

Massachusetts “Tech Tax” Abatement Applications Due December 31, 2013

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In September 2013, Massachusetts enacted legislation to retroactively repeal the extension of the 6.25 percent Massachusetts sales and use tax to certain types of computer system design and software modification services (often referred to as the “tech tax”). Subsequently, the Massachusetts Department of Revenue (MDOR) issued guidance regarding procedures for vendors to (A) issue refunds to customers of previously collected tech taxes and (B) apply for abatements of tech taxes previously reported and/or remitted to the MDOR.

Generally, vendors that filed tax returns that included tech taxes and/or remitted tech taxes to the MDOR must electronically file abatement applications **no later than December 31, 2013**.

More specifically, the MDOR guidance provides the following procedures for affected vendors:

- **Vendors that Filed Returns AND Remitted Tech Taxes:** Vendors that have collected the tech tax from customers, filed a sales/use tax return and remitted the collected amounts to the MDOR have until December 31, 2013 to electronically apply for an abatement through their online MDOR “WebFile for Business” account (available on the MDOR’s website), and, as a prerequisite to receiving a refund from the MDOR, must establish to the MDOR that the full amount of the tech tax has been repaid or credited to the customers from whom the tax was collected.
- **Vendors that Filed Returns, but have not Remitted Tech Taxes:** Vendors that have collected the tech tax from customers and filed a sales/use tax return, but have not remitted the collected amounts to the MDOR, must (A) make reasonable efforts to return such amounts to the customers from whom the tax was collected, and (B) electronically submit applications for abatement by December 31, 2013 to eliminate any assessment of sales/use tax shown as due on the filed sales/use tax return(s).
- **Vendors that Collected Tech Taxes, but have not Filed Returns:** Vendors that have collected the tech tax from customers, but have not filed a sales/use tax return to report the tech tax or remitted the collected amounts to the MDOR, must make reasonable efforts to return such amounts to the customers from whom the tax was collected.

Finally, the MDOR has taken the position that no person who failed to comply with the collection and payment requirements of the tech tax prior to its repeal will be subject to any fines, penalties or fees as a result of such failure.

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