

MAINE STATE LEGISLATURE

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§ 1751. Short title

Chapters 211 to 225 shall be known and may be cited as the
"Sales and Use Tax Law."

R.S.1954, c. 17, § 1.

§ 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:

1. Advertisement. "Advertisement" means any public announcement of whatever kind or character and includes any notice or announcement in any radio or television broadcast, newspaper, magazine, catalog, circular, handbill, sign, placard or any billboard.

2. Business. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

3. Farm tractor. "Farm tractor" means any self-propelled vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

4. Hotel. "Hotel" means every building or other 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 and tenants.

1959, c. 350, § 2; 1961, c. 227, § 2.

5. In this State or in the State. "In this State" or "in the State" means within the exterior limits of the State of Maine and includes all territory within these limits owned by or ceded to the United States of America.

6. Living quarters. "Living quarters" means sleeping rooms, sleeping or housekeeping accommodations, and tent or trailer space.

1961, c. 227, § 3.

7. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways.

8. Passenger automobile. "Passenger automobile" means any self-propelled 4-wheel motor vehicle, not designed to run on tracks, including so-called beach wagons and station wagons, designed to carry not more than 8 passengers.

9. Person. "Person" includes any individual, firm, copartnership, association, society, club, corporation, estate, trust, business trust, receiver, assignee or any other group or combination

acting as a unit, and the plural as well as the singular number, and the State and Federal Governments and all political subdivisions or agencies of either of them.

10. Retailer. "Retailer" means every person engaged in the business of making sales at retail or renting any living quarters in any hotel, rooming house, tourist or trailer camp and every person required to register by section 1754 or registered under section 1756.

1959, c. 350, § 3.

11. Retail sale or sale at retail. "Retail sale" or "sale at retail" means any sale of tangible personal property, in the ordinary course of business, for consumption or use, or for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property, and any rental of living quarters in any hotel, rooming house, tourist or trailer camp. The term "retail sale" or "sale at retail" includes conditional sales, installment lease sales, and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later. The term "retail sale" or "sale at retail" does not include any sale by an executor or administrator in the settlement of an estate, unless such sale is made through a retailer, or unless such sale is made in the continuation or operation of a business; nor does the term include any other isolated transaction in which any tangible personal property is sold, transferred, offered for sale or delivered by the owner thereof, such sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of a like character by such owner, such transactions being elsewhere sometimes referred to as "casual sales". "Casual sale" shall not include any transaction in which tangible personal property is sold, transferred or offered for sale by a representative for the owner's account when such representative is a registered retailer, in which event such registered retailer shall have the same duties respecting such sale as if he had sold on his own account. "Retail sale" and "sale at retail" do not include the sale of tangible personal property which becomes an ingredient or component part of, or which is consumed or destroyed or loses its identity in the manufacture of, tangible personal property for later sale but shall include fuel and electricity. It shall be considered that tangible personal property is "consumed or destroyed" or "loses its identity" in such manufacture, if it has a normal physical life expectancy of less than one year as a usable item in the use to which it is applied. "Retail sale" or

“sale at retail” do not include the sale of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials when sold to persons for use in packing, packaging or shipping tangible personal property sold by them or upon which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business and which are transferred to the possession of the purchaser of such tangible personal property.

1955, c. 144; 1959, c. 350, § 4; 1961, c. 57.

12. Rooming house. “Rooming house” means every house, boat, vehicle, motor court, trailer court or other structure or any place or location kept, used, maintained, advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings.

1959, c. 350, § 5; 1961, c. 227, § 4.

13. Sale. “Sale” means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration in the regular course of business and includes leases and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts are deemed to be in lieu of purchase by the State Tax Assessor.

14. Sale price. “Sale price” means the total amount of the sale or lease or rental price, as the case may be, of a retail sale, including any services that are a part of such sale, valued in money, whether received in money or otherwise, including 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 therefrom 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 whatsoever. Discounts allowed and taken on sales shall not be included. “Sale price” shall not include allowances in cash or by credit made upon the return of merchandise pursuant to warranty, or the price of property returned by customers when the full price thereof is refunded either in cash or by credit, nor shall “sale price” include the price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated. “Sale price” shall not include the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer, excepting any manu-

facturers' or importers' excise tax; and shall not include the cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser provided such charges are separately stated and provided such transportation occurs by means of common carrier, contract carrier or the United States mails.

1963, c. 374.

15. Storage. "Storage" includes any keeping or retention in this State for any purpose, except subsequent use outside of this State, of tangible personal property purchased at retail sale.

16. Storage or use. "Storage" or "use" does not include keeping or retention or the exercise of power over tangible personal property brought into this State for the purpose of subsequently transporting it outside the State.

17. Tangible personal property. "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses, but shall not include rights and credits, insurance policies, bills of exchange, stocks and bonds and similar evidences of indebtedness or ownership.

18. Tax Assessor. The words "Tax Assessor" mean the State Tax Assessor.

19. Tourist camp. "Tourist camp" means a place where tents or tent houses, or camp cottages or other structures are located and offered to the public or any segment thereof for human habitation.

1959, c. 350, § 6; 1961, c. 227, § 5.

20. Trailer camp. "Trailer camp" means a place where space is offered with or without service facilities to the public for tenting or for the parking and accommodation of automobile trailers which are used for living quarters and the rental price shall include all service charges paid to the lessor.

1959, c. 350, § 6; 1961, c. 227, § 6.

21. Use. "Use" includes the exercise in this State of any right or power over tangible personal property incident to its ownership when purchased by the user at retail sale.

R.S.1954, c. 17, § 2; 1955, c. 144; 1959, c. 350, §§ 1-6; 1961, c. 57; c. 227, §§ 1-6; 1963, c. 374.

§ 1753. Tax is a levy on consumer

The liability for, or the incidence of, the tax on tangible personal property provided by chapters 211 to 225 is declared to be a levy on the consumer. The retailer shall add the amount of the tax on such property and may state the amount of the taxes separately from the price of such property on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of such property. This section shall in no way affect the method of collection of such taxes on such property as now provided by law.

R.S.1954, c. 17, § 37.

§ 1754. Registration of sellers

In order to facilitate the enforcement of chapters 211 to 225, the following persons, other than casual sellers, shall register with the Tax Assessor:

1. Maintains place of business. Every seller of tangible personal property, whether or not at retail, maintaining within this State any office, place of manufacture, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

2. Makes sales or solicits orders. Every seller of tangible personal property not maintaining such a place who makes retail sales within this State or who solicits orders by means of salesmen within the State for retail sales for use, storage or other consumption within the State.

1959, c. 68, § 1.

3. Consignee or agent. Every consignee or agent who makes retail sales in the State of tangible personal property on behalf of a principal who is without the State if the principal is not the holder of a valid registration certificate.

4. Sales for use within State. Every agent, representative, salesman, entrepreneur, solicitor, distributor or independent selling agent, when such person receives compensation by reason of sales of tangible personal property made outside the State by his principal for use, storage or other consumption in the State, and every salesman within the State of any seller subject to subsection 2, if said principal is not the holder of a valid registration certificate.

1959, c. 68, § 2.

5. Hotels, rooming houses and camps. Every person managing or operating a hotel, rooming house, tourist or trailer camp or collecting or receiving rents therefrom on behalf of the owner or operator.

1959, c. 350, § 8.

Forms for application for registration certificates and registration certificates shall be prescribed and furnished free by the Tax Assessor. For each place of business the Tax Assessor shall issue a registration certificate which shall be conspicuously displayed at such place. No certificate shall be assignable, but it may be used by the legal representative of a registrant deceased, incompetent, bankrupt or insolvent.

In the case of a vendor who has no fixed place of business and sells from one or more vehicles, each such vehicle shall constitute a "place of business" for the purpose of this section. In the case of a vendor who has no fixed place of business and does not sell from a vehicle, the application for license shall nevertheless set forth a place to which any notice or other communication authorized by chapters 211 to 225 may be sent.

R.S.1954, c. 17, § 6; 1959, c. 68, §§ 1, 2; c. 350, § 8.

§ 1755. No registration unless tax paid

Whenever any tangible personal property whose sale or use is subject to tax under chapters 211 to 225 is required to be registered for use within this State by any law other than this, the applicant for registration, whether or not the owner, shall himself pay the sales tax or use tax or shall prove that said tax is not owing, as a prerequisite to the granting of such registration.

1959, c. 69, § 2.

§ 1756. Voluntary registration

Every seller of tangible personal property, not required by section 1754 to register, may register upon such terms as the Tax Assessor may prescribe. Upon registration, he shall have the rights and duties of a person required to be registered and shall be subject to the same penalties. The person so registered may at any time surrender his registration certificate and request that the same be canceled. Upon receipt of such certificate and request, the Tax Assessor shall grant the same, if it appears to the Tax Assessor that the registrant has satisfied all liability to the State and that he is not required by law to register. Upon surrender of his certificate, the registered person shall

cease to collect sales or use taxes upon sales taking place on and after the date of such surrender.

R.S.1954, c. 17, § 8; 1961, c. 63, § 1.

§ 1757. Revocation of registration; reconsideration and appeal

The Tax Assessor may revoke any registration certificate when the registrant has failed for 15 days after notice to file bond or deposit required under section 1759, or may revoke for cause a registration certificate issued under section 1756. In either case, such revocation shall not be effective until 15 days after notice to the registrant. Within said 15-day period the person registered may petition in writing for reconsideration. If a written petition for reconsideration is not then filed, the revocation becomes effective at the expiration of the period. If a petition is filed within the 15-day period, the Tax Assessor shall reconsider the order, and if the petitioner has so requested in his petition, shall grant the petitioner an oral hearing and shall give the petitioner 10 days' notice of the time and place thereof. For cause shown, the Tax Assessor may extend the time for filing such petition. Any registrant aggrieved by the decision upon such petition may appeal therefrom as provided in section 1958.

1961, c. 63, § 2; 1963, c. 41.

§ 1758. Tax on interim rental of property purchased for resale

Every person making a purchase for resale or use in this State and other than at casual sale of any article of tangible personal property as to which no sales tax has been paid pursuant to chapters 211 to 225 and renting it to another in this State shall be liable for a use tax thereon as provided in section 1861 based on the purchase price thereof, unless such renting is while holding it for resale and unless within 30 days after first so renting it he certifies in writing to the Tax Assessor on a form prescribed and furnished by the Tax Assessor that such article was purchased by him for resale. A tax is imposed at the same rate as that provided in the case of sales taxes by section 1811 upon all rentals received by such person for use of the article covered by such certification; and if such person thereafter makes any use of, or disposes of, such article other than by renting it to others or by making a sale thereof which is subject to a sales tax or by holding it for such sale, he shall be liable for a use tax

thereon as provided in section 1861 based on the purchase price paid therefor by him less the aggregate amount of tax paid pursuant to this section on the rentals thereof. The tax on rentals imposed by this section shall be subject to section 1812 and all other pertinent provisions of chapters 211 to 225 and for the purposes thereof shall be treated the same as the sales tax imposed by section 1811 with the rentor deemed to be the retailer, the rentals deemed to be the sale price, and the rentee deemed to be the purchaser and consumer. Any certification under this section shall cover one article only with its attachments and accompanying accessories, if any. The term "renting" as used in this section shall include renting, letting, leasing and chartering and the term "rentals" as used in this section shall include any receipts derived from the use of any such article covered by any such certification.

1961, c. 58.

§ 1759. Bonds

When, in the judgment of the Tax Assessor, it is necessary or advisable for the collection of sales or use taxes or both, he may require from a taxpayer a bond written by a surety company qualified to do business in this State and in such amount and upon such condition as the Tax Assessor may determine. In lieu of such bond he may accept, for delivery to the custody of the Treasurer of State, a deposit of money or securities in such amount and of such kind as he may approve. Such deposit shall be accepted by the Treasurer of State who shall safely keep the same subject to the instructions of the Tax Assessor.

R.S.1954, c. 17, § 7; 1959, c. 68, § 3.

§ 1760. Exemptions

No tax on sales, storage or use shall be collected upon or in connection with:

1. Exemptions by constitutional provisions. Sales which this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

2. State and political subdivisions. Sales to the State or any political subdivision, or to the Federal Government, or to any agency of either of them.

3. Food products for human consumption. Sales of food products. The term "food products" shall, except as otherwise provided, include cereals and cereal products; milk and milk

products, other than candy and confectionery, but including ice cream; oleomargarine; meat and meat products; fish and fish products; eggs and egg products; vegetable and vegetable products; fruit and fruit products, including pure fruit juices; spices, condiments and salt; sugar and sugar products other than candy and confectionery; coffee and coffee substitutes; tea, cocoa and cocoa products, other than candy and confectionery.

“Food products” shall not include spirituous, malt or vinous liquors; soft drinks, sodas or beverages such as are ordinarily dispensed at bars or soda fountains or in connection therewith; medicines, tonics, vitamins and preparations in liquid, powdered, granular, tablet, capsule, lozenge or pill form, sold as dietary supplements or adjuncts, except when sold on the prescription of a physician; water, including mineral bottled and carbonated waters and ice.

“Food products” shall not include meals served on or off the premises of the retailer; or drinks or food furnished, prepared or served for consumption at tables, chairs or counters, or from trays, glasses, dishes or other tableware provided by the retailer.

The sale of food products ordinarily sold for immediate consumption on or near the location of the retailer is a taxable sale even though such products are sold on a “take out” or “to go” order and are actually packaged or wrapped and taken from the premises. Meals, food and drink served to patients and inmates of hospitals licensed by the State for the care of human beings and other institutions licensed by the State for the hospitalization or nursing care of human beings, or institutions, agencies, hospitals, boarding homes and boardinghouses licensed by the Department of Health and Welfare under Title 22, sections 5 and 3797, and Title 34, section 2211, shall be deemed “food products.”

1961, c. 87; 1963, c. 394.

4. Ships' stores. Sale of cabin, deck, engine supplies and bunkering oil to ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce, not to include fuel.

1957, c. 358.

5. Medicines. Sales of medicines for human beings sold on doctor's prescription.

6. School meals. Sales of meals served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school.

7. Products used in agricultural production, and bait. Sales of seed, feed, hormones, fertilizer, pesticides, insecticides, fungicides, weed killers, defoliant, litter and medicines used in agricultural production and sales of bait to commercial fishermen.

1957, c. 402, § 4.

8. Motor vehicle fuel. Sales of gasoline and motor fuels upon which a tax is now imposed by the State, or any other state or province, but the tax payable upon such fuels not used by vehicles on the highway shall be deducted from any refund of the gasoline tax sought by the purchaser.

1959, c. 358.

9. Coal, oil and wood. Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in homes, hotels and apartment houses, and other buildings designed both for human habitation and sleeping.

10. Cigarettes. Sales of cigarettes, subject to other taxes imposed by chapter 703.

1955, c. 405, §§ 28, 48.

11. Sales of liquor. Sales of spirituous or vinous liquors sold in stores operated by the State Liquor Commission.

12. Containers. Sale of returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

13. Bibles. Sales of the Bible and also other books and literature and utensils of worship used in and by established churches for religious instruction and prayer.

14. Publications. Sales of any publication regularly issued at average intervals not exceeding 3 months.

15. Sales to proprietors of unincorporated hospitals. Sales to proprietors of unincorporated hospitals of hospital supplies and equipment. By "hospital supplies and equipment" is intended all tangible personal property bought for the care, treatment and housing of patients of the hospital or any other purpose necessarily incident to the operation of the hospital.

16. Hospitals, research centers, churches and schools. Sales to incorporated hospitals, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of operating educational television or radio stations, schools and regularly organized churches or houses of

religious worship, excepting sales, storage or use in activities which are mainly commercial enterprises. "Schools" mean incorporated nonstock educational institutions, including institutions empowered to confer educational, literary or academic degrees, which have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, which keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual.

1961, c. 380, § 1.

17. Camps. Rental charged for living quarters, sleeping or housekeeping accommodations at camps entitled to exemption from property tax under section 652, subsection 1.

1959, c. 350, § 9.

18. Certain institutions. Rental charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings.

1959, c. 350, § 9.

19. Schools. Rental charged for living quarters, sleeping or housekeeping accommodations to any student necessitated by attendance at a school as defined in subsection 16.

1959, c. 350, § 9.

20. Continuous residence; refunds and credits. Rental charged to any person who resides continuously for 28 days at any one hotel, rooming house, tourist or trailer camp. Tax paid by such person to the retailer under section 1812 during the initial 28-day period shall be refunded by the retailer. Such tax reported and paid to the State by the retailer may be taken as a credit by the retailer on the report filed by him covering the month in which refund was made to such tenant.

1959, c. 350, § 9; 1961, c. 227, § 9.

21. Automobiles used in driver education program. Sales to automobile dealers, registered under section 1754, of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without consideration or for a consideration of not more than \$1 a year, and used exclusively by such schools in driver education programs.

22. Automobiles to amputee veterans. Sales of automobiles to veterans who are granted free registration of such vehicles by the Secretary of State under Title 29, section 251. Certificates of exemption or refunds of taxes paid shall be granted under such rules or regulations as the Tax Assessor may prescribe.

23. Passenger automobiles. Passenger automobiles purchased by a nonresident and intended to be driven or transported outside the State immediately upon delivery by the seller.

24. Funeral services. Sales of funeral services.
1955, c. 477.

25. Boats sold to nonresidents. Sales to nonresidents of yachts and other pleasure boats and commercial vessels and boats either delivered outside the State or actually registered for numbering, enrolled or documented under federal or foreign law in the appropriate customhouses or registry offices for location thereof or home ports therefor outside the State and delivered in the State to be sailed or transported outside the State immediately upon delivery by the seller.

1957, c. 199.

26. Volunteer fire departments. Sales to incorporated volunteer fire departments.

1957, c. 354.

27. Aircraft purchased by a nonresident. Aircraft purchased by a nonresident and intended to be driven or transported outside the State immediately upon delivery by the seller. (1961, c. 400.)

R.S.1954, c. 17, § 10; 1955, c. 405, §§ 28, 48; c. 477; 1957, cc. 199, 354, 358; c. 402, § 4; 1959, c. 350, § 9; c. 358; 1961, c. 87; c. 227, §§ 8, 9; c. 380, § 1; c. 400; 1963, c. 394.

§ 1761. Advertising of payment by retailer

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by chapters 211 to 225 will be assumed or absorbed by the retailer, or that it will not be added to or included in the selling price of the property sold, or if added or included that it or any part thereof will be refunded. Any person violating any part of this section shall be guilty of a misdemeanor.

R.S.1954, c. 17, § 13.

§ 1762. Sale of business; purchaser liable for tax

If any retailer liable for any tax or interest levied shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within 15 days after the date of selling or quitting business. His successor, successors or assignees, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes and interest due and unpaid, until such time as the former owner shall produce a receipt from the Tax Assessor showing that they have been paid or a certificate stating that no taxes or interest are due. If a purchaser of a business or stock of goods shall fail to withhold purchase money, he shall be personally liable for the payment of the taxes and interest accrued and unpaid on account of the operation of the business by any former owner, owners or assignors.

R.S.1954, c. 17, § 17.

§ 1763. Presumptions

The burden of proving that a transaction was not taxable shall be upon the person charged with tax liability.

R.S.1954, c. 17, § 9.

§ 1764. Tax against isolated motor vehicle transactions except sale for resale

The tax imposed by chapters 211 to 225 shall be levied upon all isolated transactions involving the sale of motor vehicles excepting those sold for resale, and excepting an isolated transaction involving the sale of motor vehicles to a corporation when the seller is the owner of a majority of the common stock of such corporation.

1955, c. 359, § 3; 1959, c. 356.

§ 1765. Trade-in credit for vehicles

When one or more motor vehicles or farm tractors are traded in toward the sale price of another motor vehicle or farm tractor, the tax imposed by chapters 211 to 225 shall be levied only upon the difference between the sale price of the purchased motor vehicle or farm tractor and the sale price of the motor vehicle or vehicles or farm tractor or tractors taken in trade.

R.S.1954, c. 17, § 11.