

Massachusetts "Tech Tax" Repealed

Written by Nicola Lemay, Earl W. Mellott, Christopher "Kip" Cawley

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On September 27, 2013, Massachusetts Governor Deval Patrick signed legislation to retroactively repeal the recent 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"). The legislation repealing the tech tax passed the Massachusetts House of Representatives by a vote of 156-1 and the Massachusetts Senate unanimously.

The new law repealing the tech tax, together with new guidance issued by the Massachusetts Department of Revenue (MDOR) on September 30, 2013, provides that:

- 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;
- 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 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); and
- No person who failed to comply with the collection and payment requirements of the tech tax prior to its repeal would be subject to any fines, penalties or fees as a result of such failure.

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