

**TESTIMONY OF
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Before the Joint Standing Committee on Taxation
Hearing Date: *Wednesday, April 26, 9:30 AM*

LD 1184 – *“An Act to Exempt Certain Prescribed Home Medical Supplies from Sales Tax”*

Senator Grohoski, Representative Perry, and members of the Taxation Committee – good morning, my name is John Sagaser, Tax Policy Counsel in the Office of Tax Policy at Maine Revenue Services. I am testifying at the request of the Administration Neither For Nor Against LD 1184, *“An Act to Exempt Certain Prescribed Home Medical Supplies from Sales Tax.”*

This bill would exempt sales of medical equipment and supplies prescribed by a healthcare provider when payment is made by an insurance company, municipal or state agency or specified federally funded program.

Current law provides a sales tax exemption for “sales of medicines for human beings sold on a doctor’s prescription,” with an exclusion for “the sale of marijuana pursuant to Title 22, chapter 558-C.” There is not a similar blanket exemption for sales of medical equipment and supplies, although there are several narrower exemptions. Furthermore, third-party payment for a purchase does not in itself change the nature of the sale from being a sale to the consumer to being a sale to a third-party payor, such as insurance company or government agency. MRS Sales Tax Division Instruction Bulletin No. 41 addresses the topic in more detail.

For the new exemption proposed by this bill to be administrable, we recommend the proposal clarify both which products and which types of transactions would be eligible for the sales tax exemption. The terms “Medical equipment and supplies” and “prescription” are not statutorily defined and could be construed broadly to include essentially any product ordered by a “health care provider.” While Maine Revenue Services’ Sales Tax Informational Bulletin No. 41 discusses the prescriptions and certain medical equipment and supplies relative to existing narrower exemptions, we recommend that both terms used in this bill – “prescription” and “medical equipment and supplies” – be defined in statute.

In addition, it is unclear whether the exemption would apply to partial payments made by an insurer. It is also unclear whether an individual would be entitled to a credit if they paid the cost of the goods (including sales tax) and were later reimbursed by the insurer.

The phrase “federally funded program[s] such as Medicare or Medicaid” may also broaden the exemption beyond its intended scope, potentially including other federally funded programs that occasionally pay for prescribed medical equipment and supplies on a beneficiary’s behalf. The Committee should consider amending the proposal to expressly name the federally funded programs intended to benefit from this exemption.

The Committee should also consider expressly limiting the exemption to sales of medical equipment and supplies for humans; as drafted, this exemption may extend to purchases of medical equipment and supplies sold pursuant to a veterinarian’s prescription, paid for by a pet insurance company.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions.