



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

November 15, 2021

NO. 111

This bulletin contains important information about legislation enacted during the First Regular Session and First Special Session of the 130th Legislature and other recent developments that affect everyone who reports Maine sales, use, service provider, and other special taxes. **Please read it carefully.** The changes contain a variety of effective dates and apply to sales occurring on or after the applicable effective date.

What you will find in this publication:

SALES AND USE TAX

- ❖ **Amended Statutes:** Registration requirements for sellers
Sourcing rules
Pine Tree Development Zone reimbursement program extended
- ❖ **New Exemptions**
- ❖ **Updated Exemptions**
- ❖ **COVID-19 Related Updates**

HOSPITAL TAX

MARIJUANA EXCISE TAX

ADDITIONAL RESOURCES

Maine Revenue Services Website www.maine.gov/revenue
Laws and Rules www.maine.gov/revenue/rules/homepage.html
Sales Tax Website www.maine.gov/revenue/salesuse/salestax/salestax.html

For general assistance, call (207) 624-9693, 9 AM to 12 Noon, Monday through Friday (state holidays excepted), or email sales.tax@maine.gov.

Sales and Use Tax

Amended Statutes

ECONOMIC NEXUS THRESHOLDS UPDATED

36 M.R.S. § 1754-B(1-B)
EFFECTIVE JANUARY 1, 2022

Currently, a person making sales of tangible personal property – including products transferred electronically – or taxable services who is not located in the state of Maine is required to register with Maine Revenue Services (MRS) as a retailer and collect and remit the sales tax on sales delivered in or into Maine if the person’s total gross sales in Maine of tangible personal property or taxable services in the previous calendar year or current calendar year exceed \$100,000; or the person sold tangible personal property or taxable services in Maine in at least 200 separate transactions in the previous calendar year or current calendar year.

Currently, a marketplace facilitator is required to register with MRS as a retailer for the purposes of collecting and remitting the sales tax on all sales of tangible personal property or taxable services made through the marketplace in Maine, including sales facilitated on behalf of a marketplace seller and direct sales made by the marketplace facilitator, if the marketplace facilitator’s gross sales from delivery of tangible personal property or taxable services into Maine in the previous calendar year or current calendar year exceed \$100,000; or the marketplace facilitator sold or facilitated sales of tangible personal property or taxable services for delivery into Maine in at least 200 separate transactions in the previous calendar year or current calendar year.

Effective January 1, 2022, the 200-transaction threshold for establishing nexus for both remote sellers and marketplace facilitators is repealed. **(PL 2021, c. 181)**



DEFINITION UPDATED

“In this State”
36 M.R.S. § 1752(5)
EFFECTIVE JANUARY 1, 2022

The definition for “in this State or in the State” has been amended, effective January 1, 2022, to include sales of tangible personal property and taxable services that are sourced in this State pursuant to 36 M.R.S. § 1819. **(PL 2021, c. 181)**



PERSONS PRESUMPTIVELY REQUIRED TO REGISTER

Registration Requirement Repealed

36 M.R.S. § 1754-B(1-A)

EFFECTIVE JANUARY 1, 2022

The law providing a rebuttable presumption of nexus for persons presumed to be engaged in the business of selling tangible personal property or taxable services in the State has been repealed, effective January 1, 2022. **(PL 2021, c. 181)**



SOURCING

36 M.R.S. § 1819(2)

EFFECTIVE JANUARY 1, 2022

The sourcing provision for sales made in the State was amended by removing the word “retail,” in order to ensure all sales made on or after January 1, 2022, in the State are sourced according to this section of law. **(PL 2021, c. 181)**



EXCLUSION FROM RETAIL SALE CLARIFIED

Vehicles Rented for a Period of Less Than One Year

36 M.R.S. §§ 1752(11)(B)(3) and (3-A)

EFFECTIVE JANUARY 1, 2022

The exclusion from the definition of “retail sale” for automobiles purchased by a person engaged in the business of renting automobiles for a period of less than one year has been amended by separating into its own subparagraph the exclusion for the purchase of pickup trucks or vans with a gross vehicle weight of less than 26,000 pounds, including integral parts or accessories, made by a person primarily engaged in the business of renting automobiles. **(PL 2021, c. 181)**



PINE TREE DEVELOPMENT ZONE

Program Extended

36 M.R.S. §§ 1760(87) and 2016(4)(A)

EFFECTIVE JULY 1, 2021

The Pine Tree Development Zone (PTDZ) program has been extended. Businesses may not be certified for the program after December 31, 2023, and qualified PTDZ businesses will no longer be able to receive certain PTDZ benefits after December 31, 2033. PTDZ benefits include an exemption from sales and use tax for purchases of tangible personal property and the transmission and distribution of electricity used in a qualified business activity. **(PL 2021, c. 398)**

New Exemptions

MENSTRUAL PRODUCTS

36 M.R.S. § 1760(107)

EFFECTIVE OCTOBER 1, 2021

Beginning October 1, 2021, the law enacts a sales tax exemption for sales of menstrual products. “Menstrual products” means tampons, panty liners, menstrual cups, sanitary napkins, and other similar tangible personal property designed for feminine hygiene in connection with the human menstrual cycle. **(PL 2021, c. 398)**



AREA AGENCY ON AGING

36 M.R.S. § 1760(108)

EFFECTIVE JANUARY 1, 2022

Beginning January 1, 2022, the law provides a sales tax exemption for sales to area agencies on aging designated under 22 M.R.S. § 5116(1)(B) or sales to a public or nonprofit private agency that is operating under grants authorized by Title 22, chapter 1457 of the Maine Revised Statutes, and that is providing social services in order to secure and maintain maximum independence and dignity in a home environment of for older people capable of self-care with appropriate supportive services. **(PL 2021, c. 399)**



NONPROFIT CEMETERIES

36 M.R.S. § 1760(109)

EFFECTIVE JANUARY 1, 2022

Beginning January 1, 2022, the law provides an exemption from sales tax for sales to a cemetery company that is exempt from federal income taxation under Section 501(c)(13) of the Code. **(PL 2021, c. 416)**



CERTAIN EDUCATIONAL COLLABORATIVES

36 M.R.S. § 1760(110)

EFFECTIVE JANUARY 1, 2021

Beginning January 1, 2022, the law enacts a sales tax exemption for sales to an incorporated nonprofit collaborative whose members are regional school units, as defined in 20-A M.R.S. § 1(24-B), and that is organized to assist those units with professional development opportunities and service. **(PL 2021, c. 417)**

FIREARM SAFETY DEVICES

36 M.R.S. § 1760(111)

EFFECTIVE JANUARY 1, 2022

Beginning January 1, 2022, the law provides an exemption from sales tax on sales of firearm safety devices. A “firearm safety device” means, if specifically designed for securing firearms, a lockbox or a trigger lock or barrel lock. **(PL 2021, c. 440)**

Amended Exemptions

DIABETIC SUPPLIES

36 M.R.S. § 1760(33)

EFFECTIVE OCTOBER 18, 2021

The sales tax exemption for diabetic equipment and supplies has been amended to specify the diabetic equipment and supplies must be used *by the purchaser* in the diagnosis or treatment of human diabetes. **(PL 2021, c. 253)**



LOCALLY ORGANIZED MEMBER OF NONPROFIT WORLDWIDE CHARITABLE ORGANIZATION

36 M.R.S. § 1760(106)

RETROACTIVE TO JUNE 16, 2020

The sales tax exemption for nonprofit worldwide charitable organizations was repealed and replaced to clarify the exemption is intended for the local, community-based branches of the worldwide charitable organizations. **(PL 2021, c. 253)**

Covid-19 Related Updates

MACHINERY OR EQUIPMENT USED IN PRODUCTION

Definition of “Primarily” Modified

36 M.R.S. § 1752(9-A)

EFFECTIVE OCTOBER 18, 2021

The definition of “primarily” found in 36 M.R.S. §1752(9-A) is modified by replacing “time” with “days in use” if the 2-year period described in that definition includes any portion of the state of emergency declared by the Governor due to the COVID-19 pandemic. **(PL 2021, c. 181)**

CERTAIN PROPERTY PURCHASED OUTSIDE THE STATE

Exemption Updated
36 M.R.S. § 1760(45)(A-4)
EFFECTIVE OCTOBER 18, 2021

The sales tax exemption for property brought into the State solely to conduct activities directly related to a “declared state of disaster or emergency” has been amended to align the definition of “disaster period” with the definition found in 10 M.R.S. § 9902. **(PL 2021, c. 181)**

Other

ATV Recreational Management Fund

36 M.R.S. § 1820
EFFECTIVE JANUARY 1, 2022

The law establishes the ATV Recreational Management Fund, and beginning January 1, 2022, requires that 90% of the sales tax revenue collected from the short-term rental of all-terrain vehicles will be transferred to that fund. The remaining 10% of the sales tax revenue must be transferred to the Multimodal Transportation Fund. **(PL 2021, c. 446)**

Hospital Tax

DEFINITION UPDATED

“Municipally Funded Hospital”
36 M.R.S. § 2891(1-A)
EFFECTIVE OCTOBER 18, 2021

“Mayo Regional Hospital in Dover-Foxcroft” was removed from the definition of “municipally funded hospital” under the Hospital Tax law. The sole “municipally funded hospital” at this time is Cary Medical Center in Caribou. **(PL 2021, c. 253)**



HOSPITAL’S TAXABLE YEAR

36 M.R.S. § 2892
EFFECTIVE JUNE 29, 2021

For state fiscal years beginning on or after July 1, 2021, the hospital’s taxable year is the hospital’s fiscal year that ended during calendar year 2018. **(PL 2021, c. 29)**

Marijuana Excise Tax

NEW DEFINITIONS

“Wet Marijuana Flower” and “Wet Marijuana Trim”

36 M.R.S. §§ 4921(13) and (14)

EFFECTIVE JUNE 22, 2021

The law enacts new definitions for “wet marijuana flower” and “wet marijuana trim” to differentiate between marijuana flower and marijuana trim, where the wet versions are not dried, cured, or otherwise prepared in any manner to reduce or eliminate any water weight. This law change codifies in statute the definitions found for these terms under Office of Marijuana Policy Rule 18-691, Chapter 3, “Emergency Rule Regarding the Imposition of Excise Taxes on Sales, Purchases and Transfers of Adult Use Marijuana,” which was effective beginning August 20, 2020. **(PL 2021, c. 323)**



EXCISE TAX RATE AMENDED

Mature Marijuana Plants

36 M.R.S. § 4923(3-A)

EFFECTIVE JULY 1, 2021

Beginning with sales or transfers occurring on or after July 1, 2021, the law amends the excise tax rate imposed on mature marijuana plants from \$335 per pound to \$35 per mature marijuana plant. The excise tax is payable by cultivation facility licensees when the plants are sold or transferred to other licensees in the State.

The same rate would apply in the event a cultivating facility licensee purchases or receives a transfer of mature marijuana plants from a registered caregiver or registered dispensary pursuant to 36 M.R.S. § 4923. **(PL 2021, c. 323)**



EXCISE TAX RATE AMENDED

Wet Marijuana Flower and Wet Marijuana Trim

36 M.R.S. § 4923-A

EFFECTIVE JUNE 22, 2021

The law amends the way to determine the total weight of wet marijuana flower and wet marijuana trim for the purpose of calculating the excise tax due on those items. The total weight of the wet marijuana flower or wet marijuana trim is reduced by 75% before applying the appropriate excise tax rate. This law change codifies in statute the calculations required under Office of Marijuana Policy Rule 18-691, Chapter 3, “Emergency Rule Regarding the Imposition of Excise Taxes on Sales, Purchases and Transfers of Adult Use Marijuana,” which was effective beginning August 20, 2020. **(PL 2021, c. 323)**