



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 23

PACKING, PACKAGING AND SHIPPING MATERIALS

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

1. EXEMPTION

§1760(12-A) of the Sales & Use Tax Law provides an exemption for packaging and shipping materials. It 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 or the shipper.

- a. Requirements of Purchaser.** This exemption only applies when the purchaser uses the packaging materials to;
- i. package and ship goods owned by a third party
 - ii. package or ship goods which are being sold by the purchaser; or
 - iii. package or ship goods on which a service of cleaning, pressing, dyeing, washing, repairing or reconditioning has been performed by the purchaser.

b. Examples of Exempt Uses.

- i. 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.
- ii. 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.
- iii. Ice used by a fish processor for use in shipping fish to a customer.
- iv. A grocer using foam trays and shrink wrap to package meat.
- v. A transportation company or furniture mover purchases boxes, stuffing labels and tape to package items owned by its client for shipment to another location.

2. TAXABLE USES

Packaging items used by a business to ship or store goods which it has not sold nor serviced as mentioned above, are subject to tax. For example:

- a. Packaging materials used by a business to transport its own goods from one location to another location of the business.
- b. Packaging materials used by a business to store goods in inventory.

3. PURCHASES OF PACKAGING MATERIALS

When a person purchases packaging material, the purchaser should furnish the supplier with a resale certificate or exemption certificate as provided in Rule 301. The certificate will enable the purchaser to purchase tangible personal property without payment of sales tax. Only one certificate need be filed with each supplier to cover subsequent purchases. However, the purchaser must state to the supplier whether the purchase is for resale or exempt as packaging materials and will be held responsible for the tax on any item purchased exempt but subsequently used by the purchaser. **Purchasers who avoid payment of tax through deliberate misuse of resale certificates will be subject to prosecution.**

4.

ADDITIONAL INFORMATION.

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

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ATTACHMENT #1
Excerpts taken from 36 M.R.S.A.

36 §1760. Exemptions

12-A. 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 1995, c. 634, §1 (new); §2 (aff).

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;

Relevant Rules:

#301 - Sales for Resale and Sales of Packaging Materials