



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 30

TRANSPORTATION CHARGES

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.

The Maine Sales and Use Tax Law imposes the sales or use tax based on the full amount charged to the customer for tangible personal property or taxable services, "... including any services which are part of a retail sale." Under certain circumstances, however, charges for transportation may be excluded from the tax base.

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

- i. Shipment is made from the retailer's place of business, or other point, **directly** to the purchaser; **and**
- ii. The transportation charges are separately stated; **and**
- iii. The transportation occurs by means of common carrier, contract carrier or the United States mails.

1. SHIPMENT DIRECTLY TO THE PURCHASER

In order to be exempt from sales tax, transportation charges must be for shipment "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.

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

- 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 a motor vehicle) from the manufacturer to the dealer, 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. SEPARATELY STATED

In order to be exempt from sales tax, transportation charges must be separately stated. 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.

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.

3. BY COMMON CARRIER

In order for transportation charges to be exempt, the transportation must occur by common carrier, contract carrier or the U.S. 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.

4. COAL SALES

It is not unusual in transactions where coal is shipped from the mine to the customer, for the transportation to be temporarily interrupted when the coal is received by the dealer. If the dealer is acting as a broker and the sale is in fact by the producer to the customer, there is no problem. If, however, the sale is by the dealer to the customer and if transportation is interrupted upon receipt by the dealer, it cannot be said that shipment "is made directly to the purchaser" from the mine.

In order for transportation charges to be excluded from the sale price of the coal there must be evidence of actual passage of title at the mine. The F.O.B. terms of the transaction are not evidence of passage of title at the F.O.B. point. The seller must be able to show by documentary evidence the actual order from a specific mine of a specific quantity of coal delivered by the mine pursuant to the specific order through its entire progress to the point of ultimate deliv-

ery. In other words, the question is whether a creditor of the buyer could identify a specific quantity of coal in the seller's hands as property of the buyer.

5. 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 §1752. Definitions

The following words, terms and phrases when used in chapters 211 to 225 have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

14. Sale price. "Sale price" means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. "Sale price" includes:

- (1) Services which are a part of a retail sale; and
- (2) 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.

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise or with respect to fabrication services pursuant to warranty;
- (7) 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;

Relevant Rules:None