



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 46

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## FABRICATION SERVICES

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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 engaged in fabrication services. 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 Service Provider Tax Law is found in Part 4 of Title 36 of the Maine Revised Statutes (“M.R.S.”). Title 36 and all MRS rules may be seen by clicking on “Laws and Rules” at the left side of the MRS website ([www.maine.gov/revenue](http://www.maine.gov/revenue)). Bulletins referenced below can be viewed at [www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm](http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm).

This bulletin only addresses the service provider tax as it applies to persons providing fabrication services. Services described in this bulletin that are not fabrication services may be subject to sales tax. A retailer engaged in providing services associated with the sale of tangible personal property should review Instructional Bulletin No. 39 (“Sale Price Upon Which Tax is Based”) and Instructional Bulletin No. 53 (“Repairs and Warranties”).

### 1. FABRICATION SERVICES IN GENERAL

Fabrication services are taxable under the service provider tax. See 36 M.R.S. § 2552(1). “Fabrication services” means the production of tangible personal property for consideration for a person who furnishes, either directly or indirectly, the materials used in that production. See 36 M.R.S. § 2551(3). “Production” means an operation that transforms or converts personal property by physical, chemical or other means into a form, composition or character different from that in which it originally existed. See 36 M.R.S. § 2551(12).

Unlike the sales and use tax, the service provider tax is a levy on the seller of the service, not on the purchaser. The service provider is not required to “pass the tax on” to the purchaser, but is permitted to do so. If a service provider does include the tax on the customer’s bill, it must be shown as a separate line item and identified as “service provider tax.” See 36 M.R.S. § 2552(2).

Fabrication services includes services that result in the production of tangible personal property or that constitute a step in a process or series of operations that result in the production of tangible personal property that did not originally exist. Charges for fabrication services are

subject to the service provider tax when the purchaser furnishes the materials or when a third party, at the direction of the purchaser, furnishes the materials.

Examples:

- A customer supplies a carpenter with lumber and wants cabinets made from this lumber.
- A customer supplies a quilt top, backing, and batting and wants a quilt made from this material.
- A customer supplies fabric to a seamstress and asks for drapes to be made from the material.
- A customer brings logs to a mill and wants boards made from the logs.
- A customer supplies the head of a moose to a taxidermist to be stuffed and mounted.
- A customer supplies green pottery to a person to be fired and cured.
- A customer supplies wool from a sheep and wants yarn to be carded and spun.
- A customer supplies steel and wants it cut, shaped, drilled, or formed.
- A customer supplies paper to a printer to produce an advertising pamphlet.
- A paper mill supplies logs to a chipper and requests that the logs be chipped into biomass fuel.
- A customer supplies a ring to a jeweler and asks that it be made into a broach.
- A customer's shirt is monogrammed with the customer's business logo.
- A customer's ring is engraved with the customer's initials.
- A customer's trophy, headstone or monument is etched or engraved.

All fabrication services performed in Maine are subject to the service provider tax unless an exemption applies. This applies to out-of-state customers who send a product into Maine on which fabrication labor is performed, even though the product is returned to the customer at an out-of-state location. Fabrication services performed outside the State are not subject to service provider tax.

The following are examples of the types of services that do not transform or convert the form, composition, or character of the materials provided by the customer, and therefore are not fabrication services:

- Tinting material is added to a customer's car window.
- A customer's business name is painted on the side of the customer's vehicle.
- Repair services (see Section 2 below).
- Application or installation services (see Section 3 below)

Retailers and service providers are encouraged to contact MRS when uncertain whether a particular service constitutes taxable fabrication labor.

All fabrication services performed in Maine are subject to the service provider tax unless an exemption applies. This includes when an out-of-state customer sends a product into Maine

to have fabrication services performed, even though the product is returned to the customer at an out-of-state location.

## **2. REPAIR SERVICES**

“Fabrication services” does not include the repair, refurbishing, or reconditioning of tangible personal property to restore the property to its original design.

The following are examples of the types of services that constitute repair services rather than fabrication services and are not subject to the service provider tax:

- Reupholstering or refinishing furniture
- Rust removal
- Sanding and/or repainting tangible personal property
- Sharpening saw blades

## **3. APPLICATION OR INSTALLATION SERVICES**

“Fabrication services” does not include a charge for attaching, affixing, installing, or applying a completed item of tangible personal property to other tangible personal property.

The following are examples of the types of services that constitute application or installation services rather than fabrication services and are not subject to the service provider tax:

- Labor charged for framing a customer’s piece of art.
- Labor charged by a carpenter to install kitchen cabinets that were provided by the customer.
- Labor charged for painting a building.

## **4. EXEMPT SALES OF FABRICATION SERVICES**

The service provider tax does not apply to sales of fabrication services in the following situations:

**A. Fabrication of exempt commodities.** The tax does not apply to charges for fabrication of tangible personal property where a sale to the purchaser of the tangible personal property being fabricated would be exempt from or not subject to sales tax. Examples of fabrication of exempt commodities are:

- Fabrication of machinery or equipment for use directly and primarily in production of tangible personal property for later sale or lease.
- Fabrication of ingredients or component parts of tangible personal property produced for later sale or lease.
- Fabrication of food products for home consumption, such as a butcher preparing meat from a customer’s moose, deer, or cow.

**B. Fabrication for exempt organizations.** The tax does not apply to charges for fabrication services to the federal government, the State of Maine or its political subdivisions (such as counties, cities, or towns) or any agency of any of the above

governments, or to any other entity (such as a school, church or hospital) that has been issued an exemption certificate by MRS.

**C. Sale of fabrication services for resale.** The tax does not apply to the sale of fabrication services to another service provider for resale, if the purchaser has provided the seller with a resale certificate. A purchaser in need of a resale certificate for this purpose must contact MRS.

**D. Certain additions to real property.** Taxable fabrication services occur only when tangible personal property is produced and transferred to the customer as tangible personal property. If tangible personal property is produced and is incorporated into realty by the fabricator, the tangible personal property is being transferred to the customer as real property, and the fabricator's labor is not taxable fabrication services. If the fabricator has purchased additional material, the fabricator must pay sales or use tax on those materials.

For example, a customer provides barn boards to a carpenter and requests that a pantry be built and permanently installed in the customer's kitchen. The carpenter is transferring real property to the customer and the carpenter's labor to build the pantry is not taxable fabrication services. The carpenter would pay sales tax when purchasing nails, screws, glue, and other materials used in building and installing the pantry.

If the carpenter built the pantry as a free-standing pantry that was not permanently installed, the carpenter would be transferring the pantry to the customer as tangible personal property, and the carpenter's labor would be taxable fabrication services. The carpenter would not pay sales tax when purchasing nails, screws, glue, and other materials used in building the pantry, as these items would be ingredients or components of the finished product and purchased for resale. See section 5, subsection B below.

Charges for fabrication of tangible personal property that will be incorporated into real property by someone other than the fabricator are subject to tax. See Instructional Bulletin No. 28 ("Installing Tangible Personal Property in Real Property") for more information.

**E. Casual or isolated sales of fabrication services.** Sales of fabrication services made by a person who is not engaged in providing fabrication services in the ordinary course of repeated and successive transactions of a like character are not taxable services.

## **5. PURCHASES BY FABRICATORS**

**A. Machinery and equipment.** Purchases of machinery and equipment and associated repair parts used directly and primarily in the production of tangible personal property for sale or lease are exempt from sales and use tax. This exemption also applies when the tangible personal property is being fabricated for ultimate sale or lease by another. In order to qualify for exemption, machinery or equipment must meet all of the following qualifications:

- i. The property produced must be intended ultimately for sale or lease,** not for use by the owner. For example, use of printing equipment to produce

catalogs for a department store that supplies the materials is not a qualifying use, because the catalogs are not intended for sale or lease by the store.

**ii. The property produced must be intended for sale or lease as tangible personal property,** not as real estate. For example, use of machinery to fabricate structural steel for a contractor who will erect it is not a qualifying use because the steel is not intended for sale or lease in the form of tangible personal property.

**iii. The machinery or equipment must be used directly in production** of tangible personal property, not in procurement or storage operations or any other activities that are simply incidental, convenient, or remote to production.

**iv. The machinery or equipment must be used primarily (more than 50% of the time) in production.** Machinery or equipment used 50% or more of the time in fabricating tangible personal property that will not be sold or leased is subject to tax.

**B. Ingredient or component part.** Items that will be physically incorporated in tangible personal property and actually pass to the purchaser may be purchased exempt by the fabricator since they are being purchased for resale. Some examples of purchases that would be exempt are staples used by a printer to assemble catalogs; nails and glue used by a cabinetmaker to assemble cabinetry; and sheet metal screws used by a sheet metal shop to fabricate ductwork.

Purchases of items that will become an ingredient or component part of fabricated property **to be incorporated into real estate by the fabricator** are subject to sales and use tax.

**C. Consumed or destroyed.** Tangible personal property, except fuel and electricity, that is consumed or destroyed or loses its identity directly and primarily in the production of tangible personal property for later sale or lease, other than lease for use in this State, is exempt from sales and use tax. In order to qualify for this exemption, an item that is “consumed or destroyed” must have an actual physical life expectancy of less than one year in the use to which it is applied without regard to obsolescence.

In order to be exempt under this provision, items must be consumed or destroyed directly and primarily in production meeting the qualifications set forth in paragraph A, “Machinery and equipment,” above.

See Instructional Bulletin No. 22 (“Manufacturers”) for more information.

## **6. ADDITIONAL INFORMATION**

The information in this bulletin addresses some of the more common questions regarding the service provider tax law faced by fabricators. It is not intended to be all-inclusive. Requests for information on specific situations must be in writing, must contain full information as to the transaction in question, and must be directed to:

**MAINE REVENUE SERVICES  
SALES, FUEL & SPECIAL TAX DIVISION  
P.O. BOX 1060**

**AUGUSTA, ME 04332-1060**  
**TEL: (207) 624-9693 FAX: (207) 287-6628**  
**V/TTY: NexTalk 7-1-1**  
**[www.maine.gov/revenue](http://www.maine.gov/revenue)**

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