

§1754-B. Registration of sellers**1. Persons required to register.**

[PL 2019, c. 401, Pt. B, §9 (RP); PL 2019, c. 441, §2 (RP).]

1-A. Persons presumptively required to register.

[PL 2021, c. 181, Pt. B, §4 (RP).]

1-B. Persons required to register. Except as otherwise provided in this section and section 1951-C, the following persons, other than casual sellers, shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part:

A. Every person that has a substantial physical presence in this State and that makes sales of tangible personal property or taxable services in this State, including, but not limited to:

(1) Every person that makes sales of tangible personal property or taxable services, whether or not at retail, that maintains in this State any office, manufacturing facility, distribution facility, warehouse or storage facility, sales or sample room or other place of business;

(2) Every person that makes sales of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople within this State, for retail sales within this State; and

(3) Every lessor engaged in the leasing of tangible personal property located in this State that does not maintain a place of business in this State but makes retail sales to purchasers from this State; [PL 2021, c. 181, Pt. B, §5 (RPR).]

B. Every person that makes sales of tangible personal property or taxable services in this State if the person's gross sales from delivery of tangible personal property or taxable services into this State in the previous calendar year or current calendar year exceeds \$100,000; [PL 2021, c. 181, Pt. B, §5 (RPR).]

C. Every person that has a substantial physical presence in this State and that makes retail sales in this State of tangible personal property or taxable services on behalf of a principal that is outside of this State if the principal is not the holder of a valid registration certificate; [PL 2021, c. 181, Pt. B, §5 (RPR).]

D. Every agent, representative, salesperson, solicitor or distributor that has a substantial physical presence in this State and that receives compensation by reason of sales of tangible personal property or taxable services made outside this State by a principal for use or other consumption in this State; [PL 2021, c. 181, Pt. B, §5 (RPR).]

E. Every person that manages or operates in the regular course of business or on a casual basis a hotel, rooming house or tourist or trailer camp in this State or that collects or receives rents on behalf of a hotel, rooming house or tourist or trailer camp in this State; [PL 2021, c. 181, Pt. B, §5 (RPR).]

F. 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 this State; [PL 2021, c. 181, Pt. B, §5 (RPR).]

G. Every room remarketer; [PL 2021, c. 181, Pt. B, §5 (RPR).]

H. Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of the owner of that property or the provider of those services; [PL 2021, c. 181, Pt. B, §5 (RPR).]

I. Every person not otherwise required to be registered that sells tangible personal property to the State and is required to register as a condition of doing business with the State pursuant to Title 5, section 1825-B; [PL 2021, c. 181, Pt. B, §5 (RPR).]

J. Every person that holds a wine direct shipper license under Title 28-A, section 1403-A; and [PL 2021, c. 181, Pt. B, §5 (RPR).]

K. A marketplace facilitator if the marketplace facilitator's gross sales of tangible personal property or taxable services in this State in the previous calendar year or current calendar year exceeds \$100,000.

For the purposes of this paragraph, the marketplace facilitator's gross sales include sales facilitated on behalf of marketplace sellers and any sales of tangible personal property or taxable services made directly by the marketplace facilitator. [PL 2021, c. 181, Pt. B, §5 (NEW).]

[PL 2021, c. 181, Pt. B, §5 (RPR).]

1-C. Certain activities. For purposes of subsection 1-B, the following activities do not constitute substantial physical presence in this State:

A. Solicitation of business in this State through catalogs, flyers, telephone or electronic media when delivery of ordered goods is effected by the United States mail or by an interstate 3rd-party common carrier; [PL 2019, c. 401, Pt. B, §11 (NEW); PL 2019, c. 441, §4 (NEW).]

B. Attending trade shows, seminars or conventions in this State; [PL 2019, c. 401, Pt. B, §11 (NEW); PL 2019, c. 441, §4 (NEW).]

C. Holding a meeting of a corporate board of directors or shareholders or holding a company retreat or recreational event in this State; [PL 2019, c. 401, Pt. B, §11 (NEW); PL 2019, c. 441, §4 (NEW).]

D. Maintaining a bank account or banking relationship in this State; or [PL 2019, c. 401, Pt. B, §11 (NEW); PL 2019, c. 441, §4 (NEW).]

E. Using a vendor in this State for printing. [PL 2019, c. 401, Pt. B, §11 (NEW); PL 2019, c. 441, §4 (NEW).]

[PL 2019, c. 401, Pt. B, §11 (NEW); PL 2019, c. 441, §4 (NEW).]

2. Registration certificates. Application forms for sales tax registration certificates must be prescribed and furnished free of charge by the assessor. The assessor shall issue a registration certificate to each applicant that properly completes and submits an application form. A separate application must be completed and a separate registration certificate issued for each place of business. A registration certificate issued pursuant to this section is nontransferable and is not a license within the meaning of that term in the Maine Administrative Procedure Act. Each application for a registration certificate must contain a statement as to the type or types of tangible personal property that the applicant intends to purchase for resale and the type or types of taxable services that the applicant intends to sell, and each retailer registered under this section must inform the assessor in writing of any changes to the type or types of tangible personal property that it purchases for resale or to the type or types of taxable services that it sells.

If the retailer maintains a place of business in this State, the retailer shall make available a copy of the registration certificate issued for that place of business at that place of business for inspection by the assessor, the assessor's representatives and agents or authorized municipal officials. If the retailer does not have a fixed place of business and makes sales from one or more motor vehicles, each motor vehicle is deemed to be a place of business.

[PL 2011, c. 535, §5 (AMD).]

2-A. Making sales after revocation. A person whose sales tax registration certificate has been revoked by the assessor pursuant to section 1757 who continues to make retail sales in this State

commits a Class D crime. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[PL 2003, c. 452, Pt. U, §3 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2-B. Provisional resale certificates; new accounts. The assessor shall issue a resale certificate to each applicant for initial registration that states on its application that it expects to make annual gross sales of \$3,000 or more. A resale certificate issued between January 1st and September 30th is effective for the duration of the calendar year in which it is issued and the 3 subsequent years. A resale certificate issued between October 1st and December 31st is effective until the end of the 4th succeeding calendar year. Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid.

[PL 2019, c. 401, Pt. B, §12 (AMD).]

2-C. Issuance and renewal of resale certificates; contents; presentation to vendor. On November 1st of each year, the assessor shall review the returns filed by each registered retailer unless the retailer has a resale certificate expiring after December 31st of that year. If the retailer reports \$3,000 or more in gross sales during the 12 months preceding the assessor's review, the assessor shall issue to the registered retailer a resale certificate effective for 5 calendar years. Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid.

A registered retailer that fails to meet the \$3,000 threshold upon the annual review of the assessor is not entitled to renewal of its resale certificate except as provided in this subsection. When any such retailer shows that its gross sales for a more current 12-month period total \$3,000 or more or explains to the satisfaction of the assessor why temporary extraordinary circumstances caused that retailer's gross sales for the period used for the assessor's annual review to be less than \$3,000, the assessor shall, upon the written request of the retailer, issue to the retailer a resale certificate effective for the next 5 calendar years.

[PL 2019, c. 401, Pt. B, §13 (AMD).]

3. Failure to register. A person who is required by this section to register as a retailer with the assessor and who makes retail sales in this State without being so registered commits a Class E crime. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[PL 2003, c. 452, Pt. U, §4 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1995, c. 640, §3 (NEW). PL 1997, c. 504, §8 (AMD). PL 2003, c. 452, §§U3,4 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 673, §§AAA1,2 (AMD). PL 2005, c. 12, §O2 (AMD). PL 2005, c. 12, §O5 (AFF). PL 2005, c. 218, §§18-21 (AMD). PL 2005, c. 519, §OOO1 (AMD). PL 2007, c. 328, §§5-7 (AMD). PL 2009, c. 373, §§5-7 (AMD). PL 2009, c. 496, §17 (AMD). PL 2011, c. 535, §5 (AMD). PL 2013, c. 200, §§1-4 (AMD). PL 2013, c. 200, §6 (AFF). PL 2013, c. 331, Pt. A, §1 (AMD). PL 2013, c. 546, §10 (AMD). PL 2013, c. 588, Pt. A, §45 (AMD). PL 2017, c. 375, Pt. A, §§4, 5 (AMD). PL 2019, c. 401, Pt. B, §§9-13 (AMD). PL 2019, c. 441, §§2-4 (AMD). PL 2021, c. 181, Pt. B, §§4, 5 (AMD).

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