



# MAINE REVENUE SERVICES PROPERTY TAX DIVISION GUIDANCE DOCUMENT

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## BUSINESS EQUIPMENT TAX EXEMPTION (BETE)

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BUSINESS EQUIPMENT TAX EXEMPTION  
36 M.R.S. §§ 691 – 700B  
Issued April 2014

1. Eligible business equipment is exempt from property taxation.
2. “Eligible Business Equipment” means qualified property that, in the absence of this exemption, would first be subject to assessment in Maine on or after April 1, 2008. Eligible business equipment includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became subject to assessment before April 1, 2008. “Eligible business equipment” also includes inventory parts.
3. “Qualified property” means tangible personal property that:
  - A. Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and
  - B. Either:
    - 1) Was subject to an allowance for depreciation under the Code on April 1st of the property tax year for which a claim for exemption under this subchapter is filed or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or
    - 2) In the case of construction in progress or inventory parts, would be subject under the Code to an allowance for depreciation when placed in service or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated.
  - C. Qualified property also includes all property that is affixed or attached to a building or real estate if the property is used primarily to further a particular trade or business activity taking place in that building or on that real estate. Qualified property does not include a building or components or attachments to a building if they are used primarily to serve the building as a building, regardless of the particular trade or activity taking place in or on the building. Qualified property also does not include land improvements if they are used primarily to further the use of the land as land, regardless of the particular trade or business activity taking place in or on the land.

4. Property owned or used by the following persons\* does not qualify for BETE:
- A public utility;
  - A person that provides radio Paging Service;
  - A person that provides mobile telecommunications services;
  - A cable television company;
  - A person that provides satellite-based direct television broadcast services;
  - A person that provides multichannel multipoint television distribution services.

\* Person means an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit.

5. The following property does not qualify for BETE:
- Office Furniture;
  - Lamps, and lighting fixtures used primarily for general office lighting;
  - Property owned or **used** by an excluded person (see section 3);
  - Telecommunications personal property
  - Gambling machines or devices; and
  - Except as noted in Section 6, property located at a retail sales facility **and** used primarily in a retail sales activity.

6. Retail Property. Property located at a retail sales facility and used primarily in a retail sales activity does not qualify for BETE, however it may qualify for the Business Equipment Tax Reimbursement Program.

A. Retail Sales Facility. "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods or services at retail or for renting tangible personal property. Retail sales facility does not include a separate structure that is used as a warehouse or call center facility. Examples –hair salons/barber shops, restaurants, automotive repair shops, dry cleaners, Laundromats, hotels/motels, bowling lanes, movie theaters, health clubs, etc.

B. Retail Sales Activity. "Retail sales activity" means an activity associated with the selection and purchase of goods or services or the rental of tangible personal property. This does not include production, manufacturing or processing.

- Definitions.
  - "Retail" means a transaction between the seller and the purchaser for consumption or use, and not for resale, by the purchaser.
  - "Located at" the retail sales facility means in or near the facility, but within the parcel of land upon which the structure is situated.
  - "Structure" means a building or other freestanding architectural construction at which an individual can be present in order to select and purchase goods or services or rent tangible personal property.

C. Certain Retail Business Equipment is Eligible. Retail business equipment eligible for exemption under BETE is very limited. All other retail property that otherwise meets BETR criteria remains eligible under the BETR program. Despite the exclusion of most retail property from the BETE exemption, retail business equipment used by a limited class of very large retailers may fall within the exemption. Business equipment located at retail sales facilities that exceed 100,000 square feet of interior customer selling space (i.e., space that is used by, and accessible to, customers) that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue from sales that are made at retail facilities located throughout Maine.

7. Property that Would Otherwise be Exempt From Taxation. Property that would be exclusive of BETE be exempt from property taxation is not eligible for BETE and is therefore not eligible for reimbursement. This property includes but is not limited to the following:

- Property located at hospitals, health maintenance organization, blood banks (See 36 M.R.S. § 652(1)(K));
- Property located at public schools (20-A M.R.S. § 4001(3)(C))
- Property included under 36 M.R.S. § 656:
  - Water pollution control facilities;
  - Air pollution control facilities;
  - Animal waste storage facilities;
  - Mining property;
  - Landing area of privately owned airport; and
  - Corporations supplying water to municipalities.

8. Depreciation of BETE Equipment. Only property that is subject to an allowance for depreciation under the IRS Code or would have been subject to an allowance for depreciation under the Code but for the fact that the property has been fully depreciated may qualify for BETE. Accrued depreciation is the difference between the reproduction/replacement cost of qualified property and its market value. Although there are different methods for calculating depreciation, appraisal techniques typically use straight-line depreciation based on depreciation schedules or tables built to reflect the age life of the equipment.

9. General Provisions.

A. Filing. The taxpayer must file the Business Equipment Tax Exemption Application reporting all eligible property by May 1 of each year. Upon written request, the assessor may grant the taxpayer an extension of time to file the application. Taxpayers are required to file annually whether or not there are changes in their BETE eligible property. The assessor(s) must review, approve and **sign** all applications.

B. Recording. All property determined to be eligible for BETE **must** be included in the municipal commitment book, and valued as if it were subject to taxation, depreciated, and adjusted by the certified municipal assessment ratio annually according to just value.

C. Records Retention/ Maine Revenue Service (“MRS”) Audit. All applications must be available for inspection by MRS and kept on file as required by the rules set forth by State Archives Advisory Board. If an audit determines that ineligible property was qualified for exemption, MRS can recapture the improperly distributed funds by a setoff against other payments due to the municipality. The recapture period is up to three years.

D. Appeals. In the event that a property is determined to be ineligible, the assessor shall provide a written notice of denial, including the reason for the denial, to the taxpayer prior to the commitment date by certified mail. Taxpayers may appeal the decision as outlined in 36 M.R.S. § 698.

10. Reimbursements. A municipality that has appropriately exempted equipment under this subchapter is entitled to recover from the State 50% of property tax revenue lost by reason of the exemption. Municipalities may also be entitled to a higher percentage of reimbursement under the following circumstances:
- A. Enhanced BETE Reimbursement: If the personal property factor exceeds 5% of all taxable property plus BETE exempt value within the municipality, then the municipality may choose to receive an enhanced BETE reimbursement from the state. The personal property factor is the total value of all business personal property in the municipality, whether taxable or exempt, divided by the value of all taxable property in the municipality plus the value that would have been assessed on BETE qualified equipment if it were taxable; and
  - B. BETE Located in Certain Tax Increment Financing (TIF) Districts. If the TIF revenue to be retained by the municipality for the municipality's own authorized project costs under the terms of the TIF is greater than the percentage of BETE reimbursement the municipality is entitled to the same percentage reimbursement that it would have retained under the TIF. This only applies to TIFs approved prior to April 1, 2008.
11. Tax Rate Calculation. In the calculation of a tax rate, a municipality is required to add to the total taxable municipal value that would otherwise be used to determine the municipal tax rate, the value of all qualified BETE equipment for which the municipality is entitled to reimbursement.
12. For the purposes of this guidance document the word municipality is inclusive of all jurisdictions located within the Unorganized Territory.
13. For questions regarding the BETE program, please contact the Property Tax Division, Maine Revenue Services, at the numbers or locations below.

NOTE: This document is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

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