during the period of the individual's income tax return is expected to be less than $2,000 may report and pay that sales tax on the person's Maine individual income tax return for that year in lieu of filing reports under subsection 1. If the person's actual liability for the year is $2,000 or more, the person must file reports as required under subsection 1 during the succeeding year.[3] § 1951-A(3)

Postmark is date of filing

If any document or payment required or permitted by this Title to be filed or paid is transmitted by the United States Postal Service to the person with whom or to whom the filing or payment is to be made, the date of the United States Postal Service postmark stamped on the envelope is deemed to be the date of filing or payment if that document or payment was deposited in the mail, postage prepaid and properly addressed to the person with whom or to whom the filing or payment is to be made. If the document or payment is not received by that person or if the postmark date is illegible, omitted or claimed to be erroneous, the document or payment is deemed to have been filed or paid on the mailing date if the sender establishes by competent evidence that the document or payment was deposited with the United States Postal Service, postage prepaid and properly addressed, and, in the case of nonreceipt, files a duplicate document or makes payment, as the case may be, within 15 days after receipt of written notification by the addressee of the addressee's nonreceipt of the document or payment. A record authenticated by the United States Postal Service of mailing by registered mail, certified mail or certificate of mailing constitutes competent evidence of such mailing. Any reference in this section to the United States Postal Service is deemed to include a reference to any delivery service designated by the United States Secretary of the Treasury pursuant to section 7502(f)(2) of the Code, and any reference

[3] Effective with the 2008 Individual Income Tax return for sales occurring after June 30, 2008.

in this section to a postmark of the United States Postal Service is deemed to include a reference to any date recorded or marked as described in section 7502(f)(2)(C) of the Code by any such designated delivery service. § 153(1)

When due date is a weekend or holiday

When the last day, including any extension of time, prescribed under this Title for the performance of an act falls on Saturday, Sunday or a legal holiday in this State, the performance of that act is timely if it occurs on the next succeeding day which is not a Saturday, Sunday or legal holiday in this State. § 153(2)

Retailers are responsible for filing a sales tax return, form ST-7, on or before the 15th of the month. The information on the return reflects sales that occurred in the prior month.

Submission of returns and funds by electronic means

Returns; declaration covering perjury; submission of returns and funds by electronic means

1. Declaration required. Any return, report or other document required to be filed pursuant to this Title must contain a declaration, in a form prescribed by the State Tax Assessor, that the statements contained in the return, report or other document are true and are made under the penalties of perjury. When a tax return is filed electronically by a taxpayer or with the taxpayer's permission, the filing of that return constitutes a sworn statement by the taxpayer, made under the penalties of perjury, that the tax liability shown on the return is correct.

2. Electronic filing. The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services may adopt a rule allowing or requiring the filing of a return or document by electronic data submission. The rule must establish thresholds or phase-in periods to assist taxpayers and preparers in complying with any electronic data submission requirement.

A. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of an employer that submits returns in accordance with section 5253 with respect to 100 or more employees, whether the returns are submitted directly by the employer or by a 3rd party on behalf of the employer, the assessor may require that the returns be filed by electronic data submission.

B. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222 that submits returns pursuant to section 5253 or Title 26, chapter 13, subchapter 7 for 100 or more employers, the assessor may require that the returns be filed by electronic data submission.

3. Payment by electronic funds transfer. The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services, may adopt a rule allowing or requiring the payment of a tax or the refund of a tax by electronic funds transfer. An electronic funds transfer allowed or required by the assessor pursuant to this subsection in payment of a tax obligation to the State is considered a return. For the purposes of this subsection, "tax" includes Competitive Skills Scholarship Fund contributions and unemployment insurance contributions required to be paid to the State pursuant to Title 26.

A. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a person that is liable for $200,000 or more per year pursuant to section 5253 or for $400,000 or more per year in payments of any other single tax type, the assessor may require payment or refund of that tax by electronic funds transfer.

B. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222, the assessor may require payment or refund of taxes pursuant to section 5253 and payment or refund of Competitive Skills Scholarship Fund contributions and unemployment insurance contributions pursuant to Title 26, chapter 13, subchapters 5 and 7, respectively, by electronic funds transfer.

4. Adoption of rules. Rules adopted pursuant to this section are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A. §193

Payment Mandates

Effective January 1, 2008, any person with a combined tax liability to the State of $100,000 or more for all tax types during the most recent lookback periods ending during the prior calendar year is required to remit all Maine tax payments electronically using either the ACH credit or ACH debit method. Effective January 1, 2009, any person with a combined tax liability to the State of $50,000 or more for all tax types during the most recent lookback periods ending during the prior calendar year is required to remit all Maine tax payments electronically using either the ACH credit or ACH debit method. Effective January 1, 2010, any person with a combined tax liability to the State of $25,000 or more for all tax types during the most recent lookback periods ending during the prior calendar year is required to remit all Maine tax payments electronically using either the ACH credit or ACH debit method. Rule 102, section .02(A)

The statute allows for the creation of a rule mandating the payment of taxes through electronic means. Per Rule 102, any person with a **combined** tax liability of the thresholds mentioned above is required to pay either through ACH Credit or ACH Debit methods. For instance, if a person has an annual liability of $50,000 in sales tax, $40,000 in withholding and $20,000 in income tax, the person has exceed the combined threshold of $100,000 and would be required to file each of the taxes through electronic methods.

Filing Mandates

A. For returns filed in calendar year 2008, a person preparing original Maine tax returns for sales, use or service provider tax with a tax liability of $200,000 or more for any one tax for the 12-month period ending September 30, 2007, must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission.

B. For returns filed in calendar year 2009, a person preparing original Maine tax returns for sales, use or service provider tax with a tax liability of $100,000 or more for any one tax for the 12-month period ending September 30, 2008, must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission.

***C. For returns filed in calendar year 2010 or any subsequent calendar year, a person preparing original* Maine tax returns for sales, use or service provider tax with a tax liability of $25,000 or more for any one tax for the 12-month period ending September 30 of the previous year, must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission. Rule 104, section .03**

The statute also allows for the creation of a rule mandating the filing of returns through electronic means. Per Rule 104, any person meeting the thresholds describe above is required to file their sales, use or service provider tax return electronically as discussed below. Note that while payment mandates look at the combined tax liability of the person, return mandates look at each tax type individually. For instance, if a person has a sales tax annual liability of $250,000 and a service provider annual liability of $80,000, only the sales tax return is required to be filed electronically.

Each fall, Maine Revenue will complete an analysis of all accounts to determine those that should be filing electronically. Notifications are mailed to these accounts and paper returns are no longer printed.

Internet Filing

The Bureau provides the ability to file sales, use and service provider tax returns through the internet. Go to **http://www.maine.gov/revenue** and click on "**Electronic Services**". At the next screen select either "**Sales/Use" or "Service Provider"**. Bookmarking this location will give you quicker access next time.

In order to register online, you will need your registration number and your business code (both of which can be found at the top of your paper return) and a password which you will determine. (Note: your registration number must be seven digits and your business code must be three digits. If either are not, you may need to add a zero in front of these numbers.) After you have completed your return, you will be given three options for payment; ACH Debit, ACH Credit or payment by check.

As permitted by the statute, the Assessor has, by rule, set forth other guidelines for the reporting and payment of sales and use tax. The first is permitting the filing of returns on frequencies other than monthly.

Reporting Frequencies

.01 Except as otherwise provided below, every retailer must file monthly sales and use tax returns. The State Tax Assessor will periodically review the status of sales and use tax accounts and notify retailers whose filing frequency has been changed pursuant to this Rule. Upon application to the State Tax Assessor, a retailer may be authorized to file returns more frequently than this Rule requires.

A. Every retailer whose average sales and use tax liability is at least $100 per month but less than $600 per month must file four returns each year. The reporting periods are January through March, April through June, July through September, and October through December. The due date for filing the return and paying the tax is the fifteenth day of the month following the end of each reporting period.

B. Every retailer whose average sales and use tax liability is at least $50 per year but less than $100 per month must file two returns each year. The reporting periods are January through June and July through December. The due date for filing the return and paying the tax is the fifteenth day of the month following the end of each reporting period.

C. Every retailer whose average annual sales and use tax liability is less than $50 must file one return each year. The reporting period is the calendar year. The due date for filing the return and paying the tax is the fifteenth day of the month following the end of the reporting period.

D. The State Tax Assessor may temporarily require retailers to file using unusual or more frequent reporting periods in order to administer substantial changes in the sales and use tax law, such as rate changes.

.02 Seasonal Filing. A retailer whose business is completely closed for one or more calendar months on a regular schedule each year may register as a seasonal filer, indicating the months during which the business is open. A retailer that is registered as a seasonal filer is not required to file a sales and use tax return for any off-season reporting period during which the retailer did not engage in business.

Rule 304

Extensions

Realizing that some businesses may not have ample time to gather all the information necessary to complete the return, the rule authorizes permanent extensions. Temporary or periodic exemptions are not granted.

> ***03. Extension of Time for Filing. Upon application to the State Tax Assessor, the time for filing sales and use tax returns may be extended for 30 days for good cause. The extension remains in effect until revoked in writing by the State Tax Assessor. The extension does not extend the time for paying the tax. Rule 304***

Reporting on cash basis

Generally, the sales tax law assumes that most businesses practice an accrual system of accounting. Sales tax is due in the month in which the sale occurred even though payment for the sale has not been received. However, the Bureau's rule does recognize the fact that businesses may be on a cash basis.

> ***04. Basis of Accounting. Generally, retailers are required to file sales and use tax returns on an accrual basis. However, a retailer that properly files its federal income tax returns on a cash basis may elect to file its sales and use tax returns on a cash basis. Rule 304***

Thus, the retailer may report only the tax that has been collected in a given month. A business cannot have an accounting system for sales tax purposes and a separate system for income taxes.

Supplemental report

In addition to the sales tax return, vehicle dealers are required to file a supplemental report listing each vehicle sale.

> ***05. Supplemental Return. Every person who makes retail sales of motor vehicles, watercraft, aircraft, manufactured housing, special mobile equipment, trailers, camper trailers or truck campers must file, in addition to the sales and use tax return, a supplemental return reporting individually each sale of any of these kinds of property made during the reporting period. Every person who rents or leases automobiles for one year or more must file a supplemental return reporting individually each lease or rental. Rule 304***

Consolidated filing

A seller who operates multiple places of business is allowed to file a consolidated return covering sales at each location in lieu of multiple sales tax returns. A breakdown of sales at each location must be provided if the seller operates businesses in various cities or towns.

> ***07. Consolidated Filing. Upon application to the State Tax Assessor, a retailer that makes sales at more than one place of business may be authorized to file a single consolidated return reporting the total amount of sales made at all of the locations. The return must include a schedule showing a breakdown of taxable sales made at each location.***

Failing to file any tax return or pay any tax due is subject to penalties as discussed later on in the "Taxpayer Compliance" section of this guide.

Recordkeeping Requirements

Persons subject to tax under this Title shall maintain such records as the State Tax Assessor determines necessary for the reasonable administration of this Title. Records pertaining to taxes imposed by chapters 371 and 575 and by Part 8 must be retained as long as is required by applicable federal law and regulation. Records pertaining to the special fuel tax user reports filed pursuant to section 3209, subsection 2 and the International Fuel Tax Agreement pursuant to section 3209, subsection 1-B must be retained for 4 years. Records pertaining to all other taxes imposed by this Title must be retained for a period of at least 6 years. The records must be kept in such a manner as to ensure their security and accessibility for inspection by the assessor or any designated agent engaged in the administration of this Title. § 135(1)

Records kept by a retailer doing business in this State must include all bills, receipts, cash register tapes, sales invoices, purchase invoices and any other documentation supporting the entries made in the normal books of account and ledgers maintained by the average prudent business person, as well as all related reports produced from these records. The records will also include all documents, schedules or work papers used in connection with the preparation of tax returns filed by the retailer.
The minimum information required of a retailer includes:

(1) Detailed records of all taxable sales of tangible personal property made in Maine, including all components of the total sales price of such sales.
(2) Detailed records of all taxable sales of taxable services made in Maine, including all components of the total sale price of such sales.
(3) Detailed records of all exempt sales of tangible personal property or taxable services made in Maine, including all components of the total sale price of such sales.
(4) Detailed records of all purchases of tangible personal property and taxable services purchased for use or consumption in Maine, including all components of the total purchase price of such items. Rule 103(.02D)

The burden of proving that a transaction was not taxable shall be upon is on the person charged with tax liability. The presumption that a sale was not for resale may be overcome during an audit or upon reconsideration if the seller proves that the purchaser was the holder of a currently valid resale certificate as provided in section 1754-B at the time of the sale or proves through other means that the property purchased was purchased for resale by the purchaser in the ordinary course of business. Notwithstanding section 1752, subsection 11, paragraph B, if the seller satisfies the seller's burden of proof, the sale is not considered a retail sale. §1763

The burden of proving that a sale is exempt is upon the person making the sale. In most instances, the seller is relieved of this burden if the seller obtains appropriate documentation from the purchaser. Certificates issued by the Bureau would ordinarily be accepted by the seller in good faith. The good faith of the seller would be questioned if the seller had knowledge of facts which gave rise to a reasonable inference that the purchaser is not the holder of the exemption certificate, that the merchandise is not to be used exclusively by the exempt organization or will not be resold in the ordinary course of business by a retailer. Some exemptions do not require statements from the purchaser, e.g. grocery staples, while other commodities, since they can be used for a purpose inconsistent with the exemption, need affidavits, e.g. vehicles used in interstate commerce.

See Rule 103 for additional information on recordkeeping requirements.

Electronic Retention of Records

Advancing technology in the area of record retention requires the bureau to consider new standards of acceptability for such documentation. The bureau accepts imaged documents stored in a digital format provided 1) the system meets accepted industry standards for integrity and reliability, 2) the procedures used to capture and store information is reliable and includes safeguards to guarantee authenticity, 3) detail is captured and retained in order to efficiently conduct a sales/use tax review and 4) adequate hardware/software is available to readily access records. The retention of original hard-copy documents will depend upon the accuracy, integrity and authenticity offered by the system. See Rule 103 for additional information on retention of records.

EXEMPT SALE DOCUMENTATION

The following is a summation of documents that the Bureau deems necessary for the retailer to obtain and keep on file in order to support an exempt sale:

Resale Certificate

🗁 Resale certificate

The assessor shall issue a provisional resale certificate to each applicant for initial registration that states on its application that it expects to make annual gross sales of $3,000 or more. A provisional resale certificate issued between January 1st and September 30th is effective for the duration of the calendar year in which it is issued and the 2 subsequent years. A provisional resale certificate issued between October 1st and December 31st is effective until the end of the 3rd succeeding calendar year. Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid. §1754-B(2-B)

> ***The assessor shall periodically review the status of each retailer registered under this section. On or before the date of expiration of a resale certificate, the assessor shall issue to each registered retailer with gross sales of $3,000 or more during the 12 months preceding the assessor's review a resale certificate effective for the next 3 calendar years. Any subsequent annual resale certificate issued is effective for the next 5 calendar years. Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid. §1754-B(2-C)***

A sale of tangible property for resale (except for resale as a casual sale) is not a taxable transaction. However, the burden of proving that a sale of tangible personal property is for resale is upon the person making the sale. The seller will be relieved of this burden of proof only if a resale certificate in accordance with the provisions of Rule 301 is obtained from the purchaser. Where the sale is to a person who, by reason of being a non-resident of the state not doing business within the state has no seller's registration certificate, the seller should obtain sufficient evidence to sustain the burden of proving the sale is actually for resale. If the purchaser cannot furnish such evidence, the seller should, as a protection, collect the sales tax.

Maine Revenue Service issues resale certificates to all active retailers reporting annual gross sales of $3,000 or more. The resale certificate is valid for a certain period of time, generally 3 years. (Between July 30, 2004 and March 29, 2006, resale certificates were issued if annual gross sales were $10,000 or more and were valid for only one year.) Prior to a certificate's expiration, Maine Revenue will automatically review the account and reissue the certificate provided the account is active and has the prerequisite gross sales volume.

Out-of-state sellers, who are not required to be registered in Maine, may still buy exempt if they provide a statement similar to our resale certificate to the seller preferably on the purchaser's own letterhead. Alternatively, MRS has accepted the "Uniform Sales & Use Tax Certificate - Multijurisdiction" form issued by the Multistate Tax Commission as adequate documentation. This form contains the required language and the purchaser indicates which states the purchaser is registered to do business. Not all states have accepted this form, however. As a result, this form would not be acceptable if the out-of-state purchaser is from a state not listed on this form. A copy of the MTC form is available in the document section of this guide or it can be downloaded directly from their website at **www.mtc.gov** (select *"Uniform Sales and Use Certificate"* under "*Taxpayer Services*").

Since the burden of proof is on the seller, it is recommended that the seller obtain whatever documentation will prove that the purchaser is engaged in selling in their home state.

The resale certificate can be used either on a single purchase or to document the continued purchasing of goods for resale by a retailer. If the resale certificate is used as a blanket certificate, the seller is only required to retain one copy of the resale certificate in the seller's files to support the exempt sale rather than obtain a copy for each transaction. However, each transaction supported by the resale certificate must be documented as well with purchase invoices appropriately marked.

Exempt Organizations

- Exempt organization certificate, or other exempt letter, issued by Maine Revenue Services, for purchases made by the organization for their own use.

Not all organizations are exempt from sales tax. The certificate or letter must be issued by Maine Revenue Services, Sales/Excise Tax Division and must be unaltered. The State of Maine, the U S Government, Maine cities, towns and counties are exempt from sales tax but, for administrative purposes, are not issued certificates. No evidence of exemption is required for sales to these entities other than the invoice of the seller showing the exempt organization.

Manufacturers

- ST-P-70 - Industrial Users Blanket Certificate of Exemption.

This document is presented by a registered seller who is engaged in manufacturing a product. This includes a wide range of entities, from crafters to paper mills. It may be used to exempt all future purchases of qualifying items or for occasional purchases. Items covered by this certificate are ingredients or component parts of the item being produced, items that will be consumed and destroyed in the process, machinery, equipment and repair parts used in manufacturing and fuel or electricity used at the manufacturing facility.

Direct Pay Permits

- ST-P-3 - Direct Pay Permit for use by certain manufacturers

Many manufacturers and utilities routinely acquire large quantities of tangible personal property under circumstances that make it impractical to determine, at the time of purchase, the manner in which property will be used. It is impractical in these circumstances to determine whether the purchase or use of the property will be taxable or exempt. Holders of direct payment permits are authorized to purchase most items of tangible personal property without payment of the tax to their vendors, and may instead report and pay tax directly to the State. Rule 308(1)

Each holder of a direct payment permit must file a copy of the permit with each of its vendors and ensure that the permit number is placed on all purchase orders or contracts covering the purchase of tangible personal property, in lieu of payment of tax to the retailer, except in those transactions excluded in Section 4 below. The holder of direct payment permits shall not authorize anyone to whom they have issued a direct payment permit to file the direct payment permit or permit number with a third party.

Sales tax registrations held by holders of direct payment permits will be placed on an inactive basis and accrued sales and use tax liabilities will be reported on sales and use tax returns which will be issued under the direct payment permit number. Rule 308(3)

Some manufacturers are issued "direct pay permits" by the Bureau. This allows them to purchase nearly everything exempt from tax and be accountable directly to the Bureau on taxable items. This permit cannot be used for purchases of prepared food or beverages at restaurants, lodging at hotels, telecommunication services, interim rentals and short-term rentals of automobiles.

Commercial Farmers And Fishermen

🗁 Exemption Card and ST-L-154 - Affidavit of Exemption for use by those engaged in commercial farming and fishing

Those persons engaged in commercial agricultural production, commercial fishing and commercial aquacultural production must provide the retailer with an affidavit of exemption along with a copy of their exemption card issued by the Bureau. This card may only be used to purchase depreciable machinery and equipment, including repairs parts for same. It cannot be used to purchase items such as supplies, motor vehicles and repair parts for motor vehicles.

Vehicles used in interstate commerce

🗁 ST-MV-57a - Affidavit to document exempt vehicles for use in interstate or foreign commerce.

It is important that the purchaser read the instructions as it provides a complete description of the requirements of this exemption. Retailers should not have the purchaser sign without pointing out the instructions nor should the retailer misrepresent the qualifications of the exemption.

Out-of-state deliveries

🗁 ST-MV-36 - Affidavit to support out-of-state delivery by the seller.

This form documents the fact that the seller delivered the merchandise out-of-state. It not only requires the signature of the person making the delivery but also notarization.

Certain sales to non-residents

- ST-MV-33 - Affidavit of Exemption for a sale to an out-of-state resident for immediate removal from Maine of a motor vehicle, camper trailer, semitrailer, aircraft.

- ST-P-19AE - Affidavit of Exemption for a sale to an out-of-state resident for immediate removal from Maine of watercraft

On both of these affidavits, the purchaser must be a non-resident individual or business entity and the purchaser must be removing the property from Maine. If the retailer has any knowledge that the purchaser is actually a resident of Maine or that the non-resident does not intend to remove the property, this exemption does not apply.

- ST-P-39 - Affidavit of Exemption for a snowmobile or all-terrain vehicle sold to an out-of-state resident

The purchaser in this case must be a non-resident individual. However, the snowmobile in this situation does not need to be removed from Maine in order to qualify for exemption.

Rental of automobiles

- ST-MV-63 - Certificate of Exemption to purchase an automobile for lease or short-term rental.

Other certificates and affidavits

- ST-P-72 - Contractor's Exempt Purchase Certificate

For use by a contractor or subcontractor when purchasing property that will be incorporated into the realty of an exempt organization.

- STR-PTDZ – Contractor's Refund Application for Pine Tree Zones

For use by a contractor or subcontractor when purchasing property that will be incorporated into the realty of a qualified Pine Tree Development Zone business.

- ST-L-155 - Products to be Incorporated into a Commercial Fishing Vessel

For use by a person engaged in commercial fishing when purchasing property that will be incorporated into the construction of a fishing vessel.

- ST-P-73 - Resale Certificate for Packaging Materials

For use by a person, other than a retailer, when purchasing packaging materials that qualify for exemption.

🗁 ST-P-71 - Affidavit for Out of state use of Promotional Materials

For use by a person when purchasing qualifying advertising or promotional materials that will be used out-of-state.

REFUNDS & CREDITS

Tax paid on purchases for resale

A retailer registered under section 1754-B may claim a credit for sales tax imposed by this Part if the retailer has paid the sales tax on tangible personal property purchased for resale at retail sale. The credit may be claimed only on the return that corresponds to the period in which the tax was paid. The credit may not be claimed if the item has been withdrawn from inventory by the retailer for the retailer's own use prior to its sale. If the retailer purchases an item for resale at retail sale and pays tax to its vendor and if the retailer's sales and use tax liability for the tax period in question is less than the credit being claimed, the retailer is entitled either to carry the credit forward or to receive a refund of the tax paid. §1811-B

For those retailers that do not qualify to receive an annual resale certificate, a refund or credit is available to the retailer for sales tax paid on goods actually purchased for resale. This refund/credit is taken on the sales tax return in the period in which the purchase is made.

Excess Collections

Whenever the tax collected by a retailer for any period exceeds that provided by law, whether the excess is attributable to the collection of tax on exempt or nontaxable transactions or erroneous computation, the total amount collected, excluding only that portion of the excess that has been returned or credited to the person or persons from whom it was collected, constitutes a tax liability of the retailer that must be reported and paid at the time and in the manner provided by sections 1951-A and 1952. § 1814(1)

The tax liability specified in subsection 1 shall be subject to assessment, collection and enforcement by the State Tax Assessor in the manner provided in chapters 7 and 211 to 225. § 1814(2)

Refunds

Any such amount which has been paid by or collected from a retailer shall be refunded by the State Tax Assessor to the retailer in accordance with section 2011 only upon submission of proof to the satisfaction of the State Tax Assessor that the amount has been returned or credited to the person or persons from whom it was originally collected. In such cases, interest shall be paid by the State Tax Assessor only upon proof that interest was included in the repayment by the retailer to that person or persons. § 1814(3)

If the State Tax Assessor determines, upon written application by a taxpayer or during the course of an audit, that any tax under this Part has been paid more than once or has been erroneously or illegally collected or computed, the assessor shall certify to the State Controller the amount paid in excess of that legally due. That amount must be credited by the assessor on any taxes then due from the taxpayer and the balance refunded to the taxpayer or the taxpayer's successor in interest but no such credit or refund may be allowed unless within 3 years from the date of overpayment either a written petition stating the grounds upon which the refund or credit is claimed is filed with the assessor or the overpayment is discovered on audit. Interest at the rate determined pursuant to section 186 must be paid on any balance refunded pursuant to this chapter from the date the return listing the overpayment was filed or the date the payment was made, whichever is later, except that no interest may be paid with respect to the refunds provided by section 2013 and, in cases of excessive or erroneous collections, interest must be paid in accordance with section 1814, subsection 3. At the election of the assessor, unless the taxpayer specifically requests a cash refund, the refund may be credited to the taxpayer's sales and use tax account, but, in the case of a credit, no further interest may accrue from the date of that election. The taxpayer may not apply for a refund of any amount assessed when administrative and judicial review under section 151 has been completed. § 2011

Reconsiderations

A taxpayer dissatisfied with the decision of the assessor, upon a written request for refund filed under this section may request reconsideration and appeal from the reconsideration to the Superior Court in the same manner and under the same conditions as in the case of assessments made under chapter 7. The decision of the assessor upon a written request for refund becomes final as to law and fact in the same manner and under the same conditions as in the case of assessments made under chapter 7. § 2011

Breakage

Breakage under this section shall be retained by the retailer as compensation for the collection. § 1812(3)

Any retailer who knowingly charges or collects as the sales tax due on the sale price of any property or service an amount in excess of that provided by section 1812 commits a Class E crime. § 1813

With the exception of breakage, any tax collected by the retailer from the purchaser must be remitted to the Bureau even if it represents an over-collection or erroneous computation unless the tax has been refunded or credited to the purchaser. "Breakage" is the excess collection provided by the bracket system when applying tax. This most commonly occurs when there are multiple sales of minimal amounts. For instance, assume a sales tax rate of 5% and three separate sales of 65 cents, 85 cents and 45 cents. The tax collected in each case is 4 cents, 5 cents and 3 cents, respectively. Collectively, the total gross sales amounted to $1.95 and tax of 10 cents. When the retailer reports the gross sales for the month, the retailer computes tax on $1.95 to arrive

at tax due of 10 cents. The extra collection of 2 cents is referred to as "breakage" and is retained by the retailer.

Bad Debts charged off

The tax paid on sales represented by accounts charged off as worthless may be credited against the tax due on a subsequent return filed within 3 years of the charge-off, but, if any such accounts are thereafter collected by the retailer, a tax must be paid upon the amounts so collected. § 1811-A

Note: This is not a refund provision. If a retailer has a bad debt which includes sales tax, the tax may be credited to the retailer. The amount must be deducted on a sales and use tax return filed within three years from the date the amount was actually charged off on the books of the retailer. Credit for charge-offs cannot be taken later than the 15th day of the 37th month after the uncollectible amount was charged off on the books of the retailer.

The amount to be deducted must actually be charged off as uncollectible on the books of the retailer. On audit, deductions for bad debts will be disallowed unless there is evidence that this has been done. No deduction is allowable for expenses incurred in attempting to collect any account receivable, or for that portion of a recovered amount that is retained by or paid to a third party as compensation for services rendered in collecting the account.

The deduction may be made only with respect to taxable sales that were originally reported as taxable by the retailer, and on which tax has been paid by the retailer to the State. If the sales tax rate in effect at the time of the sale is different from the rate in effect at the time that the credit is claimed, the deduction must be adjusted to reflect the rate that was in effect when the sale was made.

In support of deductions for uncollectible accounts retailers must maintain adequate and complete records showing:

i. Date of the original sale.
ii. Name and address of the purchaser.
iii. Amount the purchaser contracted to pay.
iv. Amount on which the retailer paid tax to the State.
v. All payments and other credits applied to the account of the purchaser.
vi. Evidence that the uncollectible amount on which tax was paid to the State actually has been charged off.

If a retailer subsequently collects any account that has been charged off as worthless, and for which credit has been taken, the amount collected must be included in the return filed for the period in which the collection occurred. The tax on that amount must be paid with that return, based on the tax rate that was in effect at the time of the original sale. If the tax rate in effect at the time of collection is different from the tax rate

in effect at the time of the original sale, the amount of the collection and the date of the original sale should be noted in the retailers records.

SPECIAL REFUNDS

In addition to the many exemptions within the law, there are also refund provisions which, in effect, are exemptions; the major difference being that tax must be paid on all purchases and refunds sought directly from Maine Revenue Services. The only exception is with commercial farmers and fishermen.

Fish Passage Facilities

Taxes on the sale or use of materials used in the construction of fish passage facilities in new, reconstructed or redeveloped dams, when the fish passage facilities are built in accordance with plans and specifications approved by the Department of Inland Fisheries and Wildlife or the Department of Marine Resources, shall be refundable.

The State Tax Assessor shall refund sales or use tax paid on these construction materials upon the submission by a person of the following:

1. Certification concerning construction. A certification from the Department of Inland Fisheries and Wildlife or the Department of Marine Resources that the fish passage facilities were constructed in accordance with approved plans and specifications; and

2. Application for tax rebate. An application for a tax rebate which shall state at a minimum the construction materials purchased, its manufacturers, its cost, the use of which the purchaser has made of the materials and the seller from whom the purchase was made, and shall be accompanied by a copy of the purchase invoices. § 2014

Sales tax paid on materials used in the construction of fish passage facilities in dams qualifies for refund provided the Department of Inland Fisheries and Wildlife or the Department of Marine Resources has certified the construction.

Rental Vehicle
Excise Tax Reimbursement

1. Report. Annually, on or before September 1st, a vehicle owner or rental company engaged in the business of renting automobiles for a period of less than one year, in order to claim an excise tax reimbursement, shall file a report with the State Tax Assessor. The report must include the information required by the State Tax Assessor to determine the taxpayer's excise tax reimbursement entitlement. The State Tax Assessor may extend the September 1st filing deadline for a period not to exceed one year for good cause.

2. Reimbursement. The State Tax Assessor shall determine the reimbursement to be paid to a taxpayer filing a return pursuant to subsection 1. The reimbursement is the amount that is the smaller of:

A. The amount determined by computing the total excise tax credit entitlement during the most recently completed period from July 1st to June 30th for which a taxpayer has filed a return pursuant to subsection 1. An excise tax credit accrues for each vehicle excise tax paid in the prior completed period for which the associated Maine registration was surrendered prior to the expiration of the associated 12-month excise tax period, unless the excise tax was credited to another registration, in which case the 12-month period continues to run in association with the replacement registration. The amount of the credit is equal to the amount of the excise tax paid in order to register the original vehicle multiplied by a fraction, the numerator of which is the number of complete months short of 12 months during which the registration was surrendered and the denominator is 12; or

B. Three-tenths of the amount of tax paid to the State by the taxpayer resulting from the tax on the rental of automobiles for a period of less than one year during the most recently completed period from July 1st to June 30th.

3. Treasurer of State; notification. Upon the determination of the reimbursement amount to be paid to a vehicle owner or rental company, the State Tax Assessor shall inform the Treasurer of State of the determination and the Treasurer of State shall make the reimbursement. These reimbursements must be accounted for and paid as sales and use tax refunds. Unless the reimbursement is paid before November 1st of the year in which the report required in subsection 1 is filed or within 60 days of the filing of that report, whichever is later, interest at the rate provided in section 186 must be paid for the period of time that transpires after the deadline before payment is made. § 2015

Those persons who are engaged in the business of renting automobiles on a short term basis (less than one year) may be eligible for a sales tax refund if a vehicle's registration is surrendered before the year has ended. The refund is the equivalent of the unused portion of any excise tax paid on the automobile's surrendered registration. For instance, if the excise tax paid on an automobile was $400 and the vehicle's registration was surrendered after 9 months, the rentor may be eligible for a refund of $100 (25% of $400).

Contractors of real property for qualified Pine Tree Zone business

Pine Tree Development Zone businesses; reimbursement of certain taxes

1. Terms defined. As used in this section, the terms "qualified Pine Tree Development Zone business" and "qualified business activity" have the meanings given to them in Title 30-A, section 5250-I. For the purposes of this section, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at

the time the property is sold, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid pursuant to this Part with respect to the sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified Pine Tree Development Zone business and that is used directly and primarily by that business in one or more qualified business activities.

3. Claim for reimbursement. Claims under this section for reimbursement of taxes are controlled by this subsection.

A. A claim for reimbursement under this section must be filed by the contractor or subcontractor with the State Tax Assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified Pine Tree Development Zone business certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily in a qualified business activity. All records pertaining to such certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified Pine Tree Development Zone business and by the person, if any, that sold the real property in question to that business. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales or use tax is included in the contractor's or subcontractor's contract price, the contractor or subcontractor shall file, at the request of the qualified Pine Tree Development Zone business, a claim for reimbursement in accordance with this section and pay the reimbursement to the qualified Pine Tree Development Zone business.

B. If, by agreement between the contractor or subcontractor and the qualified Pine Tree Development Zone business, the contractor or subcontractor assigns its right to claim and receive reimbursement, the qualified Pine Tree Development Zone business must file a claim for reimbursement in accordance with this subsection. A reimbursement may not be issued to a qualified Pine Tree Development Zone business under this paragraph unless the contractor or subcontractor has previously submitted to the bureau a certificate, signed by the contractor or subcontractor, releasing the contractor's or subcontractor's claim to the reimbursement. The certificate must be in a format prescribed by the assessor.

4. Limitations. The following are the limitations on reimbursements made pursuant to this section.

A. Reimbursements made by the assessor pursuant to this section are limited to taxes paid in connection with sales of tangible personal property that occur within a period of 10 years from the date the qualified Pine Tree Development Zone business receiving the property

is certified pursuant to Title 30-A, section 5250-O or by December 31, 2018, whichever occurs first.

B. Reimbursement pursuant to this section of taxes paid in connection with the sale of tangible personal property subsequently attached to real property may not be made when those real property improvements:

(1) Are owned by more than one person prior to their acquisition by the qualified Pine Tree Development Zone business whose certification accompanies the reimbursement claim pursuant to subsection 3; or

(2) Have been used for a business purpose by a person other than the qualified Pine Tree Development Zone business whose certification accompanies the reimbursement claim pursuant to subsection 3.

5. Audit. The assessor has the authority to audit any claim filed under this section. If the assessor determines that the amount of the claimed reimbursement is incorrect, the assessor shall redetermine the claim and notify the claimant in writing of the redetermination. If the claimant has received reimbursement of an amount that the assessor concludes should not have been reimbursed, the assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration, pursuant to section 151, of the redetermination or assessment.

6. Payment of claims. The State Tax Assessor shall determine the benefit for each claimant under this section and certify to the State Controller the amount to be transferred to the Pine Tree Development Zone reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue within the sales tax category. The assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section.
§2016

The PTDZ tax credits and benefits are available to certified businesses engaged in qualified activity for tax years beginning on or after January 1, 2004. Effective July 1, 2005, contractors and sub-contractors are eligible for reimbursement of sales and use tax paid on tangible personal property affixed to realty owned by or to be sold to a qualified Pine Tree Development Zone business. To obtain certification, the business must apply to the Department of Economic and Community Development ("DECD") and meet the requirements for qualified business activity. In general, in order to be certified, a business must be engaged in a targeted business sector (manufacturing, financial services, selected technologies); must intend to expand the base level of employment with qualified employees; and the qualified employees must be new fulltime employees who are hired by a Pine Tree Development Zone business for work directly in one or more

qualified business activities. Contractors should refer to Instructional Bulletin #52 for further information about this program and procedures to claim reimbursement.

Contractors of real property for qualified community wind power generators

Qualified community wind power generator; reimbursement of certain taxes

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

A-1. "Community wind power generation facility" means an electricity-generating facility at any one site with an instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy.

B. "Qualified community wind power generator" means a person that has been certified as a community wind power generator by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3.

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid pursuant to this Part with respect to the sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified community wind power generator and that is used directly and primarily in the generation of electricity at a community wind power generation facility in this State..

3. Claim for reimbursement. Claims under this section for reimbursement of taxes are controlled by this subsection.

A. A claim for reimbursement under this section must be filed by the contractor or subcontractor with the State Tax Assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified community wind power generator certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily in the generation of electricity in this State at a community wind power generation facility. All records pertaining to such certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified community wind power generator and by the person, if any, that sold the real property in question to the qualified community wind power generator. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales

or use tax is included in the contractor's or subcontractor's contract price, the contractor or subcontractor shall file, at the request of the qualified community wind power generator, a claim for reimbursement in accordance with this section and pay the reimbursement to the qualified community wind power generator.

B. If, by agreement between the contractor or subcontractor and the qualified community wind power generator, the contractor or subcontractor assigns its right to claim and receive reimbursement, the qualified community wind power generator must file a claim for reimbursement in accordance with this subsection. Reimbursement may not be issued to a qualified community wind power generator under this paragraph unless the contractor or subcontractor has previously submitted to the assessor a certificate, signed by the contractor or subcontractor, releasing the contractor's or subcontractor's claim to the reimbursement. The certificate must be in a format prescribed by the assessor.

4. Limitations. Limitations on reimbursements made pursuant to this section are governed by this subsection.

A. Reimbursements made by the State Tax Assessor pursuant to this section are limited to taxes paid in connection with sales of tangible personal property that occur within a period of 5 years from the date the qualified community wind power generator receiving the property is certified pursuant to Title 35-A, section 3403, subsection 3 or by December 31, 2011, whichever occurs first.

B. Reimbursement pursuant to this section of taxes paid in connection with the sale of tangible personal property subsequently attached to real property may not be made when those real property improvements:

(1) Are owned by more than one person prior to their acquisition by the qualified community wind power generator whose certification accompanies the reimbursement claim pursuant to subsection 3; or

(2) Have been used for a business purpose by a person other than the qualified community wind power generator whose certification accompanies the reimbursement claim pursuant to subsection 3.

5. Audit. The State Tax Assessor has the authority to audit any claim filed under this section. If the assessor determines that the amount of the claimed reimbursement is incorrect, the assessor shall redetermine the claim and notify the claimant in writing of the redetermination. If the claimant has received reimbursement of an amount that the assessor concludes should not have been reimbursed, the assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration, pursuant to section 151, of the redetermination or assessment.

6. Payment of claims. The State Tax Assessor shall determine the benefit for each claimant under this section and certify to the State Controller the amount to be transferred to the qualified community wind power generator reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue within the sales tax category. The assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section. §2017

Beginning October 1, 2006, tax credits and benefits are available to certified businesses engaged as a qualified community wind power generator. Contractors and sub-contractors are eligible for reimbursement of sales and use tax paid on tangible personal property affixed to realty owned by or to be sold to a certified wind power generator. To obtain certification, the entity must apply to the Public Utilities Commission and meet certain requirements. In general, in order to be certified, the entity must construct a community wind power generator with a capacity of not more than 10 megawatts that is powered entirely by wind energy and the entity will own title or controlling interest in that generator. The entity must also demonstrate that construction of this generator would not be possible but for the tax credits and benefits available under this program. Contractors should contact Maine Revenue for further information about this program and procedures to claim reimbursement.

Advanced communications technology infrastructure in ConnectME zones

Reimbursement of certain taxes relating to advanced communications technology infrastructure

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advanced communications technology infrastructure" has the same meaning as in Title 35-A, section 9202.

B. "Authority" has the same meaning as in Title 35-A, section 9202.

C. "Qualifying ConnectME zone" means a geographical area that is eligible for tax reimbursement under this section because the authority has determined that the area is an unserved or underserved area.

2. Reimbursement allowed. Following final adoption of rules under subsection 7, but in no event earlier than July 1, 2007, a reimbursement is allowed as provided in this section for taxes paid pursuant to this Part with respect to machinery and equipment

purchased for use by a person to develop an advanced communications technology infrastructure in a qualifying ConnectME zone.

3. Claim for reimbursement. A claim for reimbursement under this section must be filed with the assessor within 3 years from the date on which the machinery and equipment was purchased. The purchaser shall submit the reimbursement claim on a form prescribed by the assessor and must include a statement from the authority certifying that the machinery and equipment is being used primarily to develop an advanced communications technology infrastructure in a qualifying ConnectME zone. The purchaser and the authority shall retain all records pertaining to such certification and to the purchases in question for at least 6 years. The reimbursement claim must be accompanied by such additional information as the assessor may require.

4. Reimbursement limit. The authority may not certify for reimbursement under this section a total amount in excess of $500,000 in any state fiscal year.

5. Audit. The assessor may audit any claim filed under this section. If the assessor determines that the amount of the claimed reimbursement is incorrect, the assessor shall redetermine the claim and notify the claimant in writing of the redetermination. If the claimant has received reimbursement of an amount that the assessor concludes should not have been reimbursed, the assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration pursuant to section 151 of the redetermination or assessment.

6. Payment of claims. Within 30 days after receipt of a properly completed claim under this section, the assessor shall inform the State Controller of the certified amounts that are to be reimbursed to the claimant. The State Controller shall make the reimbursement and shall account for and pay it as a sales and use tax refund. Interest is not allowed on any payment made to a claimant pursuant to this section.

7. Rulemaking. The authority in cooperation with the assessor shall develop rules as necessary to administer this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

8. Repeal. This section is repealed January 31, 2009. §2017

A reimbursement is allowed for sales and use tax paid by a person with respect to machinery and equipment purchased for use by that person to develop an advanced communications technology infrastructure in a qualifying ConnectME zone. Since Rule 324 was adopted on June 19, 2007, the effective date of this provision was July 1, 2007.

Contact should be made with Maine Revenue for further information about this program and procedures to claim reimbursement.

Certain Supplies and Equipment used out-of-state

When a business which operates from fixed locations within and without this State purchases supplies and equipment in this State, places them in inventory in this State, and subsequently withdraws them from inventory either for use at a location of the business in another taxing jurisdiction or for fabrication, attachment or incorporation into other tangible personal property for use at a location of the business in another taxing jurisdiction, without having made use other than storage or such fabrication, attachment or incorporation within this State, it may request a refund of Maine sales tax paid at the time of purchase, provided it maintains inventory records by which the acquisition and disposition of such supplies and equipment purchased can be traced. No refund shall be made where the taxing jurisdiction to which the supplies and equipment are removed levies a sales or use tax. Such refunds must be requested in accordance with section 2011. § 2012

This section contains a number of qualifications in order to obtain a refund of tax paid. To summarize, if a business has a fixed location in Maine and in New Hampshire and purchases supplies and equipment in Maine, pays a tax and subsequently removes them to their place of business in New Hampshire for use in New Hampshire, a refund can be obtained.

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Sales and use taxes are trust funds

> ***All sales and use taxes collected by a person pursuant to Part 3, all taxes collected by a person under color of Part 3 which have not been properly returned or credited to the persons from whom they were collected, all taxes collected by or imposed on a person pursuant to chapter 451 or 459, all fees collected pursuant to chapter 719 and all taxes collected by a person pursuant to chapter 827 constitute a special fund in trust for the State Tax Assessor. The liability for the taxes or fees and the interest or penalty on taxes or fees is enforceable by assessment and collection, in the manner prescribed in this Part, against the person and against any officer, director, member, agent or employee of that person who, in that capacity, is responsible for the control or management of the funds or finances of that person or is responsible for the payment of that person's taxes. An assessment against a responsible individual pursuant to this section must be made within 6 years from the date on which the return on which the taxes were required to be reported was filed. An assessment pursuant to this section may be made at any time with respect to a time period for which a return has become due but has not been filed. § 177(1)***

Sales and use tax collected by the retailer is held in trust for the State Tax Assessor. This money, therefore, is to be remitted to the Assessor and is not to be used by the retailer for any other purpose. Collection of taxes that have not been paid is also enforceable against any responsible individual of the business.

Section 177(6) also requires payment of the trust fund tax incurred, and interest and penalties, at the time a business is purchased. Failure to do so will make the purchaser personally liable for any outstanding trust fund debt, and interest and penalties, unless the purchaser has obtained a receipt or certificate from the State Tax Assessor stating that the taxes have been paid or that no trust fund taxes, interest or penalties are due.

In an effort to maintain compliance, the statute provides for interest and penalties to be imposed in various situations. The statute provides powers to the State Tax Assessor to conduct audits but it also provides rights to the taxpayer as well.

INTEREST

> ***Any person who fails to pay any tax, other than a tax imposed pursuant to chapter 105, on or before the last date prescribed for payment is liable for interest on the tax, calculated from that date and compounded monthly. The rate of interest for any calendar year equals the highest prime rate as published in the Wall Street Journal on the first day of September of the preceding calendar year or, if the first day of September falls on a weekend or holiday, on the next succeeding business day, rounded up to the next whole percent plus 3 percentage points. For purposes of this section, the last date prescribed for payment of tax must be determined without regard to any extension of time permitted for filing a return. A tax that is upheld on***

administrative or judicial review bears interest from the date on which payment would have been due in the absence of review. Any tax, interest or penalty imposed by this Title that has been erroneously refunded and is recoverable by the assessor bears interest at the above rate from the date of payment of the refund. Interest accrues automatically, without being assessed by the assessor, and is recoverable by the assessor in the same manner as if it were a tax assessed under this Title. If the failure to pay a tax when required is explained to the satisfaction of the assessor, the assessor may abate or waive the payment of all or any part of that interest.

Except as otherwise provided in this Title, and except for taxes imposed pursuant to chapter 105, interest, at the rate determined by the assessor for underpayments pursuant to this section, must be paid on overpayments of tax from the date the return listing the overpayment was filed, or the payment was made, whichever is later. § 186

Each fall the assessor determines the interest rate for the upcoming calendar year. Interest is compounded monthly. In order to stop interest from accruing, both the base tax and interest must be paid. The following are the rates in effect for the past few years:

Calendar Year	**Rate**
1999 through 2001	9 %
2002	8 %
2003	7 %
2004 (Jan-June) 2004 (July – Dec)	6 % 7 %
2005	8 %
2006	10 %
2007 & 2008	12 %
2009	8 %

PENALTIES

Failure to file return

Any person who fails to make and file any return required under this Title at or before the time the return becomes due is liable for one of the following penalties if the person's tax liability shown on such return or otherwise determined to be due is greater than $25.

A. If the return is filed before or within 30 days after the taxpayer receives from the assessor a formal demand that the return be filed,or if the return is not filed but the tax due is assessed by the assessor before the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is $25 or 10% of the tax due, whichever is greater.

B. If the return is not filed within 30 days after the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is 100% of the tax due. The 30-day period provided by this paragraph is extended for up to 120 days if the taxpayer request an extension in writing prior to the expiration of the 30-day period.

C. If the return is not filed and the assessor makes a determination of jeopardy pursuant to section 145, the penalty is 100% of the tax due.

This subsection does not apply to any return required pursuant to chapter 459 and administered pursuant to the International Fuel Tax Agreement. § 187-B(1)

Failure to pay

The following penalties apply.
A. Any person who fails to pay, on or before the due date, any amount shown as tax on any return required under this Title is liable for a penalty of 1% of the unpaid tax for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of 25% of the unpaid tax.
A-1. Any person who fails to make and file any return required under this Title at or before the time the return becomes due against whom the assessor has made an assessment of tax pursuant to section 141 and who has not paid the tax on or before the date specified in that assessment is liable for a penalty of 1% of the unpaid tax for each month or fraction of a month during which the tax remains unpaid, calculated retroactively from the original due date of the unfiled return, to a maximum in the aggregate 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 pursuant to section 151 and the Maine Administrative Procedure Act is liable for a penalty in the amount of 25% of the amount of the tax due if the payment of the tax is not made within 10 days of the person's receipt of notice of demand for payment as provided by this Title. This penalty must be explained in the notice of demand and is final when levied.
This subsection does not apply to taxes due pursuant to chapter 459 and administered pursuant to the terms of the International Fuel Tax Agreement. § 187-B(2)

If an existing debt is liquidated by use of an acceptable and successful repayment schedule that was initiated before or within the 10 days prescribed on the notice of demand for payment, the additional 25% charge for failure to pay will not be invoked.

Negligence and Fraud

A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to negligence or intentional disregard of this Title or rules adopted pursuant to thisTitle, but is not attributable to fraud with intent to evade the tax, is liable for a penalty in the amount of $25 or 25% of that portion of the underpayment, whichever is greater. A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to fraud with intent to evade the tax, is liable for a penalty in the amount of $75 or 75% of that portion of the underpayment, whichever is greater. For the purposes of this section,

"negligence" means any failure to make a reasonable attempt to comply with the provisions of this Title. § 187-B(3-A)

Substantial understatement

A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to a substantial understatement of tax, without negligence or intentional disregard of this Title or rules adopted pursuant to this Title and without fraud with intent to evade the tax, is liable for a penalty of $5 or 1% of that portion of the underpayment, whichever is greater, for each month or fraction of a month during which the failure to pay that portion of the underpayment continues, up to a maximum in the aggregate of $25 or 25% of the underpayment, whichever is greater.

There is a substantial understatement of tax if the amount of the understatement on the return or returns for the period covered by the assessment exceeds 10% of the total tax required to be shown on the return or returns for that period or $1,000, whichever is greater. For purposes of determining whether an understatement is substantial and calculating the amount of a substantial understatement that is subject to penalty under this subsection, the amount of an understatement is reduced by that portion of the understatement that is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for that treatment. §187-B(4-A)

Insufficient funds

Any person who makes payment of an amount due under this Title by means of a check or electronic funds transfer that is returned unpaid by the bank on which it is drawn because of insufficient funds or the closing or nonexistence of the account on which it is drawn is liable for a penalty of $20 or 1% of the payment amount, whichever is greater. §187-B(5)

Penalties not exclusive

Each penalty provided under this section is in addition to any interest and other penalties provided under this section and other law, except as otherwise provided in this section. Interest may not accrue on the penalty. This section does not apply to any filing or payment responsibility pursuant to Part 2 except that this section does apply to a filing or payment responsibility pursuant to the state tax on telecommunications personal property imposed under section 457. The penalties imposed under subsections 1 and 2 accrue automatically, without being assessed by the State Tax Assessor. Each penalty imposed under this section is recoverable by the assessor in the same manner as if it were a tax assessed under this Title. § 187-B(6)

Waiver or abatement of penalties

For reasonable cause, the State Tax Assessor shall waive or abate any penalty imposed by subsection 1; subsection 1-A; subsection 2; subsections 4-A, 4-B, 5-A and 5-B; or by the terms of the International Fuel Tax Agreement. Reasonable cause includes, but is not limited to, the following:

A. The failure to file or pay resulted directly from erroneous information provided by the Bureau of Revenue Services;

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;

C. The failure to file or pay resulted directly from a natural disaster;

D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;

E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;

F. The taxpayer has supplied substantial authority justifying the failure to file or pay; or

G. The amount subject to a penalty imposed by subsections 1, 2 and 4-A; and subsection 5-A is de minimis when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history.

The burden of establishing grounds for waiver or abatement is on the taxpayer.

For purposes of this section, the term "person" includes an individual, corporation or partnership or any officer or employee of a corporation, including a dissolved corporation, or a member or employee of a partnership who, as the officer, employee or member, is under a duty to perform the act in respect of which a violation occurs. § 187-B(7)

Remedies not exclusive

Each remedy provided in this Title is not exclusive and is in addition to all other remedies prescribed in this Title for the enforcement and collection of any tax imposed by this Title. § 188

AUDITS

Whenever necessary to the administration of this Title, the assessor may make, or cause to be made by an employee, an examination or investigation of the place of business, books and other documents and any other relevant personal property of any person who the assessor has reason to believe is liable for any tax imposed by this Title.

At the conclusion of an audit, the assessor or an agent shall conduct an audit conference with the taxpayer and shall give the taxpayer a written summary of the audit findings, including the legal basis for the audit findings and adjustments, along with copies of relevant bureau audit workpapers. § 112(4)

The assessor is authorized to name any of the assessor's employees as agents to collect any tax imposed under this title. § 112(6)

SECTION 2. Recordkeeping requirements generally; for registered retailers.

1. Every taxpayer, including every retailer required to be registered under Title 36 Chapter 211 and every service provider required to be registered under Title 35 Chapter 358, must maintain all records that are necessary to determine the correct tax liability. All required records must be made available on request by the State Tax Assessor or the assessor's authorized representatives as required by Title 36 Section 112(4).

2. A taxpayer that captures the required records in machine-sensible format must maintain those records for as long as is required by Title 36 section 135(1) and Section 9 of this rule. In the case of sales tax, this means at least 6 years. These records must upon request be made available to the assessor in machine-sensible format as described in Section 5, including permitting the transfer of the records onto a laptop or other computer in the possession and control of an agent of the assessor. Rule 103

SECTION 3. Recordkeeping requirements — machine-sensible records

A. Machine-sensible records used to establish tax compliance must contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the State Tax Assessor upon request. A taxpayer may discard duplicated records and redundant information provided that the taxpayer's responsibilities under this rule are met.

B. At the time of an audit, the retained records must be capable of being retrieved and converted to a standard record format. Rule 103

SECTION 5. Access to machine-sensible records

Unless the taxpayer and the State Tax Assessor agree on other means of providing access to machine-sensible records, upon the assessor's request the taxpayer must provide the assessor, either directly or through a third party, with all pertinent records in bulk and in a media form acceptable to the assessor or standard record format specified by the assessor, and with the transaction-level detail deemed necessary by the assessor to determine the correct tax liability. Rule 103

ASSESSMENTS

Unless otherwise provided, any amount of tax which a person declares on a return filed by him with the State Tax Assessor to be due to the State shall be deemed to be assessed at the time the return is filed and shall be payable on or before the date prescribed for filing the return, determined without regard to any extension of time granted for filing the return. When a return is filed, the State Tax Assessor shall cause it to be examined and may conduct such audits or investigations as he believes necessary to determine the correct tax liability. If he determines that the amount of tax shown on the return is less than the correct amount, the State Tax Assessor shall assess the tax due the State. No such assessment shall be made after 3 years from the date the return was filed or the date the return was required to be filed, whichever is later. At any time within the appropriate assessment period prescribed by this section, the State Tax Assessor may make a supplemental assessment if he finds that any previous assessment is imperfect or incomplete in any material aspect. § 141(1)

Exceptions to statute of limitations

A. An assessment may be made within 6 years from the date the return was filed if the tax liability shown on the return, after adjustments necessary to correct any mathematical errors apparent on the face of the return, is less than ½ of the tax liability determined by the State Tax Assessor. In determining whether the 50% threshold provided by this paragraph is satisfied, the assessor may not consider any portion of the understated tax liability for which the taxpayer has substantial authority supporting its position.

B. An assessment may be made at any time with respect to a time period for which a fraudulent return has been filed.

C. An assessment may be made at any time with respect to a time period for which a return has become due but has not been filed. If any person failing to file a return fails to produce, within 30 days after notice, information that the State Tax Assessor believes necessary to determine tax liability for the period involved, the State Tax Assessor may assess an estimated tax liability based upon the best information otherwise available. In any proceeding for the collection of tax for the period involved, that estimate constitutes prima facie evidence of the tax liability. The 30-day period provided by this paragraph is extended for up to 90 days if the taxpayer requests an extension in writing prior to the expiration of the 30-day period.

E. The time limitations for assessment specified in this section may be extended to any later date to which the State Tax Assessor and person liable for tax agree in writing. § 141(2)

If the State Tax Assessor determines that the collection of any tax will be jeopardized by delay, the assessor, upon giving notice of this determination to the person liable for the tax, may demand an immediate return with respect to any period or immediate payment of any tax declared to be in jeopardy, or both, and may terminate the current reporting period and demand an immediate return and

payment with respect to that period. Notwithstanding any other provision of law, taxes declared to be in jeopardy are payable immediately, and the assessor may proceed immediately to collect those taxes by any collection method authorized by this Title. The person liable for the tax may stay collection by requesting reconsideration of the declaration of jeopardy in accordance with section 151 and depositing with the assessor, within the time period specified in section 151, a bond or other security in the amount of the liability with respect to which the stay of collection is sought. A determination of jeopardy by the assessor is presumed to be correct, and the burden of showing otherwise is on the taxpayer. §145

Taxpayer Bill of Rights

The assessor shall prepare a statement describing in simple and nontechnical terms the rights of a taxpayer and the obligations of the bureau during an audit. The statement must also explain the procedures by which a taxpayer may appeal any adverse decision of the assessor, including the informal conference and judicial appeals. This statement must be distributed by the bureau to any taxpayer contacted with respect to the determination or collection of any tax, excluding the normal mailing of tax forms. This paragraph does not apply to criminal tax investigations conducted by the assessor or by the Attorney General. § 112(7-A)

Reconsiderations

Any person who is subject to an assessment by the State Tax Assessor or entitled by law to receive notice of a determination of the assessor and who is aggrieved as a result of that action may request in writing, within 30 days after receipt of notice of the assessment or the determination, reconsideration by the assessor of the assessment or the determination. If a person receives notice of an assessment and does not file a request for reconsideration within the specified time period, the assessor may not reconsider the assessment pursuant to this section and no review is available in Superior Court regardless of whether the taxpayer subsequently makes payment and requests a refund.

If a request for reconsideration is filed within the specified time period, the assessor shall reconsider the assessment or the determination. If the petitioner has so requested in the petition, the assessor shall hold an informal conference with the petitioner to receive additional information and to hear arguments regarding the protested assessment or determination. The assessor shall give the petitioner 10 working days' notice of the time and place of the conference. The conference may be held with less than 10 working days' notice if a mutually convenient time and place can be arranged. The reconsideration, with or without an informal conference, is not an "adjudicatory proceeding" within the meaning of that term in the Maine Administrative Procedure Act. If the requested reconsideration involves a denial or deemed denial of a refund claim, a refund claim with respect to which a conference has been requested under section 5280 or an assessment that is paid in full or part and the assessor fails to mail to the taxpayer a decision on the reconsideration within 9 months after the reconsideration request was filed, the taxpayer may elect but is not obligated to deem the request for reconsideration denied. The taxpayer elects to deem the reconsideration denied by filing in Superior Court a petition for review of the deemed denial. The

deemed denial constitutes final agency action and is subject to court review as otherwise provided in this section. The taxpayer may not make the deemed denial election after either the assessor's reconsideration decision has been received by the taxpayer or the expiration of 9 years following the filing of the reconsideration request, whichever occurs first. Notwithstanding any other provision of law, any claim for credit or refund of any tax imposed under this Title is deemed denied 10 years after it was filed if the claim has not previously been allowed or denied as final agency action. A deemed denial constitutes final agency action.

The assessor's decision on reconsideration must be mailed to the taxpayer or the taxpayer's designated representative by certified or registered mail and the decision must set forth briefly the assessor's findings of fact and the basis of decision in each case decided in whole or in part adversely to the taxpayer. The assessor's decision on reconsideration constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that Title 5, sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination of the merits of the case. It shall make its own determination as to all questions of fact or law. The Superior Court shall enter such orders and decrees as the case may require. The burden of proof is on the taxpayer. §151

Collection Action

If any tax imposed by this Title is not paid on or before its due date and no further administrative or judicial review of the assessment is available under section 151, the assessor, within 3 years after administrative and judicial review have been exhausted, may give the taxpayer notice of the amount to be paid, specifically designating the tax, interest and penalty due, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice must include a warning that, upon failure of that taxpayer to pay as demanded, the assessor may proceed to collect the amount due by any collection method authorized by this Title. The notice must describe the procedures applicable to the levy and sale of property under section 176-A, the alternatives available to the taxpayer that could forestall levy on property, including installment agreements, and the provisions of this Title relating to redemption of property and the release of the lien on property created by virtue of the levy. If the taxpayer has filed a petition for relief under the United States Bankruptcy Code, the running of the 3-year period of limitation imposed by this section is stayed until the bankruptcy case is closed or a discharge is granted, whichever occurs first. § 171, sub-§1

Service of the notice of demand for payment authorizes the State Tax Assessor to take collection actions as provided by law. These actions may include denial, suspension or revocation of certain licenses, liens, warrants to initiate court action, levies on wages, bank accounts or rights to receive money and seizure of cash, personal property or real estate. As previously stated in the §187-B(2), if the tax so "demanded" is not paid or a successful repayment plan is not completed, an additional penalty of 25% is charged on the unpaid tax.

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Production

> ***... an operation or integrated series of operations engaged in as a business or segment of a business that transforms or converts personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. "Production" includes film production.***
>
> ***"Production" includes manufacturing, processing, assembling and fabricating operations that meet the definitional requisites, including biological processes that are part of an integrated process of manufacturing organisms or microorganic materials through the application of biotechnology. § 1752(9-B)***

The term "manufacturer" means an entity that is engaged in the production of tangible personal property for later sale or lease. The question of exactly what is and what is not "production" has great importance when considering the sales and use tax exemptions available to manufacturers.

In summary, in order for "production" to exist, a business must be engaged, in whole or in part, in the transformation of raw materials into a new and different product. Some common examples are:

- A paper mill converting wood chips into paper.
- A wood crafter converting lumber into finished furniture.
- A seamstress converting cloth material into a dress.

Production Begins..

> ***Production commences with the movement of raw materials to the first production machine after their receipt and storage at the production site (after receipt if the raw materials are not stored)… Rule 303***

The point at which production begins depends on whether or not the raw materials used in the production process are stored. If the materials are stored, production begins with the movement of the materials from storage to the first production machine. If the materials are not stored, production begins with the movement of the materials from point of delivery to the first production machine.

For example, a manufacturer of furniture receives rough sawn lumber and stores this lumber in a warehouse. The first production machine for this manufacturer will likely be a planer. Production begins when the rough lumber is removed from storage and brought to the planer. If this movement to the planer is accomplished mechanically, the machine in question is considered to be used in production.

In another example, a manufacturer of plastic widgets stores its plastic pellets in storage tanks. The first production machine is machinery that melts down the pellets into a liquid form. Production begins when the plastic pellets move toward the melting machine. If this is accomplished through a piping system, for instance, production begins

when the pellets leave the storage tank and the piping system is considered part of production.

Production ends ..

> ***…and ends with the completion of the finished product, including any "in-line" packaging operation. Rule 303***

Production ends with the completion of the finished product before the product is stored for later delivery. This may include packaging operations – but only those that are part of a series of operations with the production line and the packaging is performed before the product is stored. Packaging operations that occur after the product has been placed in storage or that occur within the storage facility are not part of production.

For example, if a manufacturer of videotapes has within its production line a machine that inserts the tapes into a cardboard sleeve and shrink-wraps each individual tape, this packaging operation is part of production. In contrast, if the tapes are instead sent to a storage room and later shrink-wrapped into packages of 10 and inserted into cardboard boxes for shipping to customers, this later packaging operation is not part of production.

Exclusions from production

> ***The acquisition of raw materials, the transportation of raw materials or goods in process between production sites, and administrative and distributive operations do not constitute production. Rule 303***
>
> ***"Production" does not include biological processes except as otherwise provided by this subsection, wood harvesting operations, the severance of sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, or activities such as cooking or preparing drinks, meals, food or food products by a retailer for retail sale. § 1752(9-B)***

Machinery and equipment used in certain activities or operations is excluded from the definition of "production" for purposes of the Sales and Use Tax Law and as a result is taxable unless covered by a different exemption. Items used primarily in the following functions are not considered to be used in production and therefore generally **do not** qualify for exemption:

Acquisition of raw materials. Machinery or equipment used in the acquisition of raw materials, including wood-harvesting operations and severing sand, gravel, or other natural resources from soil or water.

> ***Examples of taxable items:*** *Cameras used by newspaper photographers to record images on film for later selection and use in newspaper production; chain saws used to harvest wood for subsequent milling; excavation equipment used to extract clay from which bricks are later formed.*

Storage and handling (pre- and post-production). Machinery or equipment used in the storage or handling of exempt material prior to the movement of the materials between point of receipt or storage area and the first production operation, or after the completion of any in-line packaging operation.

> ***Examples of taxable items:*** *A crane used primarily to unload logs from trucks into storage piles, prior to movement of the logs to a debarker or pulp grinder; an ice machine used primarily to keep fresh food cold during delivery, rather than to chill or freeze food as a step in the processing; a forklift used primarily to move palletized product from the palletizer to a warehouse pending shipment.*

Product transportation/distribution. Machinery or equipment used in the transportation of product on public ways between different production sites, or in the distribution of product to customers.

> ***Examples of taxable items:*** *A truck used to carry packaged product to customers.*

Biological processes. Machinery or equipment used in connection with biological processes. A biological process is a natural process that occurs with little or no intervention from humans or machinery.

> ***Examples of taxable items:*** *Equipment used in the hatching of eggs or in the growing of crops. (But see Part II, Section I for information on an exception to this rule in the case of biotechnology.)*

Activities by a retailer in connection with the preparation of food to be sold by the retailer. Machinery or equipment used by a retailer in the preparation of food to be sold by the retailer.

> ***Examples of taxable items:*** *Refrigerators, ovens and blenders used by a restaurant in the preparation of meals.*

Administrative functions. Machinery or equipment used in administrative, personnel, security, inventory control, administrative record keeping, ordering, billing, or similar support functions.

> ***Examples of taxable items:*** *Computers used primarily for billing, payroll and business correspondence; telephone systems; security cameras.*

Quality control. Machinery or equipment used for quality control purposes (other than as described in Part II, section A(4)(g)).

Maintenance/cleaning. Machinery or equipment used to clean, repair, or maintain real or personal property in the manufacturing facility (other than attachments to exempt machinery and equipment described in Part II, section A(4)(e) below).

> ***Examples of taxable items:*** *A floor polishing machine; welding equipment used to repair production piping; equipment used to sharpen the blades of saws used at a lumber mill; brooms and other cleaning supplies.*

Safety/fire protection. Machinery or equipment used for fire protection or the protection and safety of workers or other persons (unless the equipment is attached to or incorporated into exempt nachinery and equipment).

> ***Examples of taxable items:*** *A plexiglass screen (not attached to exempt equipment) used to protect passing workers and visitors from flying debris; fire extinguishers and fire sprinkler systems; an emergency shower and eyewash station; security systems; standard safety clothing and other standard safety items worn by employees.*

Non-specialized environmental controls (lighting, HVAC, etc.). General plant lighting, heating, ventilation, air conditioning, or similar environmental control designed for the comfort or convenience of employees. (See Part II, section A(4)(i) below regarding specialized environmental control items essential to a particular production process).

> ***Examples of taxable items:*** *A general building HVAC system used to cool and ventilate a room where wood workers assemble furniture; an office humidifier; thermostats used to control a boiler used primarily to heat a building.*

Certain electrical equipment. Electrical equipment located prior to the last transformer at the manufacturing facility that steps electricity up or down to the voltage at which the electricity is primarily used by other exempt machinery and equipment, when the electricity has been purchased from or supplied by another person, except as provided in Part II, section (A)(4)(j) below.

> ***Examples of taxable items:*** *In a meat packing plant that receives 34.5KV electricity from the grid and steps the electricity down with its own transformer to 12KV, then transmits the electricity with its own wires to a second transformer that reduces the voltage to 480 volts for use at that voltage by its production machinery, the first transformer would be taxable (the second transformer would be exempt).*

The Maine Sales and Use Tax Law provides the following categories of exemptions to manufacturers:

A. Machinery and Equipment Used in Production
B. Ingredients (Raw Materials)
C. Items that are Consumed or Destroyed
D. Fuel and electricity
E. Water Pollution Control Facilities
F. Air Pollution Control Facilities
G. Machinery and Equipment Used in Research

Machinery and Equipment

Sales of machinery and equipment:
For use by the purchaser directly and primarily in the production of tangible personal property intended to be sold or leased ultimately for final use or consumption or in the production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof, or, in the case of sales occurring after June 30, 2007, in the generation of radio and television broadcast signals by broadcast stations regulated under 47 Code of Federal Regulations, Part 73. This exemption applies even if the purchaser sells the machinery or equipment and leases it back in a sale and leaseback transaction. This exemption also applies whether the purchaser agrees before or after the purchase of the machinery or equipment to enter into the sale and leaseback transaction and whether the purchaser's use of the machinery or equipment in production commences before or after the sale and leaseback transaction occurs; § 1760(31), ¶ A

"Machinery and equipment" means machinery, equipment and parts and attachments for machinery and equipment, but excludes foundations for machinery and equipment and special purpose buildings used to house or support machinery and equipment.
§ 1752(7-B)

"Foundations"… includes permanent supports, such as those composed of concrete. Metal supports which can be dismantled and moved are considered part of the machinery or equipment which they support and are therefore exempt if the machinery and equipment is otherwise exempt.
Rule 303

The exemption for production machinery and equipment found in §1760(31) sets forth a number of requirements. The item being purchased must fall within the statutory definition of "machinery and equipment." The machinery or equipment in question must be (i) purchased for use by the purchaser; (ii) purchased for use ***primarily*** *in production;* (iii) purchased for use ***directly*** *in production;* and (iv) purchased for use in producing *tangible personal property* that is *intended to be sold or leased* ultimately for final use or consumption.

The term "machinery and equipment," includes both new and used machinery and equipment as well as parts and attachments for such machinery and equipment. (All parts are included, including repair and replacement parts).

The statutory definition excludes foundations for machinery and equipment that are permanent supports, such as most foundations composed of concrete. (Foundations that can be dismantled and moved, such as many steel supports, are considered part of the machinery and equipment that they support.) Also excluded from "machinery and equipment", are so-called "special purpose buildings" used to house or support machinery and equipment.

Examples of taxable items:

- Permanently affixed concrete pillars on which a piece of production machinery sets do not qualify as exempt machinery and equipment.
- A kiln that houses machinery and equipment used in the drying of finished lumber is a special purpose building and does ot qualify as exempt machinery and equipment (in contrast to the piping, controls and other equipment within the walls of the kiln, which does qualify as exempt machinery and equipment).

Examples of exempt items:

- Angle iron used to construct a support frame is exempt, provided the machinery or equipment it supports qualifies as production machinery or equipment.
- A movable concrete base is exempt, provided the machinery or equipment it supports qualifies as production machinery or equipment.

Use by the purchaser

The purchaser of the machinery and equipment must also be the *user of machinery and equipment in the production process i*n order to qualify for the exemption. *Lessors* of machinery and equipment under a true lease are not entitled to an exemption even though the lessee is using the machinery and equipment in production. The taxable "use" by the purchaser/lessor in this situation is the derivation of income through the leasing of the equipment**.** (But see the exception for "sale/leaseback" transactions, explained later in this section.)

In another example, if a subsidiary of the manufacturer purchases equipment and allows the parent manufacturer to use it in the manufacturer's own production, the subsidiary does not enjoy the exemption since, as the purchaser, the subsidiary is not the user of the equipment in production.

Use primarily in production.

"Primarily," when used in relation to machinery or equipment used in production, means more than 50% of the time during the period that begins on the date on which the machinery or equipment is first placed in service by the purchaser and ends 2 years from that date or at the time that the machinery or equipment is sold, scrapped, destroyed or otherwise permanently removed from service by the taxpayer, whichever occurs first. § 1752(9-A)

If an item of machinery or equipment has multiple uses, it must be used in an exempt activity more than 50% of its time in operation in order to qualify as exempt production machinery. For instance, a forklift may be used not only to move work in process between production machines, but also to load delivery vehicles, or to move raw material from one storage location to another storage location. In this example, only the time used in moving the "work in process" would qualify as "use in production." The amount of time in this function would need to exceed 50% of its total use in order for the forklift to be exempt as "primarily" used in production.

Use directly in production.

"Directly," when used in relation to production of tangible personal property, refers to those activities or operations which constitute an integral and essential part of production, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to production. § 1752(2-A)

"Directly" excludes support operations, such as machine shops in which production equipment is maintained. Testing for quality control is directly in production only insofar as those testing devices are physically incorporated in machinery or equipment which is otherwise exempt. (Rule 303)

"Directly" is as including operations that are "integral and essential to production," as contrasted with activities that are "simply incidental, convenient or remote to production." For instance, a wood planer in a furniture manufacturer's facility is clearly essential to the production of the finished furniture, while items in a machine shop used to maintain and repair production machinery are only "incidental" to production and are therefore not exempt. The term "directly" does not include support operations. Machinery and equipment used in the following operations is therefore taxable:

- Administrative operations;
- Storage and warehouse operations;
- Maintenance operations (including not only those operations occurring in an area devoted solely to maintenance, but also maintenance activities occurring in the production area itself);
- Receiving and shipping operations;

- Heating and lighting, including in production areas (except as provided in (i) below);
- Safety and fire protection (including those activities required by state or federal agencies); and
- Transportation on public ways between production sites.

The following is a non-exclusive list of activities considered to be "directly" in production:

Acting on raw materials. The processing of raw material at the production site, or the holding of raw material as it is being processed.

> **Examples:** A wood planer acting on rough lumber to plane and reduce thickness; machinery that mixes raw materials before the raw material is added to the production line; a printing press that acts upon paper and ink in producing a printed product for sale; a rock crusher that crushes rock which is then further processed in a kiln as a part of the manufacture of cement for sale; a freezer used to flash-freeze vegetables in the production of frozen vegetables for sale.

Processing or holding exempt materials. The processing of other exempt materials, or holding of such materials as they are being processed, so that they or the materials resulting from the processing can be used or reused in a production process or in connection with the operation of exempt machinery or equipment. As used in this Bulletin, "exempt materials" means work in process and materials the purchase of which by the taxpayer would be exempt in whole or in part under 36 MRSA §1760(9-D) (fuel and electricity used at a manufacturing facility), 36 MRSA §1760(9-G) (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), or 36 MRSA §1760(74) (property that becomes an ingredient or component part of, or that is consumed or destroyed or loses its identity in production of, tangible personal property) and may include without limitation raw materials, electricity, fuel, water, ice, steam, air, oil, gas, chemicals, gases, catalysts, grinding or blasting materials, reagents, lubricants, solvents, acids, printing plates, color separations, tagging materials and other substances and materials used in connection with the operation of exempt machinery and equipment.

> **Examples:** A lime kiln that prepares chemicals for use in a kraft pulping process at a paper manufacturing facility; equipment that deionizes or demineralizes water for use by other exempt machinery and equipment; a chipper for wood used to fuel a boiler used to supply steam or electricity to saws and planers at a lumber mill.

Handling or moving exempt materials. The handling, moving or transmitting of exempt materials from one production machine to another; or between a storage area (or point of receipt if there is no storage) and the first production operation; or between a production operation and a temporary holding area prior to further production operations. (However, transportation of raw materials or work in process on public ways between different production sites is not considered an activity "directly" in production.)

> **Examples:** A forklift used to move lumber from planer to sanding machine; a conveyor system that moves work in process from one production machine to another, or from a storage pile at the point of receipt to the first production machine; piping used to move oil from a storage tank to a boiler used to generate electricity to power the other exempt machinery and equipment at a potato processing plant; conveyors used to move lime from storage at the point of receipt to a lime kiln used to prepare chemicals for use in a kraft pulping process at a paper manufacturing facility.

Protection or temporary holding of exempt materials or work in process. Machinery and equipment that preserves, protects, or temporarily holds exempt materials (including work in process) between different production operations or that is used to temporarily hold exempt materials. "Temporary holding" as used in this Bulletin includes (1) equipment or functions designed to avoid delays in production resulting from reasonably anticipated fluctuations in rate of supply or use of the stored items, and (2) equipment such as a tank, chest or tower used to hold exempt material previously processed and awaiting delivery to other production equipment for further processing or use. An item of equipment is presumed to be for "temporary holding" if it holds work in process or exempt material only for periods of less than 24 hours.

> **Examples:** Steel racks used in temporary holding of finished lumber that is to be sized and cut; a holding tank used in temporary holding of raw material between two production machines; racks or "skids" used by a printer in the temporary holding of pages of printed material pending printing of additional pages, inserts or covers needed to produce the final product; bins used in sorting and temporary holding of yarns produced by a fabric manufacturer for subsequent use in weaving fabric; a tank used to hold a 12-hour supply of an exempt process chemical for use in the event of an interruption of supply.

Removal of waste products from production machinery. Removal of waste or by-products from the immediate vicinity of exempt machinery and equipment, for the purpose of permitting that machinery and equipment to operate continuously.

> **Examples:** A conveyor used to remove chips and sawdust from the planer; an ash grate for a boiler used to produce steam and electricity to power manufacturing equipment at the same facility; a blanket wash application system for a printing press; a dryer hood and exhaust fan used to remove excessive moisture from a production machine.

Control of exempt production machinery. Manually or automatically controlling, or monitoring for the purpose of manually or automatically adjusting or controlling, the operation of exempt production machinery.

> **Examples:** Process control computers, such as a computer that controls the cuts of a band saw; a temperature gauge for a boiler that produces steam or electricity used by other exempt equipment; a valve used to control the flow of gas used in welding; a camera used to monitor the shape of the plume of flame in a kiln used in a production operation to ensure that the kiln is functioning properly.

Testing or monitoring. Testing or monitoring exempt materials (including work in process) if the equipment used for this purpose is physically attached to exempt machinery and equipment, or is used to test every item or batch of product or exempt material.

> **Examples:** A moisture meter that verifies the moisture content of 100% of the lumber used in making furniture; a chart recorder used to monitor the pH of water to be used in process or work in process held within a tank; a color density meter used to determine whether each batch of product meets color specifications for top grade product; a full volume detector used to ensure that the product container is properly filled and sealed.

In-line packaging operations (pre-storage). Packaging operations that are part of a series of operations within the production line and that are performed before the final product is stored. (As noted in section I-C above, packaging operations that occur after the product has been placed in storage or that occur within a separate storage facility are not part of production.)

> **Examples:** Machinery and equipment used to insert a videotape into a cardboard sleeve and shrink-wrap it; equipment used to sort and count product for packaging; equipment used to box, bottle, can, or label product.

Machinery and equipment that controls the production environment. Controlling the production environment by means of *specialized* plant lighting, ventilation, air purification or prevention of contamination, humidity or temperature regulation, or similar environmental control essential to a particular production process.

> **Examples:** Air handling equipment used for a “clean room” in a computer chip manufacturing facility; equipment used to reduce contamination or to control temperature and humidity in a clean room; equipment used to monitor air quality in a clean room; air conditioning equipment connected or otherwise directed to computers used to control a manufacturing process; thermometers and humidity meters used to monitor the environment for process control computers or exempt electrical equipment.

Certain electrical equipment. The last transformer at the manufacturing facility that steps electricity up or down to the voltage at which the electricity is primarily used by other exempt machinery and equipment, and wiring, switches and other electrical equipment between that transformer and other exempt machinery and equipment; and machinery and equipment used to avoid electrical damage to such transformer or other exempt machinery and equipment or to ensure uninterrupted power supply to exempt machinery and equipment, including by means of providing back-up or emergency power or surge protection.

> **Examples:** In a meat packing plant that receives 34.5KV electricity from the grid and steps the electricity down with its own transformer to 12KV, then transmits the electricity with its own wires to a second transformer that reduces the voltage to 480 volts for use at that voltage by its production machinery, the second transformer would be exempt.

Tangible personal property intended for sale or lease.

> ***... personal property which may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses, but does not include rights and credits, insurance policies, bills of exchange, stocks and bonds and similar evidences of indebtedness or ownership. "Tangible personal property" includes electricity. § 1752(17)***

To be eligible for exemption, machinery or equipment must be used in the production of tangible personal property that is intended to be sold or leased ultimately for final use or consumption.

The product being produced must also be sold or leased *as tangible personal property*. Machinery and equipment used to produce property that will be sold as *real property*, or that will be used by the producer rather than sold, does **not** qualify for exemption. (For more on this topic, see Instructional Bulletin No. 28, "Installing Tangible Personal Property in Real Property.")

> Examples:
> • A cabinetmaker who produces and installs kitchen cabinets and passes title to the cabinets after installation, is selling real property, not tangible personal property. The cabinetmaker's purchase of machinery and equipment thus does not qualify for exemption.
> • A cabinetmaker who produces and installs kitchen cabinets and passes title to the cabinets before installation is engaged in selling tangible personal property. The cabinetmaker's purchase of machinery and equipment would therefore qualify for exemption.
> • A retailer that manufactures free-standing shelving units for its own use is not selling the shelves. The retailer's purchase of machinery and equipment to build the shelves does not qualify for exemption.

Ingredients or component parts

> ***Sales of tangible personal property that becomes an ingredient or component part of tangible personal property for later sale or lease, other than lease for use in this State, or that becomes an ingredient or component part of tangible personal property produced pursuant to a contract with the Federal Government or any agency of the Federal Government. § 1760(74-A)***

An exemption is provided for tangible personal property that becomes an ingredient or component part of the item being produced. This category includes all raw materials that get physically converted into, or physically attached to the finished product, including tags and labels.

Items that are consumed or destroyed

> ***Sales of tangible personal property, other than fuel or electricity, that is consumed or destroyed or loses its identity directly and primarily in the production of tangible personal property for later sale or lease, other than lease for use in this State, or that is consumed or destroyed or loses its identity directly and primarily in the production of tangible personal property the production of tangible personal property produced pursuant to a contract with the Federal Government or any agency of the Federal Government.***
>
> ***For purposes of this subsection, tangible personal property is "consumed or destroyed" or "loses its identity" in production if it has a normal physical life expectancy of less than one year as a usable item in the use to which it is applied. § 1760(74-B)***
>
> ***1. Tangible personal property that has a normal physical life expectancy of less than one year is exempt if it falls within one of the following categories:***
>
> > ***A. Items that are integrated with and essential to the operation of exempt production machinery and equipment. Items under this category will normally include but not be limited to such items as abrasives, coolants, lubricants, filtering materials, etc.***
> >
> > ***B. Items that come in contact with, or are added to, the raw product during production, but that are later extracted or dissipated and do not become a component part of the tangible personal property produced. Items under this category will normally include but not be limited to such items as catalysts, chemicals, solvents, liquids, etc.***
> >
> > ***C. Items that come in contact with the products produced and that are an integral and essential part of production. Items under this category will normally include but not be limited to abrasives, polishing agents, stencil materials, tagging materials, etc.***

2. Tangible personal property that is consumed and destroyed is taxable if it falls within one of the following categories:

A. Items consumed or destroyed prior to the commencement of the production process or after production has ended as provided in §1752(9-B) of the law and Section 1(1) of this rule.

B. Items consumed or destroyed in the course of contact with machinery and equipment that is not "directly" in production as provided in §1752(2-A) of the law and Section 1(3) of this rule.

Items under this category will normally include but not be limited to the following:

(1) Cleaning supplies, including floor sweeping compounds, soaps, etc., regardless of where used;

(2) Steam used to heat buildings, including the production area;

(3) Personal apparel used by employees, including aprons, gloves, hair nets, ear plugs, face shields or masks, etc;

(4) Light bulbs, flash lights and batteries, used for lighting;

(5) Chemicals or supplies of any kind used in quality control and research laboratories; and

(6) Supplies used in maintenance of production machinery and equipment, including abrasives, files, grinding oil, etc.

Rule 303

An exemption also applies to tangible personal property, other than fuel or electricity, that is consumed or destroyed or loses its identity in the production process. These are items that have a normal life expectancy of less than one (1) year in the use to which they are applied. "Life expectancy" means physical life expectancy without regard to obsolescence. An item that is obsolete only over a longer period of time is not considered “consumed or destroyed.”

Examples of items that are consumed or destroyed in the production process:

- Items that are essential to the operation of production machinery and equipment, such as lubricants;
- Items that come in contact with raw material but does not become part of the finished product, such as solvents.
- Items that come in contact with raw material and are no longer of use afterwards, such as sandpaper.

Examples of items that are not consumed or destroyed in the production process:

- Items that are consumed or destroyed before production begins, such as lubricants for a chain saw used to harvest trees to be manufactured into lumber;
- Items that are consumed or destroyed after production ends, such as lubricants for a forklift used primarily to move finished product from storage to trucks for shipment to customers.
- Items that are not used "directly" in production.

Fuel and Electricity

> ***Ninety-five percent of the sale price of all fuel and electricity purchased for use at a manufacturing facility. § 1760(9-D)***
>
> ***"Manufacturing facility" means a site at which are located machinery and equipment used directly and primarily in either the production of tangible personal property intended to be sold or leased ultimately for final use or consumption or the production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof. It includes the machinery and equipment and all machinery, equipment, structures and facilities located at the site and used in support of production or associated with the production. "Manufacturing facility" does not include a site at which a retailer is primarily engaged in making retail sales of tangible personal property not produced by the retailer. § 1752(6-A)***

95% of the cost of the fuel and electricity is exempt when purchased for use at a "manufacturing facility", while the remaining 5% is subject to the general sales tax rate.

A manufacturing facility is a site where production machinery is located. This includes not only the machinery and equipment used directly in production, but all machinery, equipment, structures and facilities located at the site and used in support of production or associated with the production. Separate electric meters, fuel tanks or heating systems need not be maintained for the purpose of separating production areas from non-production areas.

A manufacturing facility does not include a site at which a retailer is primarily engaged in making retail sales of items that it does not produce itself. Thus, for example, a hardware store is not a "manufacturing facility," and is not entitled to the 95% energy exemption, merely because it has a key cutting machine on the premises.

This partial sales tax exemption applies to all types of fuel, including #2 heating fuel, diesel fuel, oxygen, acetylene, and wood chips.

Water Pollution Control Facility

Sales of water pollution control facilities, certified as such by the Commissioner of Environmental Protection, and sales of parts or accessories of a certified facility, materials for the construction, repair or maintenance of a certified facility and chemicals or supplies that are integral to the effectiveness of a certified facility.

As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Disposal system" means any system used primarily for disposing of or isolating industrial or other waste and includes thickeners, incinerators, pipelines or conduits, pumping stations, force mains and all other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial or other waste to a point of disposal, treatment or isolation, except that which is necessary to the manufacture of products.

B. "Facility" means any disposal system or any treatment works, appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling or eliminating water pollution caused by industrial or other waste, except septic tanks and the pipelines and leach fields connected or appurtenant thereto.

C. "Industrial waste" means any liquid, gaseous or solid waste substance capable of polluting the waters of the State and resulting from any process, or the development of any process, of industry or manufacture.

D. "Treatment works" means any plant, pumping station, reservoir or other works used primarily for the purpose of treating, stabilizing, isolating or holding industrial or other waste. § 1760(29)

In order to qualify for this exemption, a facility must be certified by the Commissioner of the Department of Environmental Protection (DEP) as a facility that is engaged in disposing, isolating or treating of water-borne industrial or other waste. Once a facility has been certified by DEP, an exemption is allowed for any materials used in the construction, repair or maintenance of the facility, as well as for any machinery and equipment used primarily for reducing, controlling or eliminating water pollution. This includes, but is not limited to, thickeners, incinerators, pipelines or conduits, pumping stations, force mains and all other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial or other waste. It does not include supplies other than maintenance materials and pollution control chemicals. It also does not include septic tanks and the pipelines and leach fields connected to septic tanks.

Air Pollution Control Facility

Sales of air pollution control facilities, certified as such by the Commissioner of Environmental Protection, and sales of parts or accessories of a certified facility, materials for the construction, repair or maintenance of a certified facility and chemicals or supplies that are integral to the effectiveness of a certified facility.

As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Facility" means any appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling, eliminating or disposing of industrial or other air pollutants.

Facilities such as air conditioners, dust collectors, fans and similar facilities designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of such person, and facilities designed or installed for the reduction or control of automobile exhaust emissions shall not be deemed air pollution control facilities for purposes of this subsection.
§ 1760(30)

In order to qualify for this exemption, a facility must be certified by the Commissioner of Environmental Protection (DEP) as a facility that is engaged in reducing, controlling, eliminating or disposing of industrial or other air pollutants. Once a facility has been certified by DEP, an exemption is allowed for any materials used in the construction, repair or maintenance of the facility as well as for any machinery and equipment used primarily for reducing, controlling or eliminating air pollutants. This does not include machinery or equipment installed for the benefit of people, such as air conditioners, dust collectors, fans and similar items; nor does it include facilities designed or installed for the reduction or control of automobile exhaust emissions.

Research and Development

Sales of machinery and equipment for use by the purchaser directly and exclusively in research and development in the experimental and laboratory sense … "Research and development" does not include the ordinary testing or inspecting of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects. § 1760(32)

As with the exemption for production machinery, this exemption has several requirements that must be satisfied:

- The item being purchased must be machinery and equipment;
- It must be used by the purchaser in research and development;
- It must be used ***directly*** in research and development; and
- The machinery or equipment must be used ***exclusively*** in research and development.

"Research and development" for the purposes of this exemption is limited to the experimental and laboratory sense of that term. It does not include the ordinary testing or inspecting of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, or promotions. It also does not include research done in connection with literary, historical or similar projects.

Contracts with U.S. Government

> ***Sales of machinery and equipment:***
> ***For use by the purchaser directly and primarily … in the production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof …. § 1760(31), ¶ A***

The exemptions mentioned in this section also apply to those entities engaged in the production of tangible personal property pursuant to a contract with the United States Government or any agency thereof.

Biotechnology

> ***"Production" includes manufacturing, processing, assembling and fabricating operations that meet the definitional requisites, including biological processes that are part of an integrated process of manufacturing organisms or microorganic materials through the application of biotechnology. § 1752(9-B)***

Although the term "production" as defined in §1752(9-B) excludes biological processes generally, it does include "biological processes that are part of an integrated process of manufacturing organisms or microorganic materials through the application of biotechnology." As a result, the exemptions mentioned above also apply to entities engaged in biotechnological applications.

These applications include recombinant DNA techniques, biochemistry, molecular and cellular biology, immunology, genetics and genetic engineering, biological cell fusion techniques and new bioprocesses using living organisms or parts of organisms to produce or modify products, improve plants or animals, develop microorganisms for specific uses, identify targets for small-molecule pharmaceutical development, transform biological systems and useful processes and products or to develop microorganisms for specific uses.

> ***… sales of machinery, equipment, instruments and supplies for use by the purchaser directly and primarily in biotechnology applications, including the application of technologies such as recombinant DNA techniques, biochemistry, molecular and cellular biology, immunology, genetics and genetic engineering, biological cell fusion techniques and new bioprocesses using living organisms or parts of organisms to produce or modify products, improve plants or animals, develop***

> ***microorganisms for specific uses, identify targets for small-molecule pharmaceutical development, transform biological systems and useful processes and products or to develop microorganisms for specific uses. Equipment and supplies used for biotechnology include but are not limited to microscopes, diagnostic testing materials, glasswares, chemical reagents, computer software and technical books and manuals. "Research and development" includes testing and evaluation for the purposes of approval and compliance with regulatory standards for biotechnological products or materials. "Research and development" does not include the ordinary testing or inspecting of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects. § 1760(32)***

With respect to research and development in biotechnological applications, the exemption is not limited to machinery and equipment. It also includes instruments and supplies, such as microscopes and diagnostic testing materials.

Fuel oil and coal

> ***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. § 1760(9-G)***

This exemption is for the use of fuel oil or coal in those situations where the by-products that result from the burning of the fuel or coal becomes an ingredient of tangible personal property being produced for sale.

OTHER ISSUES INVOLVING MANUFACTURERS

Leasing machinery and equipment

Generally speaking, the exemption for production machinery and equipment does not apply to machinery and equipment being leased. The exemption provided to a manufacturer does not extend to the lessor of equipment even though the equipment will be used in production. Furthermore, the lessor is generally liable for use tax on the cost of the equipment being leased.

The following are exceptions to this general application:

Sale/leaseback transactions.

> ***A. ....This exemption applies even if the purchaser sells the machinery or equipment and leases it back in a sale and leaseback transaction. This exemption also applies whether the purchaser agrees before or after the purchase of the machinery or equipment to enter into the sale and leaseback transaction and whether the purchaser's use of the machinery or equipment in production commences before or after the sale and leaseback transaction occurs; and***

B. To a bank, leasing company or other person as part of a sale and leaseback transaction, by a person that uses the machinery or equipment as described in paragraph A, whether the original purchaser's use of the machinery or equipment in production commences before or after the sale and leaseback transaction occurs. § 1760(31)

If machinery and equipment that qualifies for exemption is purchased by a manufacturer and subsequently sold to and leased back from a lessor, the sales/use tax exemption still applies. It is immaterial whether the original purchase and subsequent sale/leaseback transaction occur simultaneously or at some time in the future. It is also immaterial whether or not actual use of the machinery and equipment is made by the manufacturer before the sale/leaseback transaction occurs.

Lease "in lieu of purchase." A lease that is determined by the State Tax Assessor to be a lease "in lieu of purchase" is a "sale" as defined in §1752(13). As a sale, machinery and equipment being purchased pursuant to a lease in lieu of purchase meets the requirement of "purchase by the user" and would be exempt provided it meets the other requirements of exemption. For more on this topic, see Maine Revenue Services Rule 316 ("Rental of Tangible Personal Property").

Interim Rentals. Machinery and equipment being rented under the "interim rental" provision of the statute (§1758) is treated as a sale, with the lessor being the retailer, the rental payment being the sale price and lessee being the purchaser/consumer. An interim rental, therefore, meets the requirement of "purchase by the user" and is exempt provided it meets the other applicable requirements of the law.

Transportation

As noted above, machinery and equipment must be used "directly" in production in order to qualify for exemption. Thus transporting work in process between production machines is a qualifying activity. However, transportation of raw material to the production site, transportation of work in process on public ways between production sites and transportation of finished products to customers are all non-qualifying activities.

Certain vehicles used in interstate or foreign commerce may be exempt pursuant to §1760(41), depending upon the circumstances. For more information on this subject, see the "Exemptions" section of this guide and Maine Revenue Services Rule 318 and Instructional Bulletin No. 34.

By-products and recovered raw materials

The manufacturing process generally results in a certain amount of waste. In many situations this waste must be disposed of, but in certain manufacturing environments it can be recycled, sold as a by-product or used as an ingredient of another product.

Removing waste from a production machine is an activity that is considered "directly" in production. Machinery and equipment that handles or processes the product after that point may or may not qualify for exemption.

Examples of **exempt** activities involving by-products and recovered raw materials:

- Re-cycling the by-product or recovered raw material back into production. This activity is "directly" in production and machinery and equipment used primarily for this purpose is exempt.
- Using the by-product or recovered raw material as an ingredient in the production of another product. This activity is also considered "directly" in production and machinery and equipment used primarily for this purpose is exempt.

Example of a **taxable** activity involving by-products:

- Selling the by-product "as is." In this case, removing the waste from the production machine is "directly" used in production, but machinery and equipment used after this point is **not** used directly in production since nothing more is done to the by-product to change its form, character, or composition.

Tangible Personal Property vs. Real Property

The purchase by a construction contractor of materials for the construction of real property (buildings, fixtures attached to buildings, etc.) or for incorporation into real property does not qualify for the machinery and equipment exemption.

Examples of such items are:

- Wires, conduits, outlets and other electrical items installed to facilitate the use of the building ***as a building*** rather than for purposes of a particular production process;
- Heating and air conditioning units (including ductwork) installed to facilitate the use of the building ***as a building***, rather than for purposes of a particular production process such as that described in Part II, section A(4)(i);
- Special purpose buildings;
- Permanent foundations composed of concrete.

If machinery and equipment is purchased as tangible personal property ***before*** being incorporated into realty and, as tangible personal property, meets all of the other requirements of exemption, the machinery and equipment would qualify for exemption.

Since this type of arrangement between the contractor and the purchaser is the exception, rather than the norm, manufacturers are cautioned that proper contractual terms are necessary for correct application of the exemption. For more information on this topic, see Instructional Bulletin No. 28 ("Installing Tangible Personal Property in Real Property").

Exempt Purchase Documentation

A manufacturer claiming that the purchase of tangible personal property qualifies for exemption must provide its vendor with a "Blanket Certificate of Exemption." (See Sample Documents.) The manufacturer should indicate on this certificate the grounds for exemption by checking off the appropriate category. The vendor should retain this certificate in its file to document the exempt sale. If multiple purchases are made from one vendor, the certificate may act as a "blanket" certificate, covering all subsequent purchases of like items. Remember that it is the **responsibility of the purchaser** to understand all requirements of the law before claiming any exemption. If your business is audited, Maine Revenue Services need not prove that a purchase does not qualify for exemption; you must prove that it does.

Direct Pay Permit

Pursuant to Rule 308, certain manufacturers and utilities that commonly acquire a substantial amount of tangible personal property under circumstances making it impractical to determine at the time of purchase whether the use will be taxable or exempt, may qualify for a "direct payment permit" issued by Maine Revenue Services. This permit allows the manufacturer to purchase most items of tangible personal property without paying tax -- but the purchaser then becomes accountable directly to the State for payment of appropriate use tax. The direct pay permit must be provided to the vendor at the time of purchase to document the exempt sale and, as with the blanket certificate of exemption, need only be provided once to cover subsequent purchases of like items. See Rule 308 for more information and qualifications.

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SAMPLE RETAILER CERTIFICATE

STATE OF MAINE
MAINE REVENUE SERVICES

THIS REGISTRATION CERTIFICATE FOR A

RETAILER

is issued under the provisions of MRSA, Title 36, Part 3, §1754-B to:

Taxpayer name and address

SAMPLE COPY - NOT FOR USE

Registration Number: Reg #

Date Issued: AUGUST 10 2006

Business Code: 002
Filing Frequency: MONTHLY

Jerome D. Gerard
Acting State Tax Assessor

This certificate must be conspicuously displayed at the location from which sales are made.

IMPORTANT INFORMATION CONCERNING THIS RETAILER'S CERTIFICATE

This retailer's certificate must be conspicuously displayed at the location from which sales are made. This retailer's certificate verifies that this retailer and this retail location holds a valid Maine sales tax account and is authorized to collect and remit the sales tax on behalf of the State of Maine. This certificate has no expiration date. If you cease to do business in Maine please return this certificate to Maine Revenue Services.

IMPORTANT PLEASE NOTE: This retailer's certificate may NOT be used to purchase merchandise for resale tax exempt (in Maine). A resale certificate is a separate document. If you qualify to receive a resale certificate, one has been printed and mailed to you.

SAMPLE COPY - NOT FOR USE

SAMPLE RESALE CERTIFICATE

STATE OF MAINE
MAINE REVENUE SERVICES

RESALE CERTIFICATE

THIS CERTIFICATE IS VALID
AUGUST 10 2006 THRU DECEMBER 31 2008

Business Name and Location Address	Certificate Number	Business Type
Taxpayer name and address	Reg #	HARDWARE

SAMPLE COPY - NOT FOR USE

This is to certify that the above named business is authorized to purchase tangible personal property for resale during the period identified on this certificate. **This certificate cannot be reassigned or transferred and can only be used by the above business or its authorized employees. This certificate is void if the business has ceased operating or if the certificate has been altered.**

Jerome D. Gerard
Acting State Assessor

The aboved named business certifies that the following items of tangible personal property will be resold as tangible personal property in the ordinary course of their business:

Presented to: _____ Presented by: _____
(Insert name of seller on photocopy) (date) Authorized Signature (purchaser) (date)

The document printed above is your new Resale Certificate. Retain this copy as an original in your files. This certificate is valid only for the period indicated.

Prior to the expiration of this certificate, Maine Revenue Services will automatically issue another if:

- **your account is active and**
- **you have reported $3,000 or more in gross sales during the previous 12 months**

Make copies of this original, fill in the appropriate data and provide it to the vendors from whom you purchase goods for resale.

If you cease doing business, this certificate is void and must be returned to Maine Revenue Services.

Use of a resale certificate to purchase goods not intended for resale is a criminal offense.

If you have any questions regarding this document, please call (207) 624-9693.

SAMPLE COPY - NOT FOR USE

SAMPLE EXEMPTION CERTIFICATE

Maine Revenue Services
Augusta, Maine

PERMANENT EXEMPTION CERTIFICATE

This Exemption Certificate is issued under the provisions of Title 36, Part 3 MRSA

SAMPLE COPY - NOT FOR USE

Registration Number:
Date Effective:
Date Issued:

ACTING EXECUTIVE DIRECTOR

Jerome D. Gerard

Form ST-2
2019324060522

This certifies that the organization named above is a regularly organized church or house of religious worship, and is therefore entitled to purchase tangible personal property or taxable services that will be used exclusively by the organization for the purposes for which it is organized without payment of the Maine sales or use tax.

Note to the Organization: This certificate is not to be used in activities that are mainly commercial enterprises including, but not limited to, purchases of items which will be resold by the organization. A copy of this certificate with the certification completed below, must be provided to your vendors in order to purchase goods exempt from tax. It is only necessary to provide one copy to the vendor. Subsequent purchases should indicate that the purchase is exempt from tax. In order to be exempt, the sale must be billed directly to and paid for directly by the organization named on the exemption certificate. **This certificate cannot be used for purchases when payments are made with cash, personal checks, or personal credit cards.**

Note to the Vendor: This certificate must be taken in good faith from the taxpayer named above. Your good faith may be questioned if you have knowledge of facts which give rise to a reasonable inference that the purchaser is not the holder of the exemption certificate or that the merchandise is not to be used exclusively by the organization. This certificate is valid only if the following certification is completed.

PERMANENT EXEMPTION CERTIFICATE

I HEREBY CERTIFY: That the above exemption certificate is valid, that the tangible personal property described herein which I shall purchase from _____ will be used exclusively by the organization named above for purposes for which it is organized.

Description of property to be purchased:

_____ **SAMPLE COPY - NOT FOR USE** _____

_____
Authorized Signature

_____
Date

N0015610

MAINE REVENUE SERVICE
SALES, FUEL & SPECIAL TAX DIVISION

DIRECT PAY PERMIT

No._____

It having been determined that the conduct of the business of the taxpayer noted below is such that it would be impractical for it to pay sales and use taxes separately under the Maine Sales and Use Tax Law on purchases made by it, that payment of sales and use taxes to the State would not be jeopardized by permitting the taxpayer to report and pay sales and use taxes directly, and the taxpayer having obligated itself to report and pay sales and use taxes directly, retailers selling to the taxpayer named below are hereby relieved of collecting sales and use taxes from it.

Except as noted below, the taxpayer shall file a copy of this permit with each retailer and shall place the direct payment permit number on all purchase orders and contracts covering the purchase of tangible personal property; which shall be sufficient evidence to retailers to relieve them from collecting sales or use taxes thereon.

Name of Taxpayer _____ **SAMPLE COPY - NOT FOR USE** _____

Address of Taxpayer _____ _____

Date _____

SAMPLE COPY - NOT FOR USE

_____

Director, Sales & Use Tax Section

Copies of this permit or the permit number shall not be used in connection with:

A. The purchase of tangible personal property by other than the holder of this permit.
B. The purchase of prepared food or beverages.
C. The purchase of occupancy at hotels, motels, etc.
D. The purchase of telephone or telegraph service.
E. Rentals or leases, other than leases in lieu of purchase, of tangible personal property.
F. The purchase of tangible personal property which will become incorporated into the real estate of the permit holder prior to passage of title.

Form ST-P-3

L

Maine Revenue Services
Sales and Use Tax Return
See instructions on Reverse Side of Taxpayer Copy

0803100 00

Registration No.	Business Code	Period Begin	Period End	Due Date

1. Entity Information

Use this area only to report changes in your business

2. ***OUT OF BUSINESS?*** Check here ☐, return permit to Bureau and complete information at right. Date closed: _____

3. ***OWNERSHIP CHANGE?*** If you have changed ownership, indicate the date when this occured here _____ and check the type of change below.

☐ Incorporated ☐ Sold to _____

☐ Other (explain on reverse) ☐ Partner added or dropped

4. ***NAME CHANGE?*** ☐ Attach explanation to this return.

ADDRESS CHANGE?: If your address above is incorrect, please make the appropriate changes to the preprinted address.

Do Not Use Red Ink!

This return can be filed over the internet. Go to **http://www.maine.gov/revenue** *Then click on "Electronic Services".*

Sales Breakdown	Gross Sales	1. ___,___,___.___			
	Deductions: Exempt Sales	2a. ___,___,___.___			
	Bad Debts	2b. ___,___,___.___			
	Industrial Energy Sales	3. ___,___,___.___			
	Taxable Sales	4. ___,___,___.___			
Sales	Sales of Prepared Food Subject to 7% tax	5. ___,___,___.___	Tax @ 7%	5A. ___,___,___.___	
	Sales Subject to 5% tax	6. ___,___,___.___	Tax @ 5%	6A. ___,___,___.___	
Rentals	Long Term Rentals of Autos	7. ___,___,___.___	Tax @ 5%	7A. ___,___,___.___	
	Rentals of Lodging	8. ___,___,___.___	Tax @ 7%	8A. ___,___,___.___	
	Short Term Rentals of Autos	9. ___,___,___.___	Tax @ 10%	9A. ___,___,___.___	
Taxable Sales	Add lines 5, 6, 7, 8 & 9 Total must agree with Line 4	10. ___,___,___.___	Add lines 5A through 9A.	10A. ___,___,___.___	
Use Tax	Industrial Energy Purchases	11. ___,___,___.___	Tax @ 5%	11A. ___,___,___.___	
	Other Taxable Purchases	12. ___,___,___.___	Tax @5%	12A. ___,___,___.___	
Recycling Fees	Tires and Lead-Acid Batteries	13. ___,___	Fees @ $1	13A. ___,___,___.___	
	Premiums on Bulk Motor Vehicle Oil			14A. ___,___,___.___	
Total Due	Total Tax and Fees Due with this Return.		Add lines 10A through 14A	15. ___,___,___.___	
Credits	Credit Carry Forward From Prior Period			16. ___,___,___.___	
	Credit For Sales Tax Paid on Goods Purchased for Resale			17. ___,___,___.___	
Amount Due	Line 15 less lines 16 and 17. Use line 19 if the result is a credit amount.			18. ___,___,___.___	
Credit Due	If Line 15 less lines 16 and 17 is a credit amount, enter the amount to the right. If you wish a refund rather than a carry forward to the next period, check here ☐			19. ___,___,___.___	

Signature/Title	Print Name	Date	Phone #

Specific Instructions for the Sales and Use Tax Return
Please note: This return must be filed even if there are no taxable sales to report.

Important: If your business is engaged in selling extended cable or satellite TV services, fabrication services, video rentals, telecommunication services, is a Private Non-Medical Institution, provides Community Support Services for persons with Mental Health Diagnoses, Community Support Services for persons with Mental Retardation or Autism or Home Support Services or is engaged in rent-to-own transactions, DO NOT report these transactions on this return. You must file a "Service Provider Tax Return" to report the service provider tax on these transactions.

Line 1 - Gross Sales. Enter the total amount of **ALL** sales and services, including sales for resale and all other exempt sales. Do not include in this amount sales tax charged to customers, nor the value of returned merchandise for which a full credit or refund was given to the customer.

Line 2a - Exempt Sales. Enter the total amount of sales on which no tax was charged. Include in this line items sold with a valid resale certificate, wholesale sales, items sold to a consignment shop or group shop, services that were not taxable, items sold to entities that hold a valid Permanent Exemption Certificate issued by Maine Revenue Services, or customer refunds that were reported as sales in previous periods.

Line 2b – Bad Debts . Enter the total amount of bad debts actually charged off on the books of this retailer. The deduction may be made only with respect to taxable sales which were originally reported as taxable by this retailer, and on which tax has been paid by this retailer to the State. (See Instructional Bulletin #29 for more information on bad debt deductions.)

Line 3 - Industrial Energy Sales. If you have sold fuel or electricity to a manufacturing facility, enter 95% of those sales here.

Line 4 - Sales Subject to Tax. Subtract lines 2 and 3 from line 1. This amount represents all taxable sales that are detailed in lines 5 through 9.

Line 5 – Prepared Food Sales. Enter the total sales for the period that represents sales of food and drink prepared by the retailer. Multiply this amount by 7% and enter the result in line 5A.

Line 6 - Sales

Line 7 - Long Term Rentals of Automobiles. Enter all taxable rentals of automobiles for 12 months or more. Multiply this amount by 5% and enter the result in line 7A.

Line 8 - Rentals of Lodging. Enter the total taxable rentals charged for living quarters in hotels, motels, rooming houses and tourist or trailer camps. Multiply this amount by 7% and enter the result in line 8A.

Line 9 - Short Term Rentals of Automobiles. Enter the total taxable rentals charged for short-term rentals of automobiles (rentals for less than 12 months). Multiply this amount by 10% and enter the result in line 9A.

Line 10 & 10A - Total lines 5 through 9 and 5A through 9A. Total of lines 5 through 9 must agree with line 4 (Sales Subject to Tax).

Line 11 - Industrial Energy Purchases. Enter 5% of your purchases of fuel and electricity used at a manufacturing site on which the Maine sales tax or its equivalent has not been paid. Multiply this amount by 5% and enter the result in line 11A.

Line 12 - Other Taxable Purchases. Enter the amount of taxable purchases, other than fuel and electricity reported in line 11, on which Maine sales tax or its equivalent has not been paid. This includes items that were withdrawn from inventory for use by the business, items purchased in a non-taxing jurisdiction for use in Maine, and items that were purchased with a Maine Resale Certificate that have been deemed taxable. Multiply this amount by 5% and enter the result on line 12A.

Line 13 - Tires and Lead-Acid Batteries. Enter the total number of tires and lead-acid batteries sold during this period that are subject to the recycling assistance fee. Multiply this amount by $1.00 and enter the result on line 13A.

Line 14A – Premiums on Bulk Motor Vehicle Oil. Enter the total amount of premiums on sales of bulk motor oil (packaged in more than 5 gallons) for both gasoline and diesel engines. $1.10 per gallon for gasoline engine oil and .35¢ per gallon for diesel engine oil.

Line 15 - Total Due. Total lines 10A through 14A.

Line 16 - Credit Carry Forward from Prior Period. If your prior return resulted in a credit balance **and you have received a notice from Maine Revenue Services confirming this credit**, enter the amount of your credit here.

Line 17 – Credit for Sales Tax Paid on Goods Purchased for Resale. If you have purchased goods during this period on which you have paid your supplier a sales tax and those goods have been sold or are in inventory waiting to be resold, enter the amount of sales tax paid on those goods here.

Line 18 - Amount Due. Subtract lines 16 and 17 from line 15. (If the result is a credit amount, see line 19.)

Line 19 - Credit Due. If the result of subtracting lines 16 and 17 from line 15 is a credit, enter that amount here. This credit will automatically be forwarded to the next open period. If you wish this credit to be refunded to you, you must check the box in line 19.

Make check or money order payable to the STATE TREASURER. Send your remittance with your return postmarked by the due date printed on the top of the return to MAINE REVENUE SERVICES, PO BOX 1065, AUGUSTA, ME 04332-1065. Please record your registration number on your check. Failure to file a return on or before the due date will result in interest and penalty charges. Billings will be issued shortly after the processing of your return. If you have questions, please contact 207-624-9693.

Keep copy of return for taxpayer records

S

Maine Revenue Services
Sales and Use Tax Return
See instructions on Reverse Side of Taxpayer Copy

0503200 00

Registration No.	Business Code	Period

1. Entity Information

Use this area only to report changes in your business

2. ***OUT OF BUSINESS?*** Check here ☐, return permit to Bureau and complete information at right. Date closed: _____

3. ***OWNERSHIP CHANGE?*** If you have changed ownership, indicate the date when this occured here _____ and check the type of change below.

☐ Incorporated ☐ Partner added or dropped
☐ Other (explain on reverse)
☐ Sold to _____

4. ***NAME CHANGE?*** ☐ Attach explanation to this return.

ADDRESS CHANGE?: If your address above is incorrect, please make the appropriate changes to the preprinted address.

This return can be filed over the internet. Go to
http://www.maine.gov/revenue
Then click on "Electronic Services".

Do Not Use Red Ink!

Sales Tax	Gross Sales	1.	___,___,___.___
	Exempt Sales	2.	___,___,___.___
	Bad Debts	2a.	___,___,___.___
	Taxable Sales (Line 1 minus line 2 & 2a)	3.	___,___,___.___
	Sales Tax (Line 3 multipied by 5%)	4.	___,___,___.___
Use Tax	Taxable Purchases	5.	___,___,___.___
	Use Tax (Line 5 multiplied by 5%)	6.	___,___,___.___
Total Due	Total Tax Due with this Return (Add lines 4 and 6)	7.	___,___,___.___
Credits	Credit Carry Forward From Prior Period	8.	___,___,___.___
	Credit For Sales Tax Paid on Goods Resold	9.	___,___,___.___
Amount Due	Line 7 minus lines 8 and 9, use line 11 if the result is a credit amount.	10.	___,___,___.___
Credit Due	If line 7 minus lines 8 and 9 is a credit amount, enter the amount to the right. If you wish a refund rather than a carry forward to the next period, check here ☐	11.	___,___,___.___

Signature/Title	Print Name	Date	Phone #

ST-7S Revised 7/05

Specific Instructions for the Sales and Use Tax Return- Short Form
Please note: This return must be filed even if there are no taxable sales to report.

This short version of the sales and use tax return can only be used by retailers whose sales are subject to a 5% tax.

You may not use this form if one of the following apply:

- **The business is engaged in preparing food or drink**
- **The business is engaged in short or long term rentals of automobiles**
- **The business is engaged in the rental of living quarters**
- **The business sells tires or lead-acid batteries subject to recycling assistance fees**
- **The business is engaged in selling fuel and electricity to manufacturers**
- **The business is engaged in manufacturing and purchases fuel or electricity exempt from tax**
- **(Effective July 1, 2005) The business is engaged in selling extended cable TV services, fabrication services, video rentals, telecommunication services or engaged in rent-to-own transactions. Businesses involved in these services must file a "Service Provider Tax Return".**

If you have received the short form in error, please contact the Sales/Use Tax Division at (207) 624-9693.

Line 1 - Gross Sales. Enter the total amount of **ALL** sales and services, including sales for resale and all other exempt sales. **Do not include** in this amount sales tax charged to customers, nor the value of returned merchandise for which a full credit or refund was given to the customer.

Line 2 - Exempt Sales. Enter the total amount of sales on which no tax was charged. Include in this line items sold with a valid resale certificate, wholesale sales, items sold to a consignment shop or group shop, services that were not taxable, items sold to entities that hold a valid Permanent Exemption Certificate issued by Maine Revenue Services, or customer refunds that were reported as sales in previous periods.

Line 2a – Bad Debts. Enter the total amount of bad debts actually charged off on the books of this retailer. The deduction may be made only with respect to taxable sales which were originally reported as taxable by this retailer, and on which tax has been paid by this retailer to the State. (See Instructional Bulletin #29 for more information on bad debt deductions.)

Line 3 - Taxable Sales. Subtract line 2 and line 2a from line 1.

Line 4 - Sales Tax. Multiply line 3 by 5%.

Line 5 - Taxable Purchases. Enter the amount of taxable purchases on which Maine sales tax or its equivalent has not been paid. This includes items that were withdrawn from inventory for use by the business, items purchased in a non-taxing jurisdiction for use in Maine, and items that were purchased with a Maine Resale Certificate that have been deemed taxable.

Line 6 - Use Tax. Multiply line 5 by 5%.

Line 7 - Total Due. Total lines 4 and 6.

Line 8 - Credit Carry Forward from Prior Period. If your prior return resulted in a credit balance **and you have received a notice from Maine Revenue Services confirming this credit**, enter the amount of your credit here.

Line 9 – Credit for Sales Tax Paid on Goods Resold. If you have purchased goods during this period on which you have paid your supplier a sales tax and those goods have been sold or are in inventory waiting to be resold, enter the amount of sales tax paid on those goods here.

Line 10 - Amount Due. Subtract line 8 and line 9 from line 7. (If the result is a credit amount, see line 11.)

Line 11 - Credit Due. If the result of subtracting line 8 and line 9 from line 7 is a credit, enter that amount here. This credit will automatically be forwarded to the next open period. If you wish this credit to be refunded to you, you must check the box in line 11.

Make check or money order payable to the STATE TREASURER. Send your remittance with your return postmarked by the due date printed on the top of the return. Please record your registration number on your check. Failure to file a return on or before the due date will result in interest and penalty charges. Billings will be issued shortly after the processing of your return.

SPT

Maine Revenue Services
Service Provider Tax

0841000 00

Registration No.	Business Code	Period Begin	Period End	Due Date

1. Entity Information

Use this area only to report changes in your business

2. *OUT OF BUSINESS?* Check here ☐, return permit to Bureau and complete information at right. Date closed: _____

3. *OWNERSHIP CHANGE?* If you have changed ownership, indicate the date when this occured here _____ and check the type of change below.

☐ Incorporated ☐ Partner added or dropped
☐ Other (explain on reverse)
☐ Sold to _____

4. *NAME CHANGE?* Attach explanation to this return.

ADDRESS CHANGE?: If your address above is incorrect, please make the appropriate changes to the preprinted address.

Do Not Use Red Ink!

Services	Gross Services	1. ___,___,___.___		
	Exempt Services	2. ___,___,___.___		
	Taxable Services	3. ___,___,___.___		
Breakdown of Taxable Services	Extended Cable TV & Satellite TV	4. ___,___,___.___	Private Non-Medical Institution	9. ___,___.___
	Fabrication	5. ___,___,___.___	CSS - MHD	10. ___,___.___
	Video Rentals	6. ___,___,___.___	CSS - MRA	11. ___,___.___
	Rent-to-Own	7. ___,___,___.___	Home Support Services	12. ___,___.___
	Telecommunications	8. ___,___,___.___		
Total Services	Add lines 4 thru 12. Total must agree with Line 3.	13. ___,___,___.___		
Total Tax			Line 13 @ 5%	14. ___,___.___
Credits	Credit Carry Forward From Prior Period			15. ___,___.___
Amount Due	Line 14 less line 15. Use line 17 if the result is a credit amount.			16. ___,___.___
Credit Due	If line 14 less line 15 is a credit amount, enter the amount to the right. If you wish a refund rather than a carry forward to the next period, check here ☐			17. ___,___.___

Mail To:
Maine Revenue Service
P.O. Box 1065
Augusta, ME 04332-1065

Signature/Title	Print Name	Date	Phone #

SPT-1 07/08

Instructions for the Service Provider Tax Return

Please note: The return must be filed even if there are no taxable services to report.

FOR FURTHER INFORMATION ON SERVICE PROVIDER TAX SEE INSTRUCTIONAL BULLETIN 55

Line 1 – Gross Services. Enter the total amount of ALL services, including any services that are for resale or exempt. Do not include in this amount, Service Provider Tax.

Line 2 – Exempt Services. Enter the total amount of services which are exempt from the Service Provider Tax. Include in this line services sold with a valid resale certificate, sold to an exempt organization with a valid permanent exemption certificate, services that are not subject to the service provider tax, and services rendered outside this State.

Line 3 – Taxable Services. Subtract Line 2 from Line 1.

Line 4– Extended Cable TV Service. Enter the taxable amount of cable and satellite TV service provided that is above and beyond the basic amount.

Line 5 – Fabrication Services. Enter the taxable amount of fabrication services provided on this line.
(for more information on fabrication services see Instructional Bulletin 46)

Line 6 – Video Rentals. Enter the taxable amount of video media and equipment rentals on this line.

Line 7 – Rent-to-Own. Enter the taxable amount of rental of furniture, audio media and equipment pursuant to a rental-purchase agreement.

Line 8 – Telecommunications. Enter the taxable amount of telecommunications services.

Line 9 – Private Non-Medical Institution. Enter the taxable amount of Private Non-Medical Institution services. (NOTE: Service provider would have a DHHS license for this service)

Line 10 – CSS – MHD. Enter the taxable amount of Community Support Services for persons with Mental Health Diagnoses. (NOTE: Service provider would have a DHHS license for this service)

Line 11 – CSS – MRA. Enter the taxable amount of Community Support Services for persons with Mental Retardation or Autism. (NOTE: Service provider would have a DHHS license for this service)

Line 12 – Home Support Services. Enter the taxable amount of Home Support Services. (NOTE: Service provider would have a DHHS license for this service)

Line 13 – Total Services. Enter the total of line 4 thru line 12. This is the total services subject to tax. Line 3 must equal Line 13.

Line 14 – Total Tax. Line 13 @ 5%.

Line 15 – Credits. If there was a prior return that resulted in a credit balance and you received a notice from Maine Revenue Services confirming the credit amount, enter the amount of your credit here.

Line 16 – Amount Due. Line 14 minus Line 15. Use Line 17 if result is a credit.

Line 17 – Credit Due. When Line 14 minus Line 15 is a credit, enter the amount on here.

Make the check or money order payable to the STATE TREASURER. Send your remittance with your return postmarked by the due date printed on the top of the return. Please record your registration number on your check. Failure to file a return on or before the due date will result in interest and penalty charges. Billings will be issued shortly after the processing of your return. Please mail your return with payment to Maine Revenus Services, Sales, Fuel & Special Tax Division, PO Box 1065, Augusta, ME 04332-1065. Questions? Call 624-9693.

Keep a copy of the return for your records.

U

Maine Revenue Services
Use Tax Return

See instructions on Reverse Side of Taxpayer Copy

0802700 00

Registration No.	Business Code	Period Begin	Period End	Due Date

1. Entity Information

Use this area only to report changes in your business

2. ***OUT OF BUSINESS?*** Check here ☐, return permit to Bureau and complete information at right. Date closed: _____

3. ***OWNERSHIP CHANGE?*** If you have changed ownership, indicate the date when this occured here _____ and check the type of change below.

☐ Incorporated ☐ Partner added or dropped
☐ Other (explain on reverse)
☐ Sold to _____

4. ***NAME CHANGE?*** Attach explanation to this return.

ADDRESS CHANGE?: If your address above is incorrect, please make the appropriate changes to the preprinted address.

Do Not Use Red Ink!

Use Tax	Industrial Energy Purchases	1. ___,___,___.__	Tax @ 5%	1A. ___,___,___.__
	Other Taxable Purchases	2. ___,___,___.__	Tax @ 5%	2A. ___,___,___.__
Recycling Fees	Tires and Lead-Acid Batteries	3. ___,___	Fees @ $1	3A. ___,___,___.__
Total Due	Total Tax and Fees Due with this Return	Add lines 1A through 3A.		4. ___,___,___.__
Credits	Credit Carry Forward From Prior Period			5. ___,___,___.__
Amount Due	Line 4 minus line 5. Use line 7 if the result is a credit amount.			6. ___,___,___.__
Credit Due	If line 4 minus line 5 is a credit amount, enter the amount to the right. If you wish a refund rather than a carry forward to the next period, check here ☐			7. ___,___,___.__

Mail To:
Maine Revenue Services
P.O. Box 1065
Augusta, ME 04332-1065

Signature/Title	Print Name	Date	Phone #

ST-7-U Revised 7/08

Specific Instructions for the Use Tax Return

Note: It is not necessary to file this return for periods in which no tax is due.

Line 1 - Industrial Energy Purchases. Enter 5% of your purchases of fuel and electricity used at a manufacturing site on which the Maine sales tax or its equivalent has not been paid. Multiply this amount by 5% and enter the result in line 1A.

Line 2 - Other Taxable Purchases. Enter the amount of taxable purchases, other than fuel and electricity reported in line 1, on which Maine sales tax or its equivalent has not been paid. This includes items that were withdrawn from inventory for use by the business, items purchased in a non-taxing jurisdiction for use in Maine, and items that were purchased with a Maine Resale Certificate that have been deemed taxable. Multiply this amount by 5% and enter the result on line 2A.

Line 3 - Tires and Lead-Acid Batteries. Enter the total number of tires and lead-acid batteries purchased during this period that are subject to the recycling assistance fee. Multiply this amount by $1.00 and enter the result on line 3A.

Line 4 - Total Due. Total lines 1A through 3A.

Line 5 - Credit Carry Forward from Prior Period. If your prior return resulted in a credit balance and you have received a notice from Maine Revenue Services confirming this credit, enter the amount of your credit here.

Line 6 - Amount Due. Subtract line 5 from line 4. (If the result is a credit amount, see line 7.)

Line 7 - Credit Due. If the result of subtracting line 5 from line 4 is a credit, enter that amount here. This credit will automatically be forwarded to the next open period. If you wish this credit to be refunded to you, you must check the box in line 7.

Make check or money order payable to the STATE TREASURER. Send your remittance with your return postmarked by the due date printed on the top of the return. Please record your registration number on your check. Failure to file a return on or before the due date will result in interest and penalty charges. Billings will be issued shortly after the processing of your return. Please contact 207-624-9693 if you have questions.

Keep copy of return for taxpayer records

UNIFORM SALES & USE TAX CERTIFICATE—MULTIJURISDICTION

The below-listed states have indicated that this form of certificate is acceptable, subject to the notes on pages 2-4. The issuer and the recipient have the responsibility of determining the proper use of this certificate under applicable laws in each state, as these may change from time to time.

Issued to Seller:_____

Address: _____

I certify that:
Name of Firm (Buyer): _____
Address: _____
_____
_____
_____
_____

is engaged as a registered
☐ Wholesaler
☐ Retailer
☐ Manufacturer
☐ Seller (California)
☐ Lessor (see notes on pages 2-4)
☐ Other (Specify)_____

and is registered with the below listed states and cities within which your firm would deliver purchases to us and that any such purchases are for wholesale, resale, ingredients or components of a new product or service[1] to be resold, leased, or rented in the normal course of business. We are in the business of wholesaling, retailing, manufacturing, leasing (renting) the following:

Description of Business: _____

General description of tangible property or taxable services to be purchased from the seller: _____

_____

State	State Registration, Seller's Permit, or ID Number of Purchaser	State	State Registration, Seller's Permit, or ID Number of Purchaser
AL[2]	_____	MO[13]	_____
AR	_____	NE[14]	_____
AZ[22]	_____	NV	_____
CA[3]	_____	NJ	_____
CO[1]	_____	NM[1,15]	_____
CT[4]	_____	NC[24]	_____
DC[5]	_____	ND	_____
GA[6]	_____	OH[25]	_____
HI[1,7]	_____	OK[16]	_____
ID	_____	PA[26]	_____
IL[1,8]	_____	RI[17]	_____
IA	_____	SC	_____
KS	_____	SD[18]	_____
KY[23]	_____	TN	_____
ME[9]	_____	TX[19]	_____
MD[10]	_____	UT	_____
MI[11]	_____	VT	_____
MN[12]	_____	WA[20]	_____
		WI[21]	_____

I further certify that if any property or service so purchased tax free is used or consumed by the firm as to make it subject to a Sales or use Tax we will pay the tax due directly to the proper taxing authority when state law so provides or inform the seller for added tax billing. This certificate shall be a part of each order which we may hereafter give to you, unless otherwise specified, and shall be valid until canceled by us in writing or revoked by the city or state.

Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.

Authorized Signature: _____
(Owner, Partner or Corporate Officer)

Title: _____

Date: _____

Revised 06/2008
Page 1 of 4

INSTRUCTIONS REGARDING UNIFORM SALES & USE TAX CERTIFCATE

To Seller's Customers:

In order to comply with the majority of state and local sales tax law requirements, the seller must have in its files a properly executed exemption certificate from all of its customers who claim a sales tax exemption. If the seller does not have this certificate, it is obliged to collect the tax for the state in which the property or service is delivered.

If the buyer is entitled to sales tax exemption, the buyer should complete the certificate and send it to the seller at its earliest convenience. If the buyer purchases tax free for a reason for which this form does not provide, the buyer should send the seller its special certificate or statement.

Caution to Seller:

In order for the certificate to be accepted in good faith by the seller, seller must exercise care that the property or service being sold is of a type normally sole wholesale, resold, leased, rented or incorporated as a ingredient or component part of a product manufactured by buyer and then resold in the usual course of its business. A seller failing to exercise due care could be held liable for the sales tax sue in some states or cities. Misuse of this certificate by seller, lessee, or the representative thereof may be punishable by fine, imprisonment or loss of right to issue certificate in some states or cities.

Notes:

1. The state of Colorado, Hawaii, Illinois, and New Mexico do not permit the use of this certificate to claim a resale exemption for the purchase of a taxable service for resale.

2. Alabama: Each retailer shall be responsible for determining the validity of a purchaser's claim for exemption.

3. California:
   A. This certificate is not valid as an exemption certificate. Its use is limited to use as a resale certificate subject to the provisions of Title 18, California Code of Regulations, Section 1668 (Sales and Use Tax Regulation 1668, Resale Certificate).
   B. By use of this certificate, the purchaser certifies that the property is purchased for resale in the regular course of business in the form of tangible personal property, which includes property incorporated as an ingredient or component part of an item manufactured for resale in the regular course of business.
   C. When the applicable tax would be sales tax, it is the seller who owes that tax unless the seller takes a timely and valid resale certificate in good faith.
   D. A valid resale certificate is effective until the issuer revokes the certificate.

4. Connecticut: This certificate is not valid as an exemption certificate. Its use is limited to use as a resale certificate subject to Conn. Gen. State §§12-410(5) and 12-411(14) and a regulations and administrative pronouncements pertaining to resale certificates.

5. District of Columbia: This certificate is not valid as an exemption certificate. It is not valid as a resale certificate unless it contains the purchaser's D.C. sales and use tax registration number.

6. Georgia: the purchaser's state of registration number will be accepted in lieu of Georgia's registration number when the purchaser is located outside Georgia, does not have nexus with Georgia, and the tangible personal property is delivered by drop shipment to the purchaser's customer located in Georgia.

7. Hawaii allows this certificate to be used by the seller to claim a lower general excise tax rate or no general excise tax, rather than the buyer claiming an exemption. The no tax situation occurs when the purchaser of imported goods certifies to the seller, who originally imported the goods into Hawaii, that the purchaser will resell the imported goods at wholesale. If the lower rate or no tax does not in fact apply to the sale, the purchaser is liable to pay the seller the additional tax imposed. See Hawaii Dept. of Taxation Tax Information Release No. 93-5, November 10, 1993, and Tax Information Release No. 98-8, October 30, 1998.

8. Use of this certificate in Illinois is subject to the provisions of 86 Ill. Adm. Code Ch.I, Sec. 130.1405. Illinois does not have an exemption on sales of property for subsequent lease or rental, nor does the use of this certificate for claiming resale purchases of services have any application in Illinois.

The registration number to be supplied next to Illinois on page 1 of this certificate must be the Illinois registration or resale number; no other state's registration number is acceptable.

"Good faith" is not the standard of care to be exercised by a retailer in Illinois. A retailer in Illinois is not required to determine if the purchaser actually intends to resell the item. Instead, a retailer must confirm that the purchaser has a valid registration or resale number at the time of purchase. If a purchase fails to provide a certificate of resale at the time of sale in Illinois, the seller must charge the purchaser tax.

While there is no statutory requirement that blanket certificates of resale be renewed at certain intervals, blanket certificates should be updated periodically, and no less frequently than every three years.

9. Maine does not have an exemption on sales of property for subsequent lease or rental.

10. Maryland: This certificate is not valid as an exemption certificate. However, vendors may accept resale certificates that bear the exemption number issued to a religious organization. Exemption certifications issued to religious organizations consist of 8 digits, the first two of which are always "29". Maryland registration, exemption and direct pay numbers may be verified on the website of the Comptroller of the Treasury at www.marylandtaxes.com.

11. Michigan: Effective for a period of three years unless a lesser period is mutually agreed to and stated on this certificate. Covers all exempt transfers when accepted by the seller in "good faith" as defined by Michigan statute.

12. Minnesota:
    A. Does not allow a resale certificate for purchases of taxable services for resale in most situations.
    B. Allows an exemption for items used only once during production and not used again.

13. Missouri:
    A. Purchases who improperly purchase property or services sales tax free using this certificate may be required to pay the tax, interest, additions to tax or penalty.

    B. Even if property is delivered outside Missouri, facts and circumstances may subject it to Missouri tax, contrary to the second sentence of the first paragraph of the above instructions.

14. Nebraska: A blanket certificate is valid 3 years from the date of issuance.

15. New Mexico: For transactions occurring on or after July 1, 1998, New Mexico will accept this certificate in lieu of a New Mexico nontaxable transaction certificate and as evidence of the deductibility of a sale tangible personal property provided:

    a) this certificate was not issued by the State of New Mexico;
    b) the buyer is not required to be registered in New Mexico; and
    c) the buyer is purchasing tangible personal property for resale or incorporations as an ingredient or component part into a manufactured product.

16. Oklahoma would allow this certificate in lieu of a copy of the purchaser's sales tax permit as one of the elements of "properly completed documents" which is one of the three requirements which must be met prior to the vendor being relieved of liability. The other two requirements are that the vendor must have the certificate in his possession at the time the sale is made and must accept the documentation in good faith. The specific documentation required under OAC 710-:65-7-6 is:

    A) Sales tax permit information may consist of:
       (i) A copy of the purchaser's sales tax permit; or
       (ii) In lieu of a copy of the permit, obtain the following:
          (I) Sales tax permit number; and
          (II) The name and address of the purchaser;
    B) A statement that the purchaser is engaged in the business of reselling the articles purchased;
    C) A statement that the articles purchased are purchased for resale;
    D) The signature of the purchaser or a person authorized to legally bind the purchaser; and
    E) Certification on the face of the invoice, bill or sales slip or on separate letter that said purchaser is engaged in reselling the articles purchased.

    Absent strict compliance with these requirements, Oklahoma holds a seller liable for sales tax due on sales where the claimed exemption is found to be invalid, for whatever reason, unless the Tax Commission determines that purchaser should be pursued for collection of the tax resulting from improper presentation of a certificate.

17. Rhode Island allows this certificate to be used to claim a resale exemption only when the item will be resold in the same form. They do not permit this certificate to be used to claim any other type of exemption.

18. South Dakota: Services which are purchased by a service provider and delivered to a current customer in conjunction with the services contracted to be provided to the customer are claimed to be for resale. Receipts from the sale of a service for resale by the purchaser are not subject to sales tax if the purchaser furnishes a resale certificate which the seller accepts in good faith. In order for the transaction to be a sale for resale, the following conditions must be present:

    (1) The service is purchased for or on behalf of a current customer;
    (2) The purchaser of the service does not use the service in any manner; and
    (3) The service is delivered or resold to the customer without any alteration or change.

19. Texas: Items purchased for resale must be for resale within the geographical limits of the United States, its territories and possessions.

20. Washington:
    A. Blanket resale certificates must be renewed at intervals not to exceed four years;
    B. This certificate may be used to document exempt sales of "chemicals to be used in processing an article to be produced for sale."
    C. Buyer acknowledges that the misuse of the tax due, in addition to the tax, interest, and any other penalties imposed by law.

21. Wisconsin allows this certificate to be used to claim a resale exemption only. It does not permit this certificate to be used to claim any other type of exemption.

22. Arizona: This certificate is not valid as an exemption certificate. This certificate is for use when making sales of tangible personal property for resale in the ordinary course of business, pursuant to A.R.S. §42-1328, Burden of proving sales not at retail.

23. Kentucky:
    1. Kentucky does not permit the use of this certificate to claim a resale exclusion for the purchase of a taxable service.
    2. This certificate is not valid as an exemption certificate. Its use is limited to use as a resale certificate subject to the provisions of Kentucky Revised Statute 139.270 (Good Faith).
    3. The use of this certificate by the purchaser constitutes the issuance of a blanket certificate in accordance with Kentucky Administrative Regulation 103 KAR 31:111.

24. North Carolina: This certificate is not valid as an exemption certificate or if signed by a person such as a contractor who intends to use the property. Its use is subject to G.S. 105-164.28 and any administrative rules or directives pertaining to resale certificates.

25. Ohio:
    A. The buyer must specify which one of the reasons for exemption on the certificate applies. This may be done by circling or underlining the appropriate reason or writing it on the form above the state registration section. Failure to specify the exemption reason will, on audit, result in disallowance of the certificate.

    B. In order to be valid, the buyer must sign and deliver the certificate to the seller before or during the period for filing the return.

26. Pennsylvania: This certificate is not valid as an exemption certificate. It is valid as a resale certificate only if it contains the purchaser's Pennsylvania Sales and Use Tax eight-digit license number, subject to the provisions of 61 PA Code §32.3.

MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

Resale Certificate for Packaging Materials

I hereby certify that I am engaged in the business of _____

and; that the packaging materials which I shall purchase from _____

will be used by me:

- ❑ For packing, packaging, shipping **and** transporting tangible personal property
- ❑ For use in packing, packaging or shipping tangible personal property sold by me
- ❑ For use in packing, packaging or shipping tangible personal property on which I have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning

Description of property to be purchased:

_____

Purchaser _____

Address _____

_____

Signature _____

Title _____

Date

ST-P-73

1/24/00

MAINE REVENUE SERVICE
SALES, FUEL & SPECIAL TAX DIVISION

INDUSTRIAL USERS
BLANKET CERTIFICATE OF EXEMPTION

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

I hereby certify that I hold valid Seller's Registration Certificate No._____ issued pursuant to the Sales and Use Tax Law, that I am engaged 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 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)

[ ]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 or the production of tangible personal property pursuant to a contract with the United States Government or any agency thereof. (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. (1760.32)

[ ]e. Is fuel or electricity for use at a manufacturing facility (95% of the sale price taxable at a reduced rate) 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 Environmental Protection. (1760.29-30)

I further certify that I assume 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 COMPANY	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 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.

ST-P-70
rev. 10/27/99

MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION

AFFIDAVIT OF EXEMPTION

For purchases of electricity or depreciable machinery or equipment for use in commercial agricultural production, commercial fishing or commercial aquacultural production pursuant to Section 2013 of the Maine Sales and Use Tax Law.

I hereby certify that I hold a valid exemption certificate No._____ issued pursuant to Section 2013 of the Sales and Use Tax Law, that I am engaged in commercial agricultural production of_____or in the commercial fishing of_____ or commercial aquacultural production of _____and that the electricity or depreciable machinery or equipment to be purchased from_____is exempt for the reason(s) indicated below:

( ) a. Depreciable machinery or equipment used directly and primarily in commercial agricultural production;

( ) b. Depreciable machinery or equipment used directly and primarily in commercial fishing;

( ) c. Depreciable machinery or equipment used directly and primarily in commercial aquacultural production;

( ) d. Repair parts for depreciable machinery or equipment qualifying for exemption under (a) (b) or (c) above.

( ) e. Electricity for use in commercial agriculture, commercial fishing or commercial aquaculture. Utility Account No._____

I also certify that the depreciable machinery or equipment purchased through this affidavit will be used by me directly and primarily in commercial agricultural production, commercial fishing or commercial aqua-cultural production and is 100% depreciable for Federal Income Tax purposes or that the electricity purchased will be used in qualifying activities or support operations.

I further certify that I assume 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 affidavit because of a taxable use of the property.

_____ _____

Name of Individual or Corporation Business Name (if different)

_____

Signature Title Date

SEE NEXT PAGE FOR ADDITIONAL INFORMATION

ST-L-154

GENERAL RESTRICTIONS FOR USE OF THIS AFFIDAVIT OF EXEMPTION

This affidavit is to be retained in the records of the seller to document the qualification of exemption of any sale claimed exempt under 36 M.R.S.A. § 2013(3). **It must be accompanied by a copy of the purchaser's Certificate of Exemption issued by Maine Revenue Services, valid at the time of sale.** A copy of the Certificate and Affidavit need to be obtained by the seller on each subsequent purchase. However, if the purchaser indicates that a certain purchase is exempt pursuant to this affidavit, the invoice must be appropriately marked to indicate the exempt sale. The words "Commercial Agricultural Exemption", "Commercial Fishing Exemption" or "Commercial Aquacultural Exemption" will satisfy this requirement.

This affidavit must be taken in good faith by the seller. The good faith of the seller will be questioned if the seller knows, or has reason to know, that the person making the purchase is not the holder of the Certificate of Exemption, or that the machinery or equipment purchased will not be used by the purchaser directly and primarily in commercial agricultural production, commercial fishing or commercial aquacultural production or that the electricity purchased will not be used by the purchaser for qualifying activities or support operations.

This affidavit is valid only for purchases of depreciable machinery or equipment, including repair parts for qualifying machinery or equipment, used directly and primarily in commercial agricultural production, commercial fishing or commercial aquacultural production. This affidavit is not to be used for the purchase of the following items:

(1) Machinery or equipment not 100% depreciable for Federal Income Tax purposes.

(2) Items not commonly used in commercial agricultural production, commercial fishing or commercial aquacultural production, such as lawn and garden tractors, fork lift trucks, lag tractors, backhoe tractors, computers etc.

(3) Motor vehicles including all terrain vehicles (ATVs) and snowmobiles.

(4) Attachments for motor vehicles such as fertilizer bodies and potato bulk bodies.

(5) Trailers.

(6) Materials to be incorporated into real property such as building materials, heating systems and ventilating systems.

(7) Silos.

Misuse of Affidavit of Exemption

Purchasers who avoid payment of tax through deliberate misuse of this affidavit of exemption will be subject to prosecution.

Additional Information

Please refer to Sales Tax Section Instruction Bulletin No. 45 (Commercial Agricultural Production), Bulletin No. 44 (Commercial Fishing) or Bulletin No. 49 (Commercial Aquacultural Production) for further details regarding qualifications and requirements. Requests for information on specific situations should be in writing, should contain full information as to the situation in question and should be directed to:

MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
P.O. BOX 1065
AUGUSTA, MAINE 04332-1065
TEL. NO. (207) 624-9693

Or visit our website at: **www.state.me.us/revenue**

Rev. 1/01

MAINE REVENUE SERVICE
SALES, FUEL & SPECIAL TAX DIVISION

CERTIFICATE OF EXEMPTION
TO PURCHASE AN AUTOMOBILE FOR LEASE OR FOR SHORT-TERM RENTAL

I hereby certify that I hold valid Seller's Registration Certificate No. _____ issued pursuant to the Maine Sales and Use Tax Law, that I am engaged in the business of renting automobiles for less than a year or leasing automobiles for a year or more, and that I will report the tax based on the lease or rental on my Maine Sales and Use Tax Return. The property described below which I shall purchase from_____ will be used for (check one):

____ rental for less than a year; integral parts or accessories are exempt when used in an automobile which is rented on a short-term basis.

____ lease for a year or more; integral parts and accessories **are not exempt** when used in an automobile being leased for a year or more.

When the automobile (or part or accessory) is used for any other purpose it is understood that I am required by the Maine Sales and Use Tax Law to report and pay tax based on the purchase price of such property.

Description of property: _____

Purchaser _____

Address _____

_____

Date _____

STMV 63
Rev. 1-1-95

MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION

Contractor's Exempt Purchase Certificate

I hereby certify:

That I am engaged in the performance of a construction contract with the following exempt organization or government agency:

_____
Full name of agency or organization

_____
Address of agency or organization

_____
Location and nature of project

That the above organization either holds exemption certificate no. _____ issued by Maine Revenue Services, Sales Tax Division or is to the best of my knowledge and belief exempt from the sales and use tax because it is an agency of the federal government, the State of Maine or a political subdivision of the State of Maine;

That this certificate is issued to cover purchases of materials that will be permanently incorporated into the real property belonging to the exempt organization or government agency indicated above.

Seller's Certificate Number of contractor, if applicable _____

Date _____

Contractor's Name _____

By _____

Address _____

ST-P-72
8/28/00

MAINE REVENUE SERVICES
SALES/EXCISE TAX DIVISION

AFFIDAVIT OF EXEMPTION FOR IMMEDIATE REMOVAL

For a Motor Vehicle (excluding all-terrain vehicles and snowmobiles),
Camper trailer (including a slide-in truck camper), Aircraft or Semitrailer
Sold to a Legal Resident of another State or to a Resident business with fixed locations outside the State

I certify that this sale is exempt from sales tax, pursuant to 36 MRSA §1760(23) of the Maine Sales and Use Tax Law.

Make_____ Model_____ Year_____ VIN_____

Date of Sale_____ Sale Price $_____ Trade-in: Type of Vehicle_____ $ _____

_____
Purchaser's Name – (please print) last name first middle

_____
Purchaser's Address – (please print) street address, PO Box number, etc. city State

The purchaser has stated to me at the time of sale that the purchaser is a legal resident of another state or a resident business with fixed locations outside the state and intends to remove the vehicle from Maine immediately upon delivery. If any information available to me indicates otherwise, I have retained evidence in addition to this affidavit which indicates that the purchaser has established legal residence in another state, such as records of permanent home, employment, tax registrations, federal identification number or driver's license from another state.

I declare under the penalties of perjury that all statements made by me herein are true, to the best of my knowledge and belief, and hereby authorize Maine Revenue Services to furnish a copy of this affidavit to the state which the purchaser declares herein to be their residence and/or to the state to which the vehicle is being removed.

Dealer's Name_____ Sales Tax #_____ Signature_____

____ I am a non-resident

I *_____ hereby certify that my legal residence** or commercial domicile is in the state of _____ and that I will remove the vehicle to the state of _____ immediately upon delivery.

I do not claim Maine residency on any current income tax returns, homestead property exemptions or licenses; to verify this my social security number or EIN is _____ and my date of birth or date of incorporation is _____.

____ I am a resident business

I hereby certify that I am organized under the laws of the State of Maine with EIN _____ or have my principle place of business in the State of Maine and that I also conduct business activity from a fixed location or locations outside this state. The address of the sole or primary fixed business location outside of Maine is _____.

I will remove the vehicle to the state of _____ immediately upon delivery and will use the vehicle exclusively in business activities outside of the State of Maine.

I make this statement to allow the sale of the above described vehicle to me without payment of the Maine sales tax, otherwise applicable. If I register the vehicle in Maine within 12 months of the date of purchase **(**or in the case of a resident business, I use the vehicle in Maine within 12 months of purchase), I will pay the Maine use tax at the time of registration based on the original purchase price. If I am a resident business and the vehicle in question is I declare under the penalties of perjury that the statements made herein are true to the best of my knowledge and belief and hereby authorize Maine Revenue Services to furnish a copy of this affidavit to the state of my legal residence and/or to the state to which the vehicle is being removed.

_____ _____Date _____
Signature of Purchaser Title

* Name of Business, if other than an individual
** An individual's fixed permanent home (domicile)

Enclose affidavit with the Maine Sales and Use Tax Return, and the Dealer's and Lessor's Supplemental Report

ST-MV-33 Rev. 7/08

MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

AFFIDAVIT OF EXEMPTION FOR IMMEDIATE REMOVAL

For a Watercraft

Sold to a Legal Resident of Another State

I certify this sale is exempt from sales tax, pursuant to 36 MRSA §1760(25) of the Maine Sales and Use Tax Law.

Make_____ Model_____ Year_____ VIN_____

Date of Sale_____ Sale Price $_____ Trade-in: Kind of Vehicle_____ $ _____

_____

Purchaser's Name – (please print) last name first middle

_____

Purchaser's Address – (please print) street address, PO Box number, etc. city State of Maine

The purchaser states to me at the time of sale that they are a legal resident of another state, and intend to remove the watercraft from Maine immediately upon delivery. If any information available to me indicates otherwise, I have retained evidence in addition to this affidavit which indicates that they have established legal residence in another state, such as records of permanent home, employment, tax registrations, federal identification number or driver's license from another state.

I declare under the penalties of perjury that all statements made by me herein are true, to the best of my knowledge and belief, and hereby authorize Maine Revenue Services to furnish a copy of this affidavit to the state which the purchaser declares herein to be their residence and/or to the state to which the vehicle is being removed.

Dealer's Name_____ Sales Tax #_____ Signature_____

I*, _____, hereby certify that my legal residence** or state of incorporation is in the state of _____, and that I will remove the watercraft to the state of _____ immediately upon delivery to me.

I do not claim Maine residency on any current income tax returns, homestead property tax exemptions, or licenses; to verify this, my Social Security Number or EIN is _____ , and my date of birth or date of incorporation is _____ .

I make this statement to allow the sale of the above described watercraft to me without payment of the Maine sales tax, otherwise applicable. If the property is present in Maine (for a purpose other than temporary storage) for more than 30 days during the 12-month period following its purchase, or is registered in Maine without also being registered in another state, or is documented with the U.S. Coast Guard with a location in Maine within 12 months of its purchase, I will make payment of use tax to the State of Maine based on the original purchase price. I declare under the penalties of perjury that the statements made herein are true to the best of my knowledge and belief and hereby authorize Maine Revenue Services to furnish a copy of this affidavit to the state of my legal residence and/or to the state to which the watercraft is being removed.

_____ Date_____

Signature of Purchaser Title

*Name of Business, if other than an individual
**One's fixed permanent home

Enclose this affidavit with the Maine Sales and Use Tax Return, and the Dealer's and Lessor's Supplemental Report. ST-P-19AE Rev. 6/05

MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION

AFFIDAVIT OF EXEMPTION
For Snowmobiles and ATV's
Sold to a Legal Resident of Another State

I certify this sale is exempt from sales tax, pursuant to 36 MRSA §1760(25-A, 25-B) of the Maine Sales and Use Tax Law.

Make _____ Model _____ Year _____ VIN _____

Date of Sale _____ Sale Price $_____ Trade-in: Kind of Vehicle _____ $_____

_____/_____/_____
Purchaser's Name - (please print) last name first middle

_____
Purchaser's Address - (please print) street address, PO Box number, etc. city state

The purchaser states to me at the time of sale that he/she is a legal resident of another state. If any information available to me indicates otherwise, I have retained evidence in addition to this affidavit which indicates he/she has established legal residence in another state, such as records of his/her permanent home, employment, registration to vote, resident tax returns, or a driver's license from another state.

I declare under the penalties of perjury that all statements made by me herein are true, to the best of my knowledge and belief and hereby authorize Maine Revenue Services to furnish a copy of this affidavit to the state which the purchaser declares herein to be his/her legal residence and/or to the state to which the vehicle is being removed.

Dealer's Name _____ Sales Tax # _____ Signature _____

I, _____, hereby certify that my legal residence (my one, true,

fixed, and permanent home) is in the state of _____ .

I do not claim Maine residency on any income current tax returns, homestead property tax exemptions, or licenses; to verify this,

my Social Security Number is _____, and my date of birth is _____/_____/_____ .
month day year

I make this statement to allow the sale of the above described vehicle to me without payment of the Maine sales tax, otherwise applicable. I declare under the penalties of perjury that the statements made herein are true to the best of my knowledge and belief and hereby authorize Maine Revenue Services to furnish a copy of this affidavit to the state of my legal residence and/or to the state to which the vehicle is being removed.

Signature of Purchaser _____ Date _____

Enclose this affidavit with the Maine Sales and Use Tax Return, and the Dealer's and Lessor's Supplemental Report. ST-P-39 Rev. 6/05

MAINE REVENUE SERVICE
SALES, FUEL & SPECIAL TAX DIVISION

AFFIDAVIT OF EXEMPTION
(To support out-of-state delivery)

The undersigned hereby certifies that the item described below is sold exempt from Maine sales tax because it was delivered to the purchaser outside the State of Maine by contract or common carrier or the by seller.

Type of Property _____
mobile home, motor vehicle, boat, etc.

Make_____ Year_____ Model No. _____

Serial No._____ Sales Price $_____ Trade in $_____

Date of Sale_____ Date of Delivery_____

The property described above was delivered to: Name of Purchaser_____
Legal Address of Purchaser_____
Street City State

Place of Delivery * _____
Street City State

I hereby authorize the Maine Revenue Service to furnish a copy of this affidavit to the state in which the purchaser declares herein as his legal address and/or to the state in which delivery was made.

Name of Seller_____ Sales Tax Cert. No._____

Address_____

Signature of Seller _____

Signature of Person Making Delivery _____

The person shown above as seller or making delivery_____
Name of person

personally came to me, who being duly sworn, did depose and say that the statements contained herein are true and correct.

Signed:_____ _____
Justice of the Peace-Notary Public

Date: _____

My commission expires:_____

INSTRUCTIONS: This form, when completed, is to be forwarded by the dealer to the Sales Tax Section with the dealer's monthly sales tax report on which this sale is claimed to be exempt.
*If delivery was by common or contract carrier employed by dealer, or was delivered directly form the factory to a point outside Maine by someone other than the dealer, please explain manner of delivery, giving name and address of delivery carrier, on back of this sheet. In such cases the dealer should retain in his files documentary evidence of such delivery.
ST-MV-36
12/10/63 Rev. 6/84

MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL 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 vendor listed above.

Purchaser _____

Address _____

_____

Signature _____

Date _____

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

ST-P-71

12/20/99

MAINE REVENUE SERVICES
SALES, FUEL AND SPECIAL TAX DIVISION

INTERSTATE COMMERCE EXEMPTION AFFIDAVIT
For purchasers & retailers of vehicles, railroad rolling stock, aircraft & watercraft

INSTRUCTIONS TO RETAILER: This form requires the signature of both the retailer (Part A) and purchaser (Part B on page 2). It is very important that the retailer understand the qualifications for this exemption as indicated on page 2 so as not to misinform the purchaser. This form, when completed, is to be forwarded by the retailer with the monthly sales tax report on which the sale is claimed to be exempt. A copy of this affidavit should also be provided to the purchaser.

PART A – STATEMENT BY RETAILER

The undersigned hereby certifies that the vehicle described below is sold exempt from the Maine sales and use tax as an instrumentality of interstate or foreign commerce in accordance with 36 MRSA, Section 1760, subsection 41.

( ) Motor Vehicle ( ) Trailer ( ) Railroad Rolling Stock ( ) Aircraft ( ) Watercraft

Make_____ Year_____ Model No._____ V.I.N._____

The property checked above was purchased from _____ of _____
Name of seller Street Address

_____ _____, on _____ .
City State Purchase Date

_____ _____ _____
Purchase Amount Trade-in Credit Net Purchase Amount

The purchaser stated to me at the time of sale that this property will be placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days (90 days with good cause) after the date of the sale and that it will be used by the purchaser as an instrumentality of interstate or foreign commerce not less than 80% of the time for the next 2 years.

I declare under the penalties of perjury that all statements made by me herein are true to the best of my knowledge and belief.

Name of Seller_____ Sales Tax Registration No._____

Address_____

By _____ Title _____

Date _____

(See page 2 for Part B, Statement by Purchaser)

INSTRUCTIONS TO PURCHASER: This statement is your certification that you qualify for the exemption mentioned on page 1 of this form. Please read and understand the following requirements of this exemption. Your signature on this affidavit will acknowledge that you have read this form in its entirety.

1. The property must be used by the purchaser in interstate or foreign commerce. **If the purchaser is using the Federal Motor Carrier Safety Administration (FMCSA) Interstate Operating Authority of another person, this exemption does not apply. A lessor of property used by the lessee as an instrumentality of interstate or foreign commerce does not qualify for exemption.**

2. The property must be placed in use in interstate or foreign commerce within 30 days (90 days with good cause) from the date of purchase. Good cause does not exist when the extension is required because of the taxpayer's negligence or failure to make a good faith effort to place the vehicle in interstate or foreign commerce within 30 days.

3. The property must be used not less than 80% of the time in interstate or foreign commerce for two years from the date of purchase.

4. **If the property is withdrawn from interstate or foreign commerce within two years so that it will not be used 80% of the time in interstate or foreign commerce for the 2-year period, the purchaser is required to report and pay the use tax to Maine Revenue Services, based on the original purchase price.**

5. Failure to return this affidavit properly completed will subject the purchaser to the Maine use tax. Purchasers who avoid payment of tax through deliberate misuse of the exemption certificate may be subject to prosecution.

6. The use of this vehicle is subject to audit by Maine Revenue Services. The audit would be to review the records of the owner with regard to the eligibility for exemption. The owner must maintain adequate records so that an accurate review is possible. Unless the owner is able to adequately document the claim for exemption, use tax along with appropriate interest and penalties will be assessed.

PART B – STATEMENT BY PURCHASER

_____

Name of Owner (Individual, Partners' Names, or Corporate Name) Telephone No.

Business Address_____

Street City State

I hereby certify that I will place in use, as an instrumentality of interstate or foreign commerce, the above-described property within 30 days (90 days with good cause) from the date of purchase, and that I will use it not less than 80% of the time as an instrumentality of interstate or foreign commerce for the next 2 years.

I understand that I make this statement to allow the purchase in Maine of the above-described property without payment of the Maine sales tax otherwise applicable, and I declare under the penalties of perjury that these statements are true to the best of my knowledge and belief.

I further certify that, if I do not use this property as an instrumentality of interstate or foreign commerce within 30 days (90 days with good cause) and for not less than 80% of the time for the next two years, I assume full responsibility for reporting and paying use tax to Maine Revenue Services, based on the original purchase price of the property.

Please check applicable statement:
( ) FMCSA Interstate Operating Authority No._____ has been issued to me.
( ) I only haul _____ which are exempt from FMCSA licensing requirements.
( ) I only haul _____ which are products sold by me in my business.
Date_____

_____
Signature of Purchaser
Title_____
(Owner, Partner, or Officer of Corporation)

STMV57A
Rev. 7/2008

Special Notice to Sellers of Mobile Telecommunication Services
Change in law effective August 1, 2002

This notice is being sent to all sellers of telecommunication services as coded in our database.

Disregard this notice if you do not sell <u>mobile</u> telecommunication services.

Two years ago, an act entitled the "Mobile Telecommunications Sourcing Act" was passed in Congress. That act required every state to amend their statutes and conform by August 1, 2002 to standardized sourcing rules. Those rules, which have now been enacted by the Maine Legislature, impose Maine's 5% sales tax on those mobile telephone services provided to a customer whose place of primary use is in Maine. As a reference to the terms used in this notice, language from the statute pertaining to this topic can be found at the end of this document.

The effect of this legislation could be summarized as follows:

- ✓ Prior to August 1, 2002, all calls that originate and terminate in <u>Maine</u> by <u>any</u> customer were taxable.
- ✓ Effective for customer bills issued on or after August 1, 2002, all calls that originate and terminate in <u>any</u> state by a <u>Maine</u> customer are subject to Maine sales tax.

Will Maine sales tax only apply to Maine customers? Yes. A Maine customer is one who has, as a "place of primary use", a residential street address or primary business street address located in Maine and within the home service provider's licensed service area.

What determines "place of primary use"? A "place of primary use" is the residential street address or primary business street address of the person contracting for the service. If the contracting party is not the user of the service, the address of the end user is considered the "place of primary use". Under no circumstance would a post office box or other mail delivery service be recognized as a residential or business address.

> *Example 1:* A mother contracts for a cell phone for her daughter. The daughter is attending college in Connecticut. The contracting party (the mother) is not the end user of the service. Any taxes associated with this transaction are sourced to Connecticut since that is the state in which the "place of primary use" exists.
>
> *Example 2:* A business located in Portland contracts for ten (10) cell phones for its salespersons. One salesperson resides in Vermont, another in Massachusetts and the rest in Maine. The "place of primary use" of one is Vermont, of another is Massachusetts and is Maine for the other eight.
>
> *Example 3:* A business located in Sanford contracts for three (3) cell phones for its executives. The "place of primary use" is Maine since the primary business street address is in Sanford. The "place of primary use" is not affected by the fact that the executives travel in and out of Maine on a daily basis.

How is Maine sales tax applied? Maine sales tax applies to all two-way interactive mobile telecommunications services to the extent those services are associated with transmissions that originate and terminate within Maine or within any other state.

> *Example 1:* A Maine-based customer originates calls from within Maine to various points in Maine and outside of Maine. Only those calls that terminate in Maine are taxable in Maine. (See the rule below regarding bundling for an exception to this.)
>
> *Example 2:* A Maine-based customer travels along the entire East coast. Most calls are to Maine locations, but while in New Jersey, the customer calls a New Jersey account. The New Jersey "intrastate" call is taxable in Maine.

What if the amount charged for mobile services contain both interstate and intrastate components? If multiple services are bundled into one price, the entire amount is taxable unless the provider can, to the satisfaction of the State Tax Assessor, reasonably identify the exempt from taxable charges in their books and records.

> *Example:* A Maine customer is billed $50.00 for last month's service. This entire amount is taxable, unless the provider separates inter- from intra- state calls on the invoice or can separately identify in their books and records the inter- and intra- state calls.

What if the address provided by a customer is incorrect? A home service provider can rely on the address provided by the customer as long as it is received in good faith. The home service provider may not be held liable for additional taxes if subsequently it is determined that the address was incorrect. The good faith of the home service provider would be questioned if the provider has knowledge of facts which give rise to a reasonable inference that the true place of primary use is a different address.

> *Example 1:* A customer contracts for service and provides their residential street address as 11111 Any Street, Augusta, ME 04333. All documentation given to provider indicates this as the street address. The provider accepts this address in good faith.
>
> *Example 2:* A customer contracts for service and provides their business address as 11111 Any Street, Somersworth, NH. The business address on their check, however, indicates Route 1, Kittery, ME. The good faith of the provider would be questioned in this case. Without further documentation to support NH as the place of primary use, additional taxes would be the liability of the provider.

What if customer's address is later found to be incorrect? If the provider has accepted the address in good faith, but the Assessor questions its accuracy, it is the responsibility of the Assessor to follow up with the customer. If it is ultimately determined that the address was incorrect, the Assessor will notify the provider of the correct address to apply from that point forward.

Will a provider need to contact all customers prior to August 1, 2002? No. During this transition, a provider can rely on the address used by it for any contract in effect on July 28, 2002 as the customer's "place of primary use". This address, however, can only be effective for that particular contract. A provider must determine that the address represents the correct "place of primary use" for any extension, renewal or new contract entered into on or after July 28, 2002.

Can a provider rely on third party databases or enhanced zip codes to correctly source to Maine? The statute does hold harmless a provider relying on approved electronic databases or enhanced zip codes for sourcing. Since Maine does not impose any local option taxes and this service is subject to only one rate statewide, such reliance should not be necessary.

Additional information:

The information in this notice addresses some of the more common questions that have recently surfaced regarding the application of Maine sales and use tax to mobile telecommunications services. This notice is not all-inclusive and will be updated periodically. 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:

MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
P.O. BOX 1065
AUGUSTA, ME 04332-1065
TEL: (207) 624-9693
TTY: (207) 287-4477

JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
MAINE REVENUE SERVICES
P.O. BOX 1065
AUGUSTA, MAINE
04332-1065

ADMINISTRATIVE & FINANCIAL SERVICES

REBECCA M. WYKE
COMMISSIONER

JEROME D. GERARD
ACTING EXECUTIVE DIRECTOR

MAINE REVENUE SERVICES

SALES, FUEL & SPECIAL TAX DIVISION

REQUEST FOR SALES TAX REFUND

To ensure prompt processing of this application, please fill in all applicable lines and attach all pertinent information.

Name_____ Social Security #_____

Address _____ Federal ID #_____

City/State/Zip_____ Contact Person _____

Telephone # _____

AMOUNT OF REFUND REQUEST $_____ (Additional information may be required)

WHAT SHOULD BE INCLUDED WITH THE APPLICATION?

1 **If tax was paid to a retailer and not directly to Maine Revenue Services, the refund(s) should be obtained from the retailer. If the retailer refuses to issue the refund, documentation indicating such from the retailer must be included with this application.**
2. Cover letter explaining the reason for the refund request.
3. Proof tax was paid. (copies of invoices, etc.)
4. Any other pertinent information.
5. If the refund is for tax paid on a motor vehicle, boat or other vehicle please send a copy of the registration, including: Year; Make; Model; VIN number; Plate number; Place and Date of registration.
.

**** Refunds are disallowed when an application is received more than 3 years after the date of over payment.***
**** This refund request is considered incomplete until all requested additional information has been timely received.***
**** Failure to provide additional information could result in a denial of your request.***

I certify under the pains and penalty of perjury that the statements made in this application and any attachments thereto are true, accurate and complete to the best of my knowledge and belief.

Signature _____ Date _____

Print Name _____ Title _____

Mail Application & Documentation to:
Maine Revenue Services
Sales, Fuel & Special Tax Division
P.O. Box 1065
Augusta, ME 04332-1065

STR-46-A Rev. 11/07

Phone: (207) 624-9693 Fax: (207) 287-6628
Sales.tax@maine.gov

MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION

APPLICATION FOR REFUND OF SALES OR USE TAX
Construction of Realty for Pine Tree Development Zone Business

To ensure prompt processing of this application, please fill in all applicable lines and attach all pertinent information.

Name and address:

_____ Social Security #_____

_____ Federal ID #_____

_____ Contact Person _____

Telephone # _____

AMOUNT OF REFUND REQUEST $_____

Note: If the Pine Tree Development Zone business will have both qualifying and non-qualifying employees working in the facility you have constructed, your refund request may be pro-rated accordingly.

WHAT SHOULD BE INCLUDED WITH THE APPLICATION?

1. Form STR-PTDZ-Supp.
2. Schedule of purchases to support claim.
   Refunds disallowed when an application is received more than 3 years after the materials are incorporated into the realty of the PTDZ business!
3. Copy of exemption certificate issued by Maine Revenue to PTDZ business.
4. Description of construction project.
5. Any other pertinent information to support claim.

I certify under the pains and penalty of perjury that the materials on which tax was paid were incorporated into real property that has been placed into use directly and primarily in a qualified Pine Tree Development Zone business activity and that the statements made in this application and any attachments thereto are true, accurate and complete to the best of my knowledge and belief.

Signature _____ Date _____

Print Name _____ Title _____

Additional Information to Support Application for Refund
Construction of Realty for Pine Tree Development Zone Business
(attach to Form STR-PTDZ)

This claim is being made by: ___Contractor ___ Pine Tree Development Zone Business

If claim is being made by the PTDZ business, has the contractor submitted to Maine Revenue Service a certificate releasing their claim to this refund? _____

If no, please explain: _____
_____

PART A: TO BE COMPLETED BY CONTRACTOR

Contractor Information: Name and address:

_____ SSN:_____

_____ EIN:_____

_____

Zone location of constructed realty: _____
(street and city)

Date project started: _____ Date completed: _____

Is a schedule attached listing all the purchases that are part of this refund request? Y N
If no, please explain:
_____
_____

(See reverse side for Pine Tree Business information)

PART B: TO BE COMPLETED BY PINE TREE BUSINESS

Pine Tree Development Zone Business Information: Name and address:

_____ SSN:_____

_____ EIN:_____

_____

This contract was for the construction of a:
____ New facility in Zone ____ Improvements to facility already existing in Zone

Number of qualified Pine Tree Zone employees[4] working in this facility _____

Are non-qualified employees[5] working in this facility? Y N
If yes, how many? _____

_____	_____	_____
Authorized Signature of Pine Tree Zone Business	Print Name	Date
		_____ Telephone #

[4] Qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided and whose income derived from employment within the Pine Tree Development Zone, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

[5] Partially-Qualified Pine Tree Development Zone Employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business who do not meet the income and/or benefit standards for fully-qualified Pine Tree Development Zone employees but who do work directly in one or more qualified business activities. The term does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business.

LISTING OF SALES AND USE TAX BULLETINS

Bulletin Number	Title	Last Revision Date
38	Advertising Agencies and Graphic Designers	July 1, 1990
15	Auctioneers	September 1, 1997
11	Barbers and Beauticians	December 1, 1990
9	Casual and Infrequent Sales	October 29. 2007
33	Children's Summer Camps	February 11, 1991
4	Contractors and Subcontractors	January 19, 1991
25	Coupons and Gifts	September 1, 1997
29	Deduction for Bad Debts	January 28, 1991
44	Depreciable Machinery and Equipment - Fishing	July 1. 2002
45	Depreciable Machinery and Equipment - Farmers	July 1, 2002
49	Depreciable Machinery and Equipment - Aquaculture	July 1, 2002
36	Exempt Organizations	October 4, 2007
46	Fabrication Services	September 12, 2006
16	Financial Institutions	April 1, 1991
21	Florists	February 1, 1989
2	Funeral Directors	November 1, 1990
12	Grocers	April 1, 2006
28	Installing Tangible Personal Property in Real Property	September 1, 1997
20	Lease and Rental Transactions	March 1, 2008
22	Manufacturers	October 15, 2000
41	Medicines, Medical Equipment and Prosthetic Devices	July 1, 1990
35	Nonresident Woods Operators *(also available in French)*	February 1, 2002
42	Original Registration of Vehicles	July 16, 2008
47	Original Registration of Watercraft, Snow. and ATV's	July 16, 2008
23	Packing, Packaging and Shipping Materials	September 1, 1997
3	Photographers and Photofinishers	July 28, 2008
52	Pine Tree Development Zones	November 23, 2005
17	Printers, Engravers and Bookbinders	November 1, 2000
10	Radio and Television Repair	December 1, 1990
48	Recycling Assistance Fee	September 1, 1997
43	Registration of Out-of-State Sellers	July 1, 1997
32	Rentals of Living Quarters	October 29, 2007
27	Sales of Prepared Food	October 1, 2001
13	Sales of Fuel and Utilities	November 1, 2001
31	Sales of Mobile and Modular Homes	September 1, 1997
39	"Sale Price" Upon Which Tax is Based	October 29, 2007
14	Seed, Feed, Fertilizer, etc.	April 1, 2006
55	Service Provider Tax	July 30, 2008
1	Service Stations and Auto Repair Shops	September 1, 1997
5	Shoe Repair	November 19, 1990
8	Small Sales and Sales by Coin Operated Vending Machines	August 1, 1991
18	Stonecutters and Monument Dealers	November 29, 1990
30	Transportation Charges	February 11, 1991
24	Vehicle Dealers	July 1, 2008
51	Veterinarians	May 10,2005
53	Warranties, Service Contract and Maintenance Agreements	July 1, 2008
6	Watch and Jewelry Repair	November 27, 1990

LISTING OF SALES AND USE TAX RULES

Rule Number	Title	Last Revision Date
101	Calculation of Interest	January 16, 2008
102	Electronic Funds Transfer	January 7, 2008
103	Record Keeping and Retention	March 30, 2008
104	Electronic Filing of Maine Tax Returns	March 11, 2008
301	Sales for Resale and Sales of Packaging Materials	January 29, 2007
302	Government Agencies, Exempt Organizations and Sales Thereto	January 9, 2007
303	Sales to Industrial Users	January 29, 2007
304	Sales Tax Returns and Payments	July 23, 2002
308	Direct Payment Permits	January 29, 2007
313	Classified Permits	January 29, 2007
318	Instrumentalities of Interstate or Foreign Commerce	November 12, 2006
321	Meals Provided in the Wild	November 12, 2006
323	Commercial Agricultural Production and Commercial Fishing	January 29, 2007
324	ConnectME Tax Reimbursements	June 19, 2007
401	Service Provider Tax – Return and Payment of Tax	November 26, 2006

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