



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

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

This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine tax law. It is written in a relatively informal style and is intended to address issues commonly faced by service stations and auto repair shops. Taxpayers are responsible for complying with all applicable tax statutes and rules. Although bulletins issued by Maine Revenue Services (“MRS”) do not have the same legal force and effect as rules, justifiable reliance upon this bulletin will be considered in mitigation of any penalties for any underpayment of tax due. This bulletin is current as of the last revision date shown at the end of the document.

The Sales and Use Tax Law is found in Part 3 of Title 36 of the Maine Revised Statutes (“M.R.S.”). Both Title 36 and all MRS rules may be seen by clicking on “Laws and Rules” at the left side of the MRS website (www.maine.gov/revenue).

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

1. SALES

36 M.R.S. § 1754-B requires persons engaged in the business of selling tangible personal property and taxable services to register as sellers with the State Tax Assessor, collect the tax from their customers, and report and pay the tax to the State on the basis of their total taxable sales, multiplied by the applicable sales tax rate. See Rule 304 (“Sales Tax Returns and Payments”).

A. Taxable Sales. Sales of tangible personal property and taxable services are subject to tax. Some of the more common taxable items sold by a service station or auto repair shop are:

- (1) Tires, batteries, parts, accessories, lubrication oils, or any other tangible personal property except as noted below.
- (2) LPG and propane for use in motor homes, travel trailers, gas grills, etc.
- (3) Kerosene in containers with a capacity of more than five gallons.
- (4) Heating oil and kerosene for commercial use. Certain commercial uses are exempt. See Instructional Bulletin No. 13 (“Sales of Fuel and Utilities”) for more information.

- (5) Diesel fuel, propane or any special fuel for off-highway use.

The taxable sale price includes the total value of the sale, including Federal taxes, even though part of the value may be paid with credits or property. See Instructional Bulletin No. 39 (“Sale Price Upon Which Tax is Based”) for more information.

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

B. Nontaxable Sales. The following sales are not subject to sales tax:

- (1) Sales of gasoline, see 36 M.R.S. § 1760(8);
- (2) Sales of special fuels (such as diesel, LPG and propane) on which a Maine excise tax is imposed, see 36 M.R.S. § 1760(8);
- (3) Sales of heating oil and kerosene when sold for home cooking and heating, see 36 M.R.S. § 1760(9);
- (4) Sales of kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of five gallons or less, see 36 M.R.S. § 1760(9);
- (5) Sales of any kind to the Federal Government, the State of Maine and political subdivisions of the State of Maine, see 36 M.R.S. § 1760(2); and
- (6) Sales to certain exempt organizations, including but not limited to, hospitals, regularly organized churches and schools, see 36 M.R.S. § 1760.

Sales may be made tax-free to sales tax exempt organizations only when the purchaser furnishes a copy of its exemption certificate to the seller at the time of the sale. The exemption does not apply to sales to the clergy, staff, or employees of exempt organizations.

See MRS Rule 302 (“Sales to Governmental Agencies and Exempt Organizations”) and Instructional Bulletin No. 36 (“Exempt Organizations and Government Agencies”) for important information on required documentation for sales to government agencies and exempt organizations.

C. Core Charges. Customers who purchase property that can be reconditioned and resold by the seller are sometimes encouraged to bring their used property to the seller by the imposition of a “core charge” on the original purchase. The core charge is refunded or credited to the customer when the used property is brought back to the seller. The core charge is part of the sale price of the new property being purchased and is subject to the sales tax.

Example: An alternator is sold for \$80.00 with a stated core charge of \$10.00. The total sale price subject to tax is \$90.00. If a used alternator is traded-in at the same time as the purchase of the new alternator, the sale price subject to tax remains at \$90.00, even though a \$10.00 credit is allowed. If the used alternator is returned to the seller at a later date and the customer is refunded the \$10.00 core charge, no refund of sales tax is allowed to the customer. The definition of “sale price” does not exclude an allowance of this sort.

2. SERVICES

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

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

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

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

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

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

Sandpaper	Soap	Tape (masking)
Wash mitts	Washer/solvent	Wax

ii. Items Transferred to the Customer. For sales and use tax purposes, items that are ultimately transferred to the possession of the customer can be handled one of two ways:

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

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

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

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

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

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

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

D. Manufacturer's Warranty. Because a manufacturer's warranty has been taxed as part of an item's original purchase price, repair and replacement parts covered by the warranty that a retailer uses to complete repairs are not subject to sales or use tax to the warrantor. Repair and replacement parts that are not covered by the warranty are subject to sales or use tax.

E. Extended Warranties. The sale of an extended service contract on an automobile or truck that entitles the purchaser to specific benefits in the service of the automobile or truck for a specific duration is a taxable service. See 36 M.R.S. § 1752(17-B). Sales of parts associated with repairs made pursuant to such a warranty are therefore not usually taxable either to the repairer or to the customer, since the parts are included in the original price of the extended warranty. If a warranty provides for a "deductible" to be paid by the customer at the time of repair or maintenance, the amount paid by the customer is first applied to non-taxable labor. If the deductible exceeds the amount charged for labor, the remaining amount is applied to taxable parts. Sales tax applies to the sale of these parts to the customer.

3. PURCHASES

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

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

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

4. RECYCLING ASSISTANCE FEES

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

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

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

The recycling assistance fee on tires is different from the sale price exclusion found in 36 M.R.S. § 1752(14-B)(13) for “any amount charged for the disposal of used tires.” When a retailer charges a customer a fee for the disposal of the tires being removed from the customer’s vehicle, the fee is not part of the taxable sale price of the new tires. The \$1.00 recycling assistance fee applies to each of the new tires being sold.

5. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the sales and use tax law faced by service stations and auto repair shops. It is not intended to be all-inclusive. Requests for information on specific situations must be in writing, must contain full information as to the transaction in question, and must be directed to:

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