



# MAINE REVENUE SERVICES

## SALES, FUEL & SPECIAL TAX DIVISION

### INSTRUCTIONAL BULLETIN NO. 32

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#### RENTAL OF LIVING QUARTERS

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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 taxpayers with respect to the rental of living quarters.

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 (“M.R.S.”). Title 36, MRS rules, instructional bulletins, certificates, and affidavits referenced in this bulletin can be viewed on the MRS website, [maine.gov/revenue](http://maine.gov/revenue).

The Maine Sales and Use Tax Law imposes a tax on the value of rental of living quarters in any hotel, rooming house, tourist or trailer camp, including casual rentals. See 36 M.R.S. § 1811; see also 36 M.R.S. §§ 1752(4), (6), (12), (19) and (20) for definitions of living quarters, hotel, rooming house, tourist camp, and trailer camp. A “casual rental” is one that is not made in a person’s ordinary course of business. Section 1811 imposes sales and use tax on the value of rental of living quarters at a higher rate than the generally applicable sales tax rate; the current rate of tax on the rental of living quarters is 9%. Sales tax is imposed at the same rate regardless of whether the transaction occurs online or through some other means.

The use of the term “retailer” in this bulletin includes an operator or owner of a hotel, motel, rooming house, cottage, camp, condominium unit, vacation home, tourist camp, trailer camp, watercraft, and campground and any building or structure kept, used, maintained, advertised as or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants. The term “retailer” also refers to room remarketers and operators of transient rental platforms. See 36 M.R.S. §§ 1752(11-B) and (20-C) for definitions of room remarketers and transient rental platforms.

#### 1. REGISTRATION REQUIREMENTS

**A. MANDATORY REGISTRATION.** Every person that is engaged in the rental of living quarters to another person in Maine must register as a retailer with MRS, including but not limited to:

(1) Every person that owns, manages, or operates, in the regular course of business or on a casual basis, a hotel, rooming house, or tourist or trailer camp in Maine, including any person that collects or receives rents on behalf of a hotel, rooming house, or tourist or trailer camp in this State;

(2) Every room remarketer; and

(3) Every person that operates a transient rental platform and reserves, arranges for, offers, furnishes, or collects or receives consideration for the rental of living quarters in Maine.

**(a) Room remarketer.** “Room remarketer” means a person who reserves, arranges for, offers, furnishes or collects or receives consideration for the rental of living quarters in Maine, whether directly or indirectly, pursuant to a written or other agreement with the owner, manager or operator of a hotel, rooming house or tourist or trailer camp. The term “room remarketer” includes retailers commonly known as “online travel companies” (“OTCs”), and may also include certain travel agents, but the term does not include so-called “traditional” travel agents that book rooms and are compensated by the retailer, with the customer paying the retailer directly for the room charge.

**(b) Transient rental platform.** “Transient rental platform” means an electronic or other system, including an Internet-based system, that allows the owner or occupant of living quarters in Maine to offer the living quarters for rental and that provides a mechanism by which a person may arrange for the rental of living quarters in exchange for payment to either the owner or occupant, to the operator of the system or to another person on behalf of the owner, occupant or operator.

See 36 M.R.S. § 1754-B.

See Section 5 below for information on reporting requirements.

**B. PERSONS MAKING ONLY CASUAL RENTALS.** The registration and reporting requirements for some individuals making only casual rentals of living quarters are different from the requirements for other retailers.

(1) A person who has only one rental unit, such as a room, a single camp, or a condominium unit for rent, and rents it for fewer than 15 days each calendar year is not considered a retailer, does not collect tax on those rentals, and is not required to register. See 36 M.R.S. § 1764. **If the property is rented through a real estate agent or other intermediary engaged in the business of renting or managing rentals of living quarters, the intermediary is required to register and collect sales tax on the rentals.** See Section 5 below for additional information.

(2) A person who makes only casual rentals of living quarters but rents the property for 15 days or more in a calendar year must be registered with MRS, regardless of whether all rentals or a portion of the rentals are made through an intermediary. The individual must

collect sales tax as required under the law for any rentals made without the use of an intermediary.

## 2. TAXABLE RENTALS

The rental of living quarters covers any rental arrangement. Examples of rental arrangements include, but are not limited to:

- Rental by an owner, operator, or tenant, directly to the public;
- Rental by an owner, operator, or tenant, using an intermediary such as a rental agency or transient rental platform;
- Rental by a room remarketer;
- Rental of timeshares by owners or associations; or
- Rentals of property held in trusts.

**A. SALE PRICE UPON WHICH TAX IS BASED.** The statutory definition of “sale price” includes “any consideration for services that are a part of a retail sale.” For the rental of living quarters, the sale price includes “all consideration received for the rental of living quarters in this State, including any service charge or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the owner, occupant, manager or operator of the living quarters, by a room remarketer, by a person that operates a transient rental platform or by another person on behalf of any of these persons.” 36 M.R.S. § 1752(14)(A)(3).

Some separate charges are excluded from the sale price of the rental of living quarters; see Section 2(C) below.

### **B. OTHER CHARGES IN CONNECTION WITH RENTALS OF LIVING QUARTERS.**

**(1) Combined room and meals.** When rentals are made in connection with a sale of prepared food, as in the case of “American plan” or “bed and breakfast” accommodations, or continental breakfast, the entire charge is taxable at the rate applicable to the rental of living quarters. If the retailer reliably establishes, to MRS’s satisfaction, sales of prepared food separately from the rental of living quarters through records kept in the regular course of its business, the retailer can apply the applicable sales tax rate to the prepared food portion of the transaction.

**(2) Incidental charges at hotels.** When a retailer offers separate non-taxable facilities or services (such as a golf course, tennis courts, telephones, internet access, laundry facilities, and pay-per-view movies) that are not a part of the rental of living quarters, and the charges for those facilities or services are paid only by persons who are allowed use of them, those charges are not subject to sales tax. However, if a rental fee is inclusive of these services and the customer has no option to exclude some or all of the services, the entire rental fee is subject to tax at the rate applicable to the rental of living quarters. For example, if a

hotel charges \$149.99 per night for a room and the fee includes access to the facility's spa, exercise room, pool, and tennis courts, the entire \$149.99 is subject to sales tax. Also, when a retailer charges a "resort fee" in addition to the rental of the room, and the customer has no option but to pay this fee (i.e., it is a condition for occupancy), the fee is a part of the sale price and subject to tax.

Sales tax applies to the amount billed for extra services that are a part of the rental of living quarters, whether or not separately stated. Some examples of services that are considered a part of the rental of living quarters include the use of a cot or crib or cooking facilities, pet fees, damage or cleaning fees, and fees or "penalties" imposed for smoking in a nonsmoking room. Service fees charged by property management firms are also subject to sales tax.

**Example:** A customer pays \$800 for the rental of a cottage. Additional fees charged to the customer are \$10 for rental of a crib and \$50 for a midweek cleaning. Sales tax applies to the total charge, including the two charges associated with the rental of the cottage (\$800 + \$10 + \$50).

**(3) Rentals of public rooms.** Rental by a retailer of a dining room, assembly room, or other area not designed for use as living quarters is not taxable. When a retailer rents a room designed as living quarters – such as a hospitality suite – the rental is considered taxable regardless of the use actually made of the room by the person renting it.

**(4) Package plans.** Retailers may offer a variety of packages that includes a night's lodging together with entertainment services; e.g., movie passes, ski lift tickets, plays, concerts, cruises, etc. These packages are typically offered for one price and do not provide a breakdown of the cost between the room rental and the other activity or activities.

In cases where a bundled transaction contains both taxable and non-taxable components, the entire amount is subject to sales tax at the highest rate applicable to the taxable components. However, if the taxable and non-taxable values are separately stated, either on the invoice to the customer or in the books and records of the retailer, sales tax would apply only to the taxable amount. Incidental services remain subject to tax; see paragraph 2(B)(2) above.

**Example 1:** A ski package includes a two-day lift ticket, two nights' rental, and two breakfasts for \$350. The customer's receipt displays the package as \$350 and the retailer does not separately account for the values of each item. The entire \$350 is subject to sales tax at the higher rate applicable to the rental of living quarters.

**Example 2:** A hotel package includes two concert tickets and one night's lodging for \$250. The customer's receipt shows the value of the tickets as \$150 and the room as \$100. The room rental of \$100 is subject to sales tax, while the ticket value is exempt.

**Example 3:** Same as Example 2, but the customer’s receipt does not provide a breakdown. However, the retailer separately accounts for the non-taxable and taxable values in its books and records. The taxable amount remains \$100, the value of the room.

### C. EXCLUSIONS FROM SALE PRICE.

**(1) Forfeited deposits or cancellation fees.** A deposit is typically required to reserve living quarters that are booked in advance. If the customer cancels or fails to show up on the scheduled day, the deposit, or a portion of the deposit, is generally forfeited. When a customer cancels their reservation on or prior to the scheduled date of arrival and the retailer retains the deposit or portion of the deposit as a “cancellation fee,” that fee is not subject to sales tax. However, if a customer simply fails to show on the scheduled date of arrival, any amount forfeited to the retailer is treated as a rental of living quarters and is subject to sales tax. See 36 M.R.S. §1752(14)(B)(8).

**(2) Gratuities and service charges.** When a customer provides a tip for an employee of a retailer, the tip is not part of the sale price and therefore is not subject to sales tax only if (1) the amount of the tip provided is wholly in the discretion or judgment of the customer; and (2) the full amount of the tip is turned over by the retailer to the employee as wages. These requirements apply whether the tip is given directly to the employee in cash or added by the customer to a charge account.

A separately stated amount or flat percentage charged or collected in lieu of a gratuity, and designated as a service charge by the retailer, is not part of the sale price when the entire amount is disbursed by the retailer to employees as wages. Otherwise, service charges must be included in the sale price, even though a portion of the flat percentage may be paid over as wages to the employees. See 36 M.R.S. § 1752(14)(B)(5).

## 3. EXEMPTIONS

**A. CASUAL RENTALS FOR FEWER THAN 15 DAYS.** In most cases, a person who has only one rental unit, such as a room, a single camp or a condominium unit for rent and rents it for fewer than 15 days each calendar year is not considered a “retailer” and is not required to collect sales tax on those rentals. See 36 M.R.S. § 1764. However, if the property is being managed by a real estate agent, transient rental platform, or other person engaged in the business of selling the rental of living quarters, that intermediary is responsible for collecting and remitting the sales tax on the rentals of living quarters regardless of the length of time the property is rented.

**B. OCCUPANCY FOR 28 DAYS OR MORE.** Rent charged to any person renting continuously for 28 days or more in the same living quarters is exempt from sales tax if (1) the living quarters are a person’s primary residence; (2) the rental is to an individual who is residing away from the individual’s primary residence in connection with education or

employment; or (3) the living quarters are rented to a person whose employees use them in connection with their employment. See 36 M.R.S. § 1760(20).

An affidavit of exemption for 28 days of continuous rental (Form ST-A-105) should be completed by the tenant or employer and by the retailer. If tax has been paid by the person during the initial 28-day period, the tax should be refunded by the retailer. If the retailer has reported and paid the tax to the State, the retailer should take a corresponding credit on the Sales and Use Tax Return filed for the period in which the refund or credit occurred.

**(1) “Continuous residence”** is determined by continuous rental of the quarters, rather than by actual occupancy of the quarters. Continuous residence is not interrupted merely by changing rooms within the same facility. Continuous residence is also not interrupted by the fact that the rental unit may be occupied at various times by different individuals, such as when an airline or construction company rents a room or block of rooms for employees who may come and go for work purposes, provided that the unit is rented and paid for by one person (i.e., the airline or construction company) for the qualifying 28 days.

**(2) “Primary residence”** means the residence maintained at the location in which the individual is domiciled. “Domicile” is the place where an individual has his or her true, fixed, and permanent home, which is typically the location where an individual has the most significant legal ties (e.g., driver’s license, voting registration, vehicle registration, ownership of real property, enrollment of children in school systems, etc.).

Examples of situations where the tenant’s primary residence is not the facility being rented are an out-of-state resident vacationing in Maine or a Maine resident with a home in Bangor who is vacationing on the coast.

An example of a situation where the tenant’s primary residence *is* the facility being rented is an individual who is renting a house, condominium, or apartment and does not maintain a primary residence elsewhere.

**(3) “In connection with education”** means in connection with education from an accredited secondary school or college at which the person is enrolled in a diploma or degree program. If a person claims that the rental is in connection with education, that person must provide the retailer with a statement from the school that the tenant is enrolled in a program.

**(4) “In connection with employment”** means that the tenant is residing away from the tenant’s primary residence due to job requirements, such as the following: an electrical contractor in northern Maine who has a job in southern Maine; a professor who is temporarily reassigned to another college in Maine; or a representative of a company who is temporarily assigned to Maine to oversee the installation and operation of its product. A person who is residing away from a primary residence while seeking employment does not meet the exemption, nor would a person who is making occasional business contacts while vacationing in Maine.

If a person claims that the rental is in connection with employment, that person must provide the retailer with a statement from the employer that the rental is required by the person's employment. If the rental is purchased by the employer for the benefit of its employees, the employer must provide the retailer with a statement that the stay is necessitated by employment and the nature of the employment.

**C. LIVING QUARTERS FURNISHED TO EMPLOYEES.** When living quarters are furnished by an employer to an employee at the place of employment and the value of the rental is allowed as a credit toward the wages of the employee, the rental is exempt from sales tax. See 36 M.R.S. § 1760(75). This occurs only when the living quarters are provided at the place of employment and an amount for the rental is credited toward the wages of the employee, regardless of whether the living quarters are actually used. The furnishing of living quarters to employees will be considered exempt from sales tax if the employer was required by the Internal Revenue Code and IRS regulations to report the value of the living quarters as taxable wages, regardless of whether or not the reporting actually occurred. If no amount is credited for the rental and the employer charges the employee for the living quarters, the charge is subject to sales tax, whether paid in cash or by payroll deduction.

**Example:** Employee receives wages in the amount of \$400 and has a payroll deduction of \$70 for payment of room rentals for the week. The rentals are subject to sales tax.

**Example:** Employee receives gross earnings in the amount of \$450. Included in gross earnings is \$50, the value of the lodging. The \$50 lodging rental is not taxable.

**D. RENTALS TO THE GOVERNMENT AND TO GOVERNMENT AGENCIES.** Rentals of living quarters made directly to the federal government, the State of Maine, and political subdivisions of the State of Maine are exempt from sales tax. See 36 M.R.S. § 1760(2). Sales to other states and their agencies and subdivisions are taxable, unless another exemption applies.

Sales to foreign governments and their missions and personnel may be exempt from Maine sales tax. For more information on this subject, see the website maintained by the U.S. Department of State, Office of Foreign Missions, Tax Program at [www.state.gov/ofm/tax/](http://www.state.gov/ofm/tax/) or check the online verification program for retailers maintained by the Department of State at <https://egov.ofm.state.gov/tecv/>.

**E. RENTALS TO EXEMPT ORGANIZATIONS.** The Sales and Use Tax Law provides specific exemptions for sales to various organizations such as hospitals, schools, regularly organized churches or houses of religious worship, and several other types of organizations. Organizations that qualify for exemption must obtain exemption certificates from MRS in accordance with MRS Rule 302 ("Sales to Governmental Agencies and Exempt Organizations"), and the sales should be made tax-free to these organizations only when the purchaser furnishes a copy of its exemption certificate to the retailer. 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). For more

information, see Instructional Bulletin No. 36 (“Exempt Organizations and Government Agencies”).

Copies of invoices and a copy of the purchaser’s exemption certificate must be kept by the retailer in order to substantiate sales to exempt organizations. See MRS Rule 302 for additional information regarding specific documentation requirements that apply depending on the method of payment.

**F. OTHER EXEMPTIONS.** The following rentals are exempt from tax:

- (1) Rentals of living quarters at a camp that is entitled to exemption from property tax as a literary and scientific or benevolent and charitable institution. See 36 M.R.S. §1760(17).
- (2) Rentals of living quarters at an institution licensed by the State for hospitalization or nursing care of human beings. See 36 M.R.S. §1760(18).
- (3) Rentals of living quarters to a student necessitated by the student’s attendance at a primary or secondary school or college. See 36 M.R.S. §1760(19).
- (4) Rentals by a children’s summer camp when an entire lump sum admission fee is charged and the provision of living quarters is only incidental to a bona fide, organized, and disciplined program of instruction and recreation.

#### **4. RENTALS OF TANGIBLE PERSONAL PROPERTY**

Retailers may rent tangible personal property that is not associated with the rental of living quarters – for example, the rental of a tent, chairs, and decorations for an outdoor event, or the rental of video and audio equipment for use in a conference space. Taxable rentals include rentals to hotel guests, rentals to persons for use at business conferences, weddings, or other events, and rentals to the general public. The rental of tangible personal property is subject to tax at the general sales tax rate.

**Note:** Prior to January 1, 2026, the rental of video media and video equipment for noncommercial playback was subject to the Service Provider Tax. Beginning January 1, 2026, those rentals are subject to sales tax at the general rate.

The rental of tangible personal property that is part of the rental of living quarters – for example, the rental of a cot or crib for use in a hotel room – is subject to sales tax at the higher rate applicable to the rental of living quarters.

For more information on leases and rentals of tangible personal property, see Instructional Bulletin No. 20 (“Lease and Rental Transactions”) and MRS Rule 326 (“Leases and Rentals of Tangible Personal Property”).

## 5. REPORTING AND PAYMENT OF TAX

Every retailer must file on or before the 15th day of each month the Sales and Use Tax Return (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 less frequent basis; see MRS Rule 304 (“Sales Tax Returns and Payments”) for details. Payment of tax is due at the same time the return is filed.

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 returns are automatically sent to all registered retailers that have been issued a waiver.

A sale occurs when there is a transfer of a service for payment. A contract for a future purchase or a deposit received toward a future purchase is not a sale until the service is delivered and the seller receives payment (“consideration”), even if the deposit is 100% pre-payment.

**Example:** A room deposit is received by the retailer in November 2025 for a stay expected to occur in July 2026. The sale should be reported on the return covering July 2026, when the customer arrives for the reservation.

### A. RENTALS OF LIVING QUARTERS THROUGH ROOM REMARKETERS OR TRANSIENT RENTAL PLATFORMS.

**(1) Owners or operators of living quarters.** An owner or operator registered with MRS that makes living quarters available through a room remarketer or a transient rental platform is required to file a sales tax return, and should report the value of sales of its living quarters made by the room remarketer or the transient rental platform as part of gross sales and as “exempt sales” on its sales tax return.

The owner or operator must collect and remit sales tax on any amounts charged to a customer that are not billed to the customer by the room remarketer or transient rental platform, such as separate charges for resort fees, extra nights, or room service.

**Example:** An operator makes a rental of living quarters through a transient rental platform in the month of June, with a sale price of \$750. The operator rents the living quarters to another customer in the same month without going through the transient rental platform, with a sale price of \$900. The operator will report \$1,650 gross sales and \$750 exempt sales on its June sales tax return, showing \$900 as taxable sales.

**Example:** A customer reserves a cottage through a room remarketer and is charged \$750 for the room, and an additional \$75 guest service charge. Upon arrival at the cottage, the customer requests an extra cot from the operator, not through the room remarketer, and is charged \$50 for the cot. The room remarketer reports the sale price of \$825 (\$750 for the rental of living quarters and \$75 for the guest service charge) as gross sales on its sales tax return. The owner of the cottage reports the

sale price of \$800 (\$750 for the rental through the intermediary and \$50 for the cot) on its gross sales, and reports \$750 exempt sales on its sales tax return.

**(2) Room remarketers and transient rental platforms (“intermediaries”).** A room remarketer should provide a properly completed resale certificate to the operator of any hotel or other operator of living quarters in this State with which it does business, pursuant to requirements and procedures set forth in MRS Rule 301 (“Sales for Resale and Sales of Packaging Materials”) and Instructional Bulletin No. 54 (“Resale Certificates”).

The sale price of the rental of living quarters includes all consideration received by the intermediary for the rental of living quarters in this State. The intermediary must therefore collect and remit sales tax on the total amount received from its customer, with no deduction for any labor charge, service charge, or any other charge or fee.

**(3) “Dual remittance” not permitted.** When a room is booked through an intermediary, the operator is not permitted to collect and remit sales tax on the net room rate charged by the operator to the intermediary, and the intermediary is not permitted to collect and remit sales tax only on its markup.

**B. CASUAL RENTALS.** An individual who makes only casual rentals of living quarters but rents the property for 15 days or more in a calendar year must be registered with MRS, regardless if any of the rentals are made through an intermediary. The individual must collect the tax as required under the law for any rentals that it makes without an intermediary. See 36 M.R.S. § 1764.

**(1)** If the individual’s only sales tax collection responsibility in Maine is the sales tax on casual rentals of living quarters, and the sales tax liability in connection with those rentals during the period covered by the income tax return (generally a calendar year) is expected to be less than \$2,000, the individual may report that sales tax on their Maine income tax return for that year rather than filing monthly sales tax returns. If the individual’s sales tax liability in connection with those rentals exceeds \$2,000 for that year, the individual must begin filing sales tax returns during the succeeding year.

**(2)** If the individual expects to collect at least \$2,000 in sales tax in the calendar year, they must register and report in the same manner required of any other retailer.

## **6. CAMPGROUNDS; TENT AND TRAILER SPACE**

**A. SALE PRICE OF RENTALS OF LIVING QUARTERS AT CAMPGROUNDS.** The rental of space for the pitching of tents or the parking of motor homes, travel trailers, and camper trailers is taxable, as is an overnight visitor fee. Day visitor fees are not subject to tax. If the tents or trailers themselves are rented for use at the campground, those rentals are also taxable.

**Example:** A campground charges a customer \$120 for a weekend rental of an RV site. Additional fees charged to the customer are a \$6 online booking fee and \$20 for two visitor (non-overnight guest) day passes. Sales tax applies to the two charges that are part of the rental of the site (\$120 + \$6). The day passes are not part of the rental of living quarters and are not taxable.

**Example:** A campground charges a four-person family \$200 for a seven-day rental of an RV site that allows for a maximum of six people and on-site overnight parking for no more than two motorized vehicles. Two friends visit for the weekend, and the family pays \$40 for their overnight visitor fees and \$10 for a third vehicle. Sales tax applies to all three charges that are part of the site rental (\$200 + \$40 + \$10).

## **B. SALES OF ELECTRICITY, WOOD AND PROPANE BY CAMPGROUNDS.**

**(1) Electricity.** Electricity sold by campgrounds, whether stated separately or not, is part of the sale price of the rental, with one exception. Sales of electricity to submetered sites are not taxable if all of the following conditions are met:

- (a)** Electric service is not provided to any particular submeter user for a period greater than six (6) consecutive months;
- (b)** The charge is for only the kilowatt hours used by that submeter user; and
- (c)** The charge for electric service may not exceed the kilowatt usage of the submeter user multiplied by the combined rate per kilowatt hour that the campground owner or operator is charged by the transmission and distribution utility and competitive electricity provider.

The sale of electricity in Maine is governed by Title 35-A, “Public Utilities.” For further detail, refer to 35-A M.R.S. § 313, “Submetering permitted in campgrounds.”

**(2) Wood.** Firewood is exempt from sales tax “when bought for cooking and heating in buildings designed and used for both human habitation and sleeping.” Any amount of firewood is presumed to meet the requirements of the sales tax exemption when the product is received by the purchaser at the retail location. See 36 M.R.S. § 1760(9).

The exemption does not apply to sales of firewood for use at campsites, unless the firewood is received by the purchaser at the campground (retail location).

**(3) Propane.** The sale of gas is exempt only when bought for heating and cooking in buildings designed and used for both human habitation and sleeping, excepting hotels. See 36 M.R.S. § 1760(9-C). Sales of propane for use in hotels, tourist and trailer camps, and overnight cabins, motor homes, and trailers are taxable. Sales of propane are also taxable when the propane is used for outdoor cooking.

When a customer returns an empty propane container and purchases a full container and is billed as a single, non-itemized charge, sales tax applies to the entire charge. If the value of the fuel and the value of the container are separately stated, sales tax applies only to the value of the fuel. See 36 M.R.S. § 1760(12).

## **7. COMPLIMENTARY ROOMS AND ROOMS PROVIDED AT REDUCED PRICES**

**A. ROOM PROVIDED TO A DISSATISFIED CUSTOMER.** When a dissatisfied customer is not charged at all for a room, it is considered a canceled sale, and no sales tax is due. If a dissatisfied customer is given a free room in the future, that subsequent transaction is considered a tax-free complimentary room. If a dissatisfied customer is charged a discounted amount on the next visit, a discounted sale occurs and sales tax must be collected on the discounted amount.

**B. COMPLIMENTARY ROOMS.** If a complimentary room is provided to a customer who rents one or more rooms or purchases more than one night's rental, the value of the complimentary room is considered a discount, and sales tax must be collected on the remaining sale price.

### **Examples:**

- Complimentary room provided to a customer on a special occasion, such as an anniversary or reunion;
- Complimentary room provided to a tour group, such as a bus driver, tour guide, or banquet planner;
- Complimentary room provided to a special guest, such as an actor or entertainer; (but see below for rooms involving contracted entertainers); or
- A two-nights-for-one special.

If a complimentary room is provided without the purchase of any other tangible personal property or taxable service, for instance if a dignitary or public official is provided with a free room for the night, the complimentary room is not taxable.

**C. ROOMS TO CONTRACTED ENTERTAINERS.** When a retailer hires an entertainer and provides a room to the entertainer as part of the contractual arrangement between the two parties, the room is subject to sales tax based on the sale price of the room; rather than paying cash, the entertainer is providing consideration in the form of services rendered. When a complimentary room is provided to a hired entertainer outside of any contractual obligation, no sales tax is due.

**D. GIFT CERTIFICATES.** When a person purchases a gift certificate, the person is exchanging cash for a form of credit. No sales tax applies to the sale of a gift certificate because no taxable service is being purchased at that time. When the certificate is later redeemed for occupancy of a room, sales tax is collected at that time (unless a specific exemption applies).

When a gift certificate is purchased for less than its face value, the difference between the face value and the purchase value may be treated as a retailer discount because that value will not be recovered from any other source. When the certificate is later redeemed, the retailer reduces the taxable sale price of the transaction provided the retailer is able to document or otherwise establish, to the satisfaction of the assessor, the value paid for the certificate and is treating the difference as a retailer discount.

**Example:** Customer purchases a “Deal of the Day” certificate with a face value of \$100 for \$75. When the certificate is redeemed, the retailer, having made prior arrangements for this offer to occur, has documentation establishing that the amount paid for the certificate was \$75. If the retailer rents a room valued at \$150 to the customer, \$25 of the certificate (\$100 less the amount paid of \$75) is treated as a retailer discount, reducing the taxable sale price of the room to \$125 (\$150 less \$25). The amount paid for the certificate, \$75, is treated as an amount paid for rental of the room.

**Example:** A nonprofit organization is given a \$50 certificate free of charge to use in a raffle contest. The winner of the raffle later redeems the certificate on a rental with a face value of \$125. Provided the retailer has documentation establishing that this certificate was provided free of charge and that it will not be reimbursed for the certificate value from any other source, the retailer can treat the \$50 as a retailer discount and reduce the taxable sale price of the rental to \$75 (\$125 less \$50).

For more information on coupons and rebates, see Instructional Bulletin No. 39 (“Sale Price Upon Which Tax is Based”).

## 8. PURCHASES

Sales tax should be paid to the supplier on the purchase by a retailer of tangible personal property to be used in the business, including items such as soap, towels, and paper products intended for use by customers as well as office supplies, cleaning and maintenance supplies, and similar items. If sales or use tax is not collected by the seller, use tax on these items must be reported on the retailer’s sales and use tax return.

When sales of prepared food and drink items are made in connection with the rental of a hotel room (as with, for example, “bed and breakfast accommodations” and facilities offering continental breakfast), the entire charge is taxable at the rate applicable to the rental of living quarters, and the retailer would not pay use tax on the ingredients of the meal. When a hotel provides “complimentary” food and drink items to guests in a common area, such as coffee and cookies in the lobby, these items are not considered to be included in the charge for the room. Since these items are given away by the retailer for no consideration, the retailer may not purchase these items tax-free for resale using a resale certificate, and must therefore either pay tax on its purchase of these items or accrue use tax.

## 9. 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:

**MAINE REVENUE SERVICES  
SALES, FUEL & SPECIAL TAX DIVISION  
P.O. BOX 1060  
AUGUSTA, ME 04332-1060  
[maine.gov/revenue](http://maine.gov/revenue)  
[sales.tax@maine.gov](mailto:sales.tax@maine.gov)**

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