



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 24

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 vehicle dealers with respect to sales and leases of various vehicles. 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 Annotated (“MRSA”). Both Title 36 and all MRS rules may be seen by clicking on “laws and rules” on the MRS website. Affidavits referenced in this bulletin can be viewed on MRS’ website at <http://www.maine.gov/revenue/forms/sales/salesforms.htm> while bulletins can be viewed at <http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm>. All statutory references contained in the bulletin are to Title 36 of the MRSA, unless otherwise noted.

The following instructions relate to sales and leases of motor vehicles, snowmobiles, all-terrain vehicles, tractors, semi-trailers, trailers, truck campers, aircraft, and watercraft. As used in this bulletin, the term “vehicle” includes all of these kinds of property.

The Sales and Use Tax Law requires persons engaged in the business of selling tangible personal property or taxable services to register as sellers, to add the sales tax to the sale price on all sales not exempt under law, and to report and pay tax to the State on their total taxable sales.

1. TAXABLE SALES

A. SALE PRICE ON WHICH TAX IS BASED

The statutory definition of “sale price” includes “any consideration for services that are part of a retail sale.” See § 1752(14)(A). Based on this provision of the law, all charges imposed by the dealer for services that are part of the sale are considered part of the sale price of the vehicle and are subject to the sales tax. “Sale price” includes:

- “Processing fees” or “documentation fees.”
- Manufacturers’ and importers’ excise taxes.
- Rustproofing, protection packages, installation of accessories, and other additional work performed on the vehicle.
- Manufacturer’s rebates. No deduction is allowed from the sale price for manufacturer’s rebates. The fact that the rebate is assigned by the purchaser to the dealer does not change whether the rebate may be excluded from the sale price.

B. EXCLUSIONS FROM SALE PRICE (§ 1752(14)(B))

“Sale price” does not include:

- Discounts allowed by the dealer and taken on sales, including dealer rebates.
- Services provided after the customer takes delivery and after passage of title.
- Federal Luxury Tax and other retailers’ excise taxes.
- Recycling Assistance Fee (See Instructional Bulletin No. 48)
- Lead-acid battery deposits imposed pursuant to 38 MRSA § 1604(2-B).
- Fees imposed pursuant to 10 MRSA § 1169(11) for the “Lemon Law” arbitration program and consumer mediation service.
- The premium on motor vehicle oil imposed by 10 MRSA § 1020(6-A).
- Title or encumbrance fees.
- State Inspection Fees.
- Separately stated finance charges.
- Extended warranties (see Section 6B for more information).
- Credit life insurance and GAP Insurance.

C. RETURNED MERCHANDISE

When a vehicle or part is returned by a customer for a full refund, the sales tax is fully refundable to the customer. See § 1752(14)(B)(3). If a vehicle or part is returned and the customer receives only a partial refund of the sale price, no sales tax is refundable to the customer, unless the partial refund is made pursuant to the terms and conditions of a warranty. (See Section 6 for more information on warranties). For example, if a customer returns a defective tire after having used the tire for a period of time, and the terms of the warranty are such that after specified periods of use, the warranty will cover only a certain percentage of the original purchase price, the sales tax is refundable based upon the amount actually refunded to the customer. The tax previously reported by the dealer can be recovered by reducing Line 1 (“Gross Receipts”) on a subsequent Sales and Use Tax Return. Under any other circumstances, partial sale price refunds do not result in a refund of any portion of the sales tax.

2. NONTAXABLE SALES

Vehicles that are sold exempt from tax for any of the reasons noted below must be listed by the dealer on the Dealer’s and Lessor’s Supplemental Report (“ST-MV-8”) submitted to the Sales, Fuel & Special Tax Division at the same time as the regular monthly Sales Tax Return (Form ST-7). Affidavits, when applicable, must be obtained to support the exempt sale and submitted with the ST-MV-8 report listing the exempt sale. The dealer must retain sufficient information to verify the exemption, including the exemption number where applicable.

A. SALES TO THE GOVERNMENT AND TO GOVERNMENT AGENCIES

Sales made directly to the federal government, the State of Maine, and political subdivisions of the State of Maine are exempt from sales tax. See § 1760(2). Sales to other states and their agencies and subdivisions are taxable.

Sales to foreign countries and their missions and personnel may or may not be exempt from Maine sales tax. For more information on this subject, call MRS, see the web site maintained by the US Department of State, Office of Foreign Missions, Tax Program at <http://www.state.gov/ofm/tax/> or check the on-line verification program for retailers maintained by the Department of State at <https://ofmapps.state.gov/tecv/>.

For more information on government and exempt organization sales generally, see MRS Rule 302 (“Sales to Government Agencies and Exempt Organizations”) and Instructional Bulletin No. 36 (“Exempt Organizations and Government Agencies”).

B. SALES TO EXEMPT ORGANIZATIONS

The Maine Sales and Use Tax Law provides exemptions for sales to various organizations such as hospitals, schools, regularly organized churches or houses of religious worship, and a number of other types of organizations. For more information, see MRS Rule 302 (“Sales to Government Agencies and Exempt Organizations”) and Instructional Bulletin No. 36 (“Exempt Organizations and Government Agencies”). Organizations that qualify for exemption must obtain exemption certificates from MRS in accordance with MRS Rule 302, and sales should be made tax-free to these organizations only when the purchaser furnishes a copy of its exemption certificate to the seller. The exemption does not apply to purchases by the clergy, staff, or employees of exempt organizations in their personal capacities (i.e., purchases not made on behalf of the exempt organization).

Copies of purchase orders, invoices, or sales slips, and a copy of the purchaser’s exemption certificate must be kept by the seller in order to substantiate sales to exempt organizations. The exemption number of the organization must be indicated on the ST-MV-8.

C. SALES AND LEASES OF CERTAIN VEHICLES AND OTHER ITEMS

The transactions discussed below are exempt from sales tax under Section 1760 of the Sales and Use Tax Law or excluded from sales tax under Section 1752 of the law. The term “automobile” includes a pickup truck or van with a gross vehicle weight rating of 10,000 pounds or less. (Note that the retail sale exclusion for short-term rentals of automobiles and associated parts and operating supplies for automobiles applies to pickup trucks and vans weighing less than 26,000 pounds in some circumstances; see subparagraph viii.)

- i. Sales to automobile dealers of dual-controlled automobiles used in driver training programs. See § 1760(21).**
- ii. Sales of loaner vehicles to a new vehicle dealer licensed as such pursuant to 29-A MRSA § 953. See § 1752(11)(B)(8).**

For purposes of this exclusion from the definition of “retail sale,” “loaner vehicle” means an automobile to be provided to the dealer’s service customers for short-term use free of charge pursuant to the dealer’s franchise as defined in 10 MRSA § 1171(6). The use of a loaner vehicle by a new vehicle dealer as defined in 29-A MRSA,

section 851, subsection 9, provided to a service customer pursuant to a manufacturer's or dealer's warranty is also exempt from use tax pursuant to 36 MRSA § 1760(21-A). However, the dealer/purchaser may be liable for use tax on a loaner vehicle that is used for another purpose. For example, the dealer should take care to ensure that its employees do not use these vehicles for business purposes such as seminars or other training.

The exclusion does not apply when the dealer arranges pursuant to a warranty for a customer to lease an automobile from a third party.

When a loaner vehicle is provided for the short-term use of a *non*-warranty customer, tax must be remitted at the statutory rate for short-term rentals of automobiles specified in § 1811. If the dealer does not charge the customer, a \$30 per day rental charge must be imputed, and use tax is due, calculated by multiplying the statutory tax rate by the imputed rental charge of \$30/day. If the dealer charges the customer for the use of the vehicle, sales tax is due on the total rental charge. In the event that a loaner vehicle needs to be repaired while the vehicle is still part of the dealer's loaner fleet, repair parts are taxable to the dealer if not covered by a manufacturer's warranty.

iii. Sales of automobiles to amputee and blind veterans. See § 1760(22).

A sale in this State of an automobile to a person in military service is treated the same way as a sale to a civilian. However, the sale of an automobile to an amputee or blind veteran is exempt when the veteran has provided the dealer with [a letter from the Veterans Administration] certifying that he or she qualifies for free registration. A qualifying veteran may own only one exempted automobile. The exemption for amputee or blind veterans does not apply to rented or leased vehicles.

iv. Sales of certain adaptive equipment. See § 1760(95).

Sales occurring on or after July 1, 2014, of adaptive equipment to be installed in or on a motor vehicle to make that vehicle operable or accessible by a person with a disability are exempt from sales tax. The purchase must be made by or at the request of someone issued a disability plate or placard by the Secretary of State pursuant to 29-A MRSA § 521.

When a retailer sells a motor vehicle and also provides the service of installing or sub-contracting for the installation of adaptive equipment prior to delivering the vehicle to the customer, the value of the adaptive equipment must be separately stated from the value of the motor vehicle on the invoice to the customer. The value of the adaptive equipment should not be included in the purchase price of the vehicle as reported on the ST-MV-8. A copy of Form ST-A-124 ("Affidavit for Purchase of Adaptive Equipment"), signed by the purchaser must be retained by the seller to document the exempt sale.

Where the value of the adaptive equipment is not separately stated, but invoiced as one bundled price, the entire amount charged to the customer is taxable and should be reported as the purchase price of the vehicle on the ST-MV-8.

v. Sales or leases of the following items to nonresidents for immediate removal from Maine: motor vehicles (including snowmobiles and ATVs), semi-trailers, aircraft, camper trailers, and truck campers. See § 1760(23-C).

The Maine Sales Tax Law exempts the sale or lease of the above vehicles in Maine to a person that is not a resident of Maine, where the vehicle is intended to be driven or transported outside the State immediately upon delivery by the seller/lessor. If the purchaser/lessee is an individual, he or she must be domiciled in (that is, be a legal resident of) a State other than Maine. If the purchaser/lessee is a corporation or other business entity, it must maintain a commercial domicile in (that is, be headquartered in) a State other than Maine to qualify for the exemption.

The “motor vehicle” portion of this exemption does not apply to automobiles rented or leased for a period of less than one year.

At the time of the sale or lease, the dealer and purchaser/lessee must complete Form ST-A-106 (“Immediate Removal Affidavit”) (for motor vehicles, semi-trailers, aircraft, camper trailers, and truck campers). The dealer must then forward the affidavit to MRS along with the ST-MV-8 on which the sale or lease is reported as exempt.

vi. Sales to nonresidents of watercraft that are removed from Maine within 30 days. See § 1760(25).

The Maine Sales Tax Law exempts sales to nonresidents of watercraft that are removed from Maine within 30 days of delivery by the seller.

At the time of the sale, the dealer and purchaser must complete Form ST-A-113 (“Affidavit of Exemption – Watercraft”). The dealer must forward the affidavit to MRS along with the ST-MV-8 on which the sale is reported as exempt.

If a watercraft purchased by a nonresident remains in Maine for more than 30 days for a purpose other than temporary storage during the first 12 months of ownership, the exemption applies only to 60% of the sale price of the watercraft.

When a watercraft and trailer are sold as a “package” to a nonresident for immediate removal from the State, the portion of the sale price attributable to the trailer must be separately stated and sales tax collected on that amount. If the watercraft qualifies for the 60% exemption mentioned above, the exemption applies only to the watercraft and not to the trailer.

vii. Sale or lease of certain motor vehicles to qualifying resident businesses. See § 1760(23-D).

The Sales and Use Tax Law exempts 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) to a qualifying resident business if the vehicle is intended to be driven or transported outside the State of Maine immediately upon delivery and intended to be used exclusively in the qualifying resident business’s out-of-state activities.

For purposes of this exemption, “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:

1. Is organized under the laws of Maine or has its principal place of business in Maine; and
2. Conducts business activities from a fixed location or locations outside of Maine.

If the vehicle is not used exclusively in the qualifying resident business's out-of-state business activities or is registered for use in Maine within 12 months of the date of purchase/lease, the person seeking registration is liable for use tax on the basis of the original purchase price.

At the time of the sale or lease, the dealer and purchaser/lessee must complete Form ST-A-106 ("Immediate Removal Affidavit") (for motor vehicles, semi-trailers, aircraft, camper trailers, and truck campers). The dealer must then forward the affidavit to MRS along with the ST-MV-8 on which the sale or lease is reported as exempt.

viii. Sales of automobiles for short-term rental or lease. See § 1752(11)(B)(3).

Sales of automobiles that are to be rented or leased on a short-term basis are excluded from the definition of "retail sale" and are therefore non-taxable. "Short-term" means a period of less than one year.

Sales of integral parts and accessories (such as motor oil) sold for use in an automobile rented on a short-term basis are also exempt.

The statutory exclusion applicable to automobiles for short-term rental (and integral parts and accessories) also applies to pickup trucks and vans with a gross vehicle weight of less than 26,000 pounds.

The seller must obtain Form ST-A-109 ("Certificate of Exemption To Purchase an Automobile, Camper Trailer or Motor Home for Lease or Rental"), when making sales of automobiles for rental or lease and retain it as evidence that the sale was not taxable.

ix. Sales of automobiles for long-term rental or lease. See §§ 1752(11)(B)(5).

Sales of automobiles that are to be rented or leased on a long-term basis are excluded from the definition of "retail sale" and are therefore not subject to sales tax. "Long-term" means a period of one year or more.

Sales of integral parts and accessories sold for use in an automobile rented on a long-term basis are not exempt.

The seller must obtain Form ST-A-109 ("Certificate of Exemption To Purchase an Automobile, Camper Trailer or Motor Home for Lease or Rental"), when making sales of automobiles for rental or lease and retain it as evidence that the sale was not taxable.

x. Vehicles used in interstate or foreign commerce. See § 1760(41).

This exemption applies to railroad rolling stock, aircraft, watercraft, and vehicles including trailers and semi-trailers designed for the conveyance of property on public highways.

The exemption applies only to a vehicle that meets the following criteria:

- It must be placed in interstate or foreign commerce within 30 days of purchase (90 days for good cause).

- It must be used 80% of the time in interstate or foreign commerce for 2 years following the date of purchase.
- It must be used **by the purchaser** using its own Interstate Operating Authority number issued by the Federal Motor Carrier Safety Administration, hauling exempt commodities or hauling its own goods in a nontransportation business.

This exemption does not apply to vehicles that are leased or that are operating under another person's Interstate Operating Authority.

Dealers and purchasers must complete Form ST-A-111 ("Interstate Commerce Exemption Affidavit"), at the time of the sale; and the dealer must file the affidavit with the ST-MV-8 on which the sale is claimed to be exempt. See MRS Rule No. 318 ("Instrumentalities of Interstate or Foreign Commerce") for additional information.

xi. Aircraft. See § 1760(88-A).

Sales or leases of aircraft are exempt from sales tax. The sale of repair and replacement parts exclusively for use in aircraft is also exempt. This exemption sunsets on June 30, 2033.

xii. Short-term automobile rentals to service customers of new vehicle dealers. See § 1760(92).

The rental of an automobile for a period of less than one year to the service customer of a new vehicle dealer is exempt if the rental is pursuant to a manufacturer's or new vehicle dealer's warranty and the rental fee is paid by the new vehicle dealer or warrantor.

Dealers must complete Form ST-A-101 ("Affidavit Regarding Lease of Automobile for Service Customer"), and provide the affidavit to the rental company. This affidavit can be used as an individual certificate for each rental transaction or may be used as a blanket certificate to cover all rentals by the dealer from the rental company. In either case, the dealer is responsible for any tax on the rental in the event the rental ultimately does not meet the requirements of the exemption.

xiii. Sales of camper trailers and motor homes for rental. See § 1752(11)(B)(16).

Sales of motor homes or camper trailers to a person engaged in the business of renting or leasing motor homes or camper trailers are excluded from the definition of "retail sale" and are therefore non-taxable.

The seller must obtain Form ST-A-109, ("Certificate of Exemption To Purchase an Automobile, Camper Trailer or Motor Home for Lease or Rental"), when making sales of motor homes or camper trailers for rental or lease and retain it as evidence that the sale was not taxable.

D. OUT-OF-STATE DELIVERY BY DEALER

When a vehicle is sold in Maine but delivery is made by the seller to the customer at a point outside this State, the sale is exempt from sales tax. See § 1760(82). The dealer must complete Form ST-A-107 ("Affidavit to Support Out-of-State Delivery") and retain the form in

its files as documentation to support the exemption. The affidavit must be signed by the person making the delivery, not by the customer, and must be completed at the time of delivery.

Note: If the vehicle subsequently returns to Maine, the purchaser may become liable for use tax based on the original sale price.

A transaction involving an out-of-state delivery should be distinguished from one involving a nonresident purchaser who removes a vehicle from the State immediately upon delivery as explained in Paragraph C (v) above. The dealer must use the proper affidavits to support the applicable exemption.

E. SALES OF MACHINERY AND EQUIPMENT FOR USE IN COMMERCIAL AGRICULTURAL PRODUCTION, COMMERCIAL WOOD HARVESTING, COMMERCIAL FISHING, OR COMMERCIAL AQUACULTURAL PRODUCTION

The Sales and Use Tax Law provides an exemption for sales of depreciable machinery and equipment and repair parts for qualifying machinery and equipment used in commercial agricultural production, commercial wood harvesting, commercial fishing or commercial aquacultural production if the purchaser has a Certificate of Exemption card issued by MRS. See § 2013. **Sales of motor vehicles (including snowmobiles and all-terrain vehicles) and trailers designed for highway use do not qualify for this exemption or for refund under any circumstances.**

Sales of watercraft that are suitable for use in commercial fishing or commercial aquacultural production, farm tractors, and other farm equipment may qualify for exemption under this provision. The exemption does not apply when equipment suitable for other use, such as front-end loaders or lawn and garden tractors, are purchased. However the purchaser may be entitled to a refund of the sales tax paid directly from MRS.

A copy of the purchaser's Certificate of Exemption card and Form ST-A-102 ("Purchases of Electricity or Depreciable Machinery or Equipment for Use in Commercial Agriculture, Commercial Fishing or Commercial Aquacultural Production & Fuel Used in a Commercial Fishing Vessel"), signed by the purchaser must be retained by the seller to document the exempt sale. For further information regarding sales of machinery and equipment for use directly in commercial agricultural production, commercial wood harvesting, commercial fishing or commercial aquacultural production, see MRS Rule 323 (Commercial Agricultural Production, Commercial Aquacultural Production, Commercial Fishing, and Commercial Wood Harvesting) and Instructional Bulletins No. 44 (Commercial Fishing), 45 (Commercial Agriculture), 58 (Commercial Wood Harvesting) and 49 (Commercial Aquaculture).

3. TRADE-INS

When one or more of the items listed in Section 1765 of the Sales and Use Tax Law are traded in toward the sale price of another item of the same kind (i.e., motor vehicle traded for a motor vehicle, watercraft for a watercraft, etc.), the sales or use tax is levied only on the difference between the sale price of the purchased item and the trade-in value allowed for the item or items taken in trade, except for transactions between dealers involving exchange of the property from inventory. If any item of one kind is traded in toward the sale price of an item of another kind (i.e., a motor vehicle is traded in toward the sale price of a watercraft, or a camper trailer is traded in toward the sale price of a motor

home), no credit for trade-in is allowed, and the tax applies to the entire sale price. No credit for trade-ins is allowed on leased vehicles (unless the lease is a lease in lieu of purchase). See Sections 4 and 5 of this bulletin for more information on leases and rentals.

If any other property is traded towards one of the items listed in Section 1765, tax applies to the entire sale price, including any allowance for trade-in. For example, if a refrigerator is traded in towards the purchase of a watercraft, no trade-in credit is allowed, and the tax is based on the entire sale price of the watercraft.

A. MOTOR VEHICLES

In transactions involving motor vehicles, the allowance for trade-in applies only when both vehicles involved are self-propelled and are designed for the conveyance of passengers or property on the public highway. See § 1752(7). For trade-in purposes, all-terrain vehicles and snowmobiles are included within the definition of “motor vehicles.”

Trailers do not qualify as motor vehicles because they are not self-propelled.

The term “motor vehicle” includes items of equipment that are permanently attached to, and sold as one unit with, a motor vehicle. Common examples are cranes, shovels, and cement mixers. “Permanently attached” means that the components are physically joined together in a secure fashion and that they are not meant to be used independently.

A slide-in truck camper can be used independently. It is not an accessory (or part) of a truck. If a truck with a slide-in camper is traded in on the purchase of a truck without a slide-in camper, any trade-in allowance given for the slide-in truck camper is not creditable against the sales tax.

B. SPECIAL MOBILE EQUIPMENT

For trade-in purposes, special mobile equipment includes farm tractors and self-propelled vehicles and loaders used to harvest lumber, including skidders, crawler tractors, and log loaders. See § 1752(14-B). Other common examples of special mobile equipment are bulldozers, front-end loaders, forklifts, lawn tractors, backhoes, and cranes. Special mobile equipment must be self-propelled and intended to be driven by someone, and thus does not include “walk-behind” units. An item of special mobile equipment, like a crane, that is permanently attached to a motor vehicle and sold as one unit is considered a part of the motor vehicle. See A above.

C. TRAILERS

When a trailer of any type is traded in toward the sale price of another trailer of any type, a trade-in credit is allowed. “Trailer” is defined as “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.” See § 1752(19-A). “Trailer” includes a park model home, a camper trailer as defined in 36 M.R.S. § 1481(1-A), utility trailers, recreational vehicle trailers, livestock trailers, horse trailers, and boat trailers.

D. WATERCRAFT

A trade-in allowance is provided when a watercraft is traded in toward the sale price of another watercraft. An attachment or accessory to the watercraft (an outboard motor, for example) is considered a part of the watercraft when sold or traded. See § 1752(24). A trailer does not qualify for trade-in allowance when traded in, either separately or together with a watercraft, toward the sale price of a watercraft. However, a trailer traded in toward the sale price of another trailer does qualify for the trade-in credit, as noted in Paragraph C above.

4. LEASES AND RENTALS OF AUTOMOBILES

The Sales and Use Tax Law treats the rental and leasing of automobiles differently from other vehicles. This section provides information on how short-term and long-term rentals and leases of automobiles are to be treated for sales and use tax purposes.

A. SHORT-TERM RENTALS OF AUTOMOBILES

i. Generally.

Section 1811 imposes a separate tax rate on all short-term rentals involving automobiles. The term “automobile,” as noted in Section 2(C) above, includes pickup trucks and vans with a gross vehicle weight rating of 10,000 pounds or less. “Short-term” means a lease or rental period of less than one year. The tax is based on the value of the rental, which means the total rental charged, including but 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. In other words, the total amount of the rental is subject to the sales tax rate for short-term rentals without any deduction for separately itemized charges.

Notwithstanding the basic definition of “automobile” noted above, the short-term rental tax also applies to the rental of pickup trucks and vans with a gross vehicle weight of up to 26,000 pounds, but only when the rental or lease is by a person engaged primarily in the business of renting automobiles.

A dealer that makes short-term rentals of automobiles may purchase the automobiles free of tax and collect tax on each rental payment. Dealers should supply their vendors with Form ST-A-109 (“Certificate of Exemption To Purchase an Automobile, Camper Trailer or Motor Home for Lease or Rental”) when purchasing automobiles for rental purposes. All rental payments made pursuant to rental agreements executed in Maine are subject to tax even when those automobiles will not be used exclusively in Maine.

ii. Loaner vehicles.

When a loaner vehicle is provided for the short-term use of a *non*-warranty customer, tax must be remitted at the statutory rate for short-term rentals of automobiles specified in Section 1811. If the dealer makes no charge, a \$30 per day rental charge must be imputed, and use tax is due, calculated by multiplying the statutory tax rate by the imputed charge of \$30/day. If the dealer charges for the use of the vehicle, sales tax

is due on the total rental charge. In the unlikely event that a loaner vehicle needs to be repaired while the vehicle is still part of the dealer's loaner fleet, repair parts are taxable to the dealer if not covered by a manufacturer's warranty. "Loaner vehicle" means an automobile to be provided to the dealer's service customers for short-term use free of charge pursuant to the dealer's franchise as defined in 10 MRSA § 1171(6). See § 1752(5-C). See also Section 2(C)(ii) above.

B. LONG-TERM RENTALS OF AUTOMOBILES

The Sales and Use Tax Law imposes a sales tax on automobiles rented or leased for 12 months or more. See § 1811. As noted above, the term "automobile" includes pickup trucks and vans with a gross vehicle weight rating of 10,000 pounds or less. It does not include vehicles with more than 4 wheels, motorcycles, campers, motor homes, or pickup trucks and vans with a gross vehicle weight rating of more than 10,000 pounds.

The tax is due in the month the lease begins. The tax base consists of the total monthly lease payments plus the equity of any trade-in plus any cash down payment.

The amount of total monthly lease payments is determined by multiplying the dollar amount of each lease payment by the number of payments in the lease term. Taxes, such as excise taxes and sales taxes, are allowable exclusions from the tax base when separately identifiable. Ancillary services such as registration fees, life/disability insurance, "gap" insurance, and management services are excluded only if separately stated from the lease payment.

"Equity of any trade-in" is the value of any trade-in that reduces the cost of the lease. The trade-in credit in 36 MRSA § 1765 does not apply to long-term lease transactions.

"Cash down payment" means any initial cash payment that reduces the cost of the lease, including rebates that are applied to the lease, but does not include any lease pre-payments or sales tax, excise tax, registration fees, and other required "up front" costs that are disbursed by the lessor.

Nonresidents of Maine that enter into a long-term lease of an automobile with a Maine dealer should sign and provide to the dealer an ST-A-106 form ("Immediate Removal Affidavit") stating that they are going to immediately remove the automobile from the State. The dealer need not collect sales tax on the lease transaction if the dealer has an Immediate Removal Affidavit, provided the dealer took the affidavit in good faith. If the dealer knew or had reason to know that the purchaser did not intend to immediately remove the automobile from the State, or was not a nonresident at the time of the purchase, the dealer may be liable for the tax. See Section 2 (C)(v) above.

5. LEASES AND RENTALS OF VEHICLES OTHER THAN AUTOMOBILES, CAMPER TRAILERS AND MOTOR HOMES

The following information is applicable only to vehicles other than automobiles, camper trailers, and motor homes (unless otherwise noted). As of October 1, 2012, rentals of camper trailers and motor homes are subject to sales tax. See Section 4 above for information on leasing automobiles (and in some cases pickup trucks and vans that fall within the definition of "automobile"). Different types of leases have different tax consequences. Dealers involved in any of the following leases of

vehicles other than automobiles should refer to Instructional Bulletin No. 20 (“Lease and Rental Transactions”) for more detailed information.

A. TRUE LEASE

In a true lease, the lessor enters into a lease agreement with a lessee for a stated period of time and the vehicle is returned to the lessor at the end of the lease term. The lessor is making a taxable use of the vehicle by deriving rental income. The lessor is liable for use tax, due at the beginning of the lease, based on the lessor’s cost to purchase the vehicle. If the vehicle is returned to the lessor and leased to another party, no additional use tax is due. No sales tax is charged to the lessee on the individual lease payments.

B. 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 vehicle for a stated amount, such as fair market value. If the option is exercised, a taxable sale occurs and sales tax should be charged at that time to the lessee based on the option price, which should include any amounts previously paid as rentals that are applied to that price. See Section C below for leases with a \$1.00 or other nominal purchase option.

C. LEASE IN LIEU OF PURCHASE (including automobiles, camper trailers and motor homes)

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 start of the lease. The lessee should be charged sales tax up front based on a sale price equal to the amount of the total lease payments. Leases with nominal purchase options, such as \$1.00, are considered leases in lieu of purchase. Finance charges that are separately stated may be excluded from the taxable base.

D. TRADE-INS

Trade-in credits are allowed only in transactions involving the “sale” of vehicles. Unless the lease is in lieu of purchase, trade-in credits are not allowed on leases of vehicles.

E. LEASES TO EXEMPT ORGANIZATIONS

The exemption provided to certain organizations (See Section 2(B) above) generally applies only to “sales” made to these organizations, not to rentals or leases. However, rentals and leases of automobiles, leases in lieu of purchase, and other rentals that are taxed based upon the rental charge are exempt from tax when rented/leased to an exempt organization. In all other cases, a lease to an exempt organization is subject to tax. In the case of a lease with option to purchase, the lease is taxable as described in Paragraph B above, while the sale that occurs when the option is exercised is exempt.

F. INTERIM RENTALS

The Sales and Use Tax Law contains a specific provision to cover situations where tangible personal property that was purchased for resale is then rented as an interim rental under 36 MRSA § 1758. This provision does not apply to situations where the property was not purchased for resale but instead purchased only for rental purposes (other than short-term or long-term rentals or leases of automobiles, as discussed above).

The law permits the retailer that meets the requirements of Section 1758(2) to elect to collect and remit sales tax on rental payments rather than pay a use tax on the purchase price. Sales tax on interim rentals applies to rental payments from the original and any subsequent lessees. If the property is rented to a person for more than one year or the retailer makes a use of the property other than rental or sale, the retailer is liable for use tax on the property based on the retailer's purchase price (less the sales tax paid on the interim rentals).

6. REPAIRS AND MAINTENANCE

When repair parts or accessories are installed in a vehicle 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, the entire amount charged to the customer is taxable.

A. MANUFACTURER WARRANTIES

The cost of a manufacturer warranty is considered part of the sale price of the vehicle when originally purchased. Parts associated with repairs made pursuant to such a warranty are not taxable.

B. EXTENDED WARRANTIES

The sale of an extended warranty or service contract on an automobile that entitles the purchaser to specific benefits in the service of the automobile for a specific duration is a taxable service. The same is true for extended service contracts for trucks, but only for transactions entered into on or after October 9, 2013. See § 1752(17-B). Sales of parts associated with repairs made pursuant to such a warranty therefore are not usually taxable either to the dealer or to the customer since the parts are considered to have been 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 will be applied to parts, on which the customer must pay sales tax.

"Automobile" includes not only all-terrain vehicles but also pickup trucks and vans with a gross vehicle weight rating of 10,000 pounds or less. See § 1752(1-B). "Automobile" does not include vehicles with more than 4 wheels, motorcycles, campers, and motor homes nor pickup trucks and vans with a gross vehicle weight rating of more than 10,000 pounds. "Truck" means a self-propelled motor vehicle with at least 4 wheels designed and used primarily to carry property, not designed to run on tracks, and having a gross vehicle weight rating greater than 10,000 pounds; it includes a self-propelled motor vehicle that may be used to tow trailers or semitrailers. See § 1752(20-B). For information on extended warranties in general, see Instructional Bulletin No. 53 ("Warranties, Service Contracts and Maintenance Agreements").

C. GOODWILL REPAIRS

Repairs made at no charge to the customer within the 30-day period immediately following the initial purchase of a vehicle are considered to have been done pursuant to an implied warranty if the dealership that originally sold the vehicle makes the repairs. No tax is due on the sale of the parts since the implied warranty is treated as part of the original purchase price of the vehicle.

D. 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, which may then be refunded or credited to the customer when the used property is brought back to the seller. The core charge is considered part of the sale price of the new property being purchased and is subject to the sales 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 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 by the seller. 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. Core charges are not allowable as trade-in credits because this type of property does not qualify for the trade-in allowance.

E. TOOLS AND SUPPLIES

Sales of tools and equipment used in the repair of a vehicle are subject to tax when purchased by the dealer. Supplies used in repairs may or may not be taxable when purchased by the dealer. Most vehicle dealerships that have a service or repair shop maintain an inventory of what they call “shop supplies,” but this term has various meanings within the industry. For Maine sales and use tax purposes, a distinction is drawn between inventories of items that are “used” or consumed by the dealership and inventories of items that are ultimately transferred to the possession of customers.

i. Consumables

Items that fall in this category that are “used” or consumed by the dealership in the performance of their service are taxable to the dealership. If the Maine sales tax is not paid at the time of purchase, the dealership must accrue a use tax on these items. MRS does not recognize these items as part of an all-inclusive category called “shop supplies” that may be billed out as a line item to the customer. 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. Billable shop supplies

For Maine sales/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 of billable shop supplies:

A/C & heater treatment	A/C oil	Adhesives/glues
Batteries (small AA)	Body filler	Brake fluid/power steering
Brake line fittings	Coolant	Dyes-oil/A/C
Electrical/duct tape	Electrical terminals	Electrical wire
Gasketmaker/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	

7. USE TAX LIABILITY OF DEALERS

Use tax is imposed on the use or consumption in this State of tangible personal property when sales tax was not paid at the time of purchase. See § 1861.

Dealers may from time to time purchase items outside this State for use or consumption in Maine without paying tax at the time of purchase. Similarly, a dealer will sometimes withdraw from stock, for its own use and not for sale to a customer, inventory parts that were purchased tax-free through use of a resale certificate. In such cases, the purchase price must be reported on the monthly sales and use tax return under “taxable purchases” and included in the taxable base upon which use tax is computed.

A. DEMONSTRATORS

There is no use tax on vehicles used by dealers for demonstration or display purposes only. Vehicle dealers sometimes use “demonstrators” for purposes other than demonstration, and such use, unless of a *de minimis* nature, triggers a use tax liability under the “withdrawn from inventory” provision of Section 1861. The operation of a vehicle on dealer’s plates will be considered presumptive evidence of use for demonstration or test-drive purposes only and will not trigger a use tax liability of the dealer, provided the vehicle is not used for such purposes for more than 6,000 miles. **Note:** A dealer’s operation of a tow truck or car carrier is **not** considered to be used for demonstration or display purposes.

Vehicles that are sold by dealers to their salespersons are subject to tax.

B. PURCHASE AND REPAIR OF SERVICE VEHICLES

Any vehicle, other than demonstrator vehicles, used by a dealer for the operation of the business is subject to Maine Sales and Use Tax. This includes, but is not limited to, wreckers, plow trucks, loaner vehicles (other than those that are exempt under § 1752(11)(B); see Section 2(C)(ii) above), courtesy vehicles, parts and service vehicles, and any other type of maintenance vehicles.

Purchases of replacement parts for use by a dealer in reconditioning the dealer's own service vehicles, including loaner vehicles, are subject to tax. If parts purchased for resale are withdrawn from inventory for this use, the dealer must report and pay use tax on the cost of the parts.

C. PARTS USED TO REPAIR USED VEHICLES FOR RESALE

Sales of parts used to repair a used vehicle in order to put it into a saleable condition are not taxable when purchased by the dealer, since they are purchased for resale. The tax collected at the time the used vehicle is sold will include the value of parts installed.

D. CONSUMABLE SUPPLIES USED TO RECONDITION A USED VEHICLE

Consumable supplies, protective apparel, tools, and equipment used in the reconditioning of a vehicle are subject to tax when purchased by the dealer. Such items include, but are not limited to, cleaning products, waxes, polishes, gloves, safety goggles, paper towels, protective mats, squeegees, rags, brushes, and tape.

E. USE OF PROPERTY PURCHASED FOR RESALE

A seller that purchases property tax-free for resale, but subsequently withdraws the property from inventory for use inconsistent with holding the property solely for demonstration and sale, is liable for use tax based on the sale price of the property when purchased by the seller. A taxable use occurs upon the lease of a vehicle other than an automobile, or the gift or personal use of a vehicle of any type. Use tax liability accrues at the time the property is removed from inventory for use. When an automobile is withdrawn from inventory solely for rental on a short-term basis, the rental payments are subject to tax, but no use tax is due on the seller's acquisition cost of the automobile.

The good faith of a seller when purchasing property tax-free for resale may be questioned when facts reflect that the seller did not intend to purchase the vehicle solely for resale. For instance, a used car dealer purchases a new car claiming the purchase is for resale, but enters into other transactions, such as personal financing, personal insurance, and purchase of an extended warranty, that are not commonly associated with the holding of property in resale inventory. The seller's claim that the purchase was for resale in this example would not be honored.

F. VEHICLES TAKEN IN TRADE

As explained in Section 3 above, the tax on a transaction involving the sale and trade-in of a motor vehicle for a motor vehicle, a watercraft for a watercraft, etc., is measured by the net price after allowance for trade-in. Such a transaction actually involves two sales, one from the dealer to the customer, and one from the customer to the dealer, each of which includes a trade-in. However, since the price (i.e., allowance) of the vehicle traded in to the dealer by the customer is generally less than the price of the vehicle sold to the customer, the sale to the dealer by the customer rarely would result in tax liability even if it were not a sale for resale.

Consequently, when a dealer withdraws from inventory a vehicle that was acquired by trade-in for use inconsistent with holding the property solely for demonstration and sale, there will be no use tax liability unless the vehicle was acquired by the dealer either (a) in a transaction where more was paid (i.e., allowed) by the dealer for the trade-in than was charged by the dealer for the vehicle sold, or (b) in a transaction with another dealer involving the exchange of property from inventory. For example: Dealer A exchanges (trades) a vehicle from inventory with Dealer B and then leases the vehicle received in trade from Dealer B to a customer. The tax liability of Dealer A is based upon the full price of the vehicle acquired from Dealer B with no allowance for trade-in.

8. REPORTING AND PAYMENT OF TAX BY VEHICLE DEALERS

Maine vehicle dealers must collect and report sales tax on all vehicles sold in this State, unless the purchaser qualifies for an exemption. A Maine vehicle dealer may not allow the purchaser to pay the tax directly to the vehicle registration agency at the time of registration.

Dealers who represent a third-party lessor by completing the leasing contract and related documents are acting as an agent of the lessor. Such agents must collect and report the tax due on the lease. When such leases involve an automobile leased for 12 months or more the dealer must report the total taxable leasing charges on the ST-MV-8. For more information concerning leasing automobiles for a year or more, see Instructional Bulletin No. 20 (“Lease and Rental Transactions”).

A. SALES TAX RETURN (ST-7)

Every registered seller must file on or before the 15th day of each month the “Sales and Use Tax Return” (Form ST-7) covering all sales for the previous calendar month and showing tax liability for that period. Certain retailers may qualify to file returns on a quarterly or other non-monthly basis; see MRS Rule 304 (“Sales Tax Returns and Payments”) for details. Sales and use tax returns are required to be filed electronically unless the retailer has received a waiver from MRS; see MRS Rule 104 (“Filing of Maine Tax Returns”). Sales tax return forms are automatically sent to all registered sellers that have received a waiver. Payment of tax is due at the same time the return is filed.

B. DEALER’S AND LESSOR’S SUPPLEMENTAL REPORT (ST-MV-8)

Dealers must complete and file the ST-MV-8 at the same time as filing each Sales and Use Tax Return. All sales, including exempt sales, must be listed. Each lease of an automobile leased for a year or more must be listed. Trailers sold along with another vehicle as part of a “package deal” must be listed separately.

The ST-MV-8 should be submitted electronically. Paper forms are available for retailers without internet access.

i. Electronic submissions

MRS has created an Excel spreadsheet, which can be found on our forms page at <http://www.maine.gov/revenue/forms/sales/salesforms.htm>. This form is relatively easy to use and acts like a fillable form. Once the form has been completed, it should be saved and attached to an email to tax.st8@maine.gov. If a dealer's software program provides the ability to create an Excel document, the dealer's version of the Excel document may be submitted, provided the same fields of information are present on the document.

If a dealer's software program provides the ability to create another type of electronic file, such as ASCII, that electronic file may be submitted, provided it contains the same fields of information as the Excel file. Please contact our office to obtain the data requirements for each of the fields.

An Adobe .pdf fillable form is also available for those dealers who do not have the Microsoft Excel program. It can be found at <http://www.maine.gov/revenue/forms/sales/salesforms.htm>. Once the form has been completed, it should be saved and attached to an email to tax.st8@maine.gov.

ii. Paper form

For dealers who cannot create electronic documents, an Adobe .pdf form can be printed, completed by hand, and mailed to MRS at the address located at the end of this bulletin. If a dealer does not have access to our website, the dealer should call our office to request a form.

The following forms must also accompany the Supplemental Report:

- Form ST-A-106 ("Immediate Removal Affidavit") for motor vehicles (including snowmobiles and all-terrain vehicles), semi-trailers, aircraft, camper trailers, and truck campers sold for immediate removal from Maine
- Form ST-A-113 ("Immediate Removal – Watercraft") for watercraft and repairs to watercraft owned by a resident of another state
- Form ST-A-111 ("Interstate Commerce Affidavit") for vehicles used by the purchaser in interstate or foreign commerce
- Form ST-A-115 ("Affidavit of Exemption for Snowmobile and Trailgrooming Equipment") for Qualified Snowmobiles and Trail Grooming Equipment sold to incorporated nonprofit snowmobile clubs and used directly and exclusively for grooming snowmobile trails.

Paper copies of these forms can be mailed to the address located at the end of this bulletin. Alternatively, the signed documents can be scanned and the image attached to the same email as the supplemental return or in a different email to tax.st8@maine.gov. If images are emailed to MRS, the dealer should keep the signed original copy in its files as documentation to support the exemption.

Other documentation must be retained in the files of the dealer to support the following exemptions. Exemption numbers, where applicable, must be indicated on the ST-MV-8.

- Sales for resale
- Sales of automobiles to be rented or leased
- Sales to exempt organizations
- Sales to amputee veterans
- Sales to persons engaged in commercial farming, commercial wood harvesting, commercial fishing or commercial aquaculture
- Out-of-state deliveries
- Trade-in deductions. See Section 3 above.

C. DEALER’S AND LESSOR’S PROOF OF SALES TAX COLLECTED

i. Sales of Vehicles

All purchasers of vehicles must provide, as a prerequisite to registration, proof that Maine sales tax has been paid. The registration agent is required to ask to see the customer’s bill of sale or retail buyer’s order at the time of registration. Thus, it is important that the customer is informed that the bill of sale is required to be presented at the time of registration.

The bill of sale must have the following key pieces of information: the customer’s name and address, the dealer’s name and address, the date of the sale, the vehicle’s information, trade-in vehicle information (if any), the sale price, and the sales tax amount. If the transaction is exempt from sales tax, the sales tax line should indicate “EXEMPT.”

Out-of-state dealers that are registered to collect Maine sales tax must clearly indicate on their bill of sale or retail buyer’s order their Maine sales tax registration number. If this information is not provided, then MRS will assume that any sales tax listed on an out-of-state dealer’s bill of sale is not Maine sales tax.

ii. Consignment versus Brokerage Sales

A dealer that sells a vehicle belonging to another person by negotiating the terms and conditions of the sale with the purchaser is making a consignment sale. Consignment sales are retail sales on which the dealer must collect and report sales tax and issue a bill of sale. However, when the dealer does not negotiate the terms and conditions of the sale, and acts only as an intermediary between a buyer and seller, a bona fide brokerage sale occurs. In this case the dealer is not required to collect and report the tax and should not issue a bill of sale, unless it collected the tax.

iii. Leases of Automobiles

When a dealer acts as an agent of the lessor, the dealer must collect the sales tax at the time of the lease. Dealers that are affiliated with a lessor and that negotiate the terms or conditions of the lease on behalf of the lessor are treated as agents of the lessor (for example, when a Ford dealer acts on behalf of Ford Motor Credit Company by originating the leasing contract with the lessee). These agents must provide the lessee with a lease document that clearly indicates that the lessee has paid the sales tax or is not liable for the tax. This document allows the lessee to register the automobile without any further obligation. Lessors that are not represented by a Maine dealer but are nonetheless registered with Maine to collect Maine’s sales tax must indicate on the

lease document their Maine sales tax registration number. By providing that information, lessors will make clear that the sales tax amount listed on the document is Maine's sales tax. Otherwise, the registration agent will assume that sales tax listed on the lease document is not Maine sales tax.

iv. Leases of other Vehicles (other than automobiles)

When the dealer is the lessor and the lease is either a true lease or a lease with option to purchase, the dealer should complete a "Use Tax Certificate" at the time of registration and either pay the appropriate amount of use tax or indicate on the certificate that use tax is being accrued under its sales tax registration number. In the latter case, the dealer's sales tax number must be clearly identified on the use tax certificate. Dealers that enter into in a lease-in-lieu-of-purchase must report the transaction as a sale and collect the sales tax based on the total of all the lease payments, less any finance charges if stated separately. The lease document must clearly show sales tax collected because the person registering the vehicle will be required to show proof of sales tax paid at the time of registration. When the dealer sells a vehicle to a third-party lessor, the dealer must collect the sales tax based on the sale price to the lessor and provide a bill of sale or retail buyer's order to whoever will register the vehicle.

v. Rental

Dealers engaging in short-term rentals of automobiles or interim rentals must complete a "Use Tax Certificate" at the time of registration and check off "E. Other" and explain on the Certificate that the tax due will be reported as sales tax on their Maine Sales and Use Tax Return. Dealers must also check off "E. Other" and provide an explanation for loaner vehicles that are exempt under § 1752(11)(B); see Section 2(C)(ii) above.

9. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by vehicle dealers. 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:

**MAINE REVENUE SERVICES
SALES, FUEL AND SPECIAL TAX DIVISION
P.O. BOX 1060
AUGUSTA, ME 04332-1060
TEL: (207) 624-9693
TTY: -7-1-1**

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