

Sales/Use/Indirect:

Massachusetts: Letter Ruling Says Nontaxable Services Involving Inconsequential Sales of TPP Remain Nontaxable

Letter Ruling 24-1: Taxability of Genetic Testing and Analysis Services, Mass. Dept. of Rev. (6/12/24). In a letter ruling involving a company providing “DNA testing and analysis” and ancestral/health history reports to individual customers worldwide, the Massachusetts Department of Revenue (Department) held that underlying charges to Massachusetts customers for processing and analysis of saliva specimens that are personally collected by customers in Massachusetts using test kits and then sent to the company’s out-of-state laboratory are *not* considered taxable services under the facts pursuant to state sales and use tax law. In doing so, the Department reasoned that the company is providing nontaxable personal services that involve “an inconsequential sale of tangible personal property for which no separate charge is made,” and therefore such overall services remain nontaxable under state law. Under the provided facts, the purchase price of the saliva test kit is not separately stated on the invoice provided to the customer; and the test kit has a value of less than \$1, which, regardless of the particular package selected, is less than 10% of the total charge to a customer. The Department also concluded that because these transactions are not subject to Massachusetts sales tax, if the saliva test kits are purchased by the company in Massachusetts, the company must pay Massachusetts sales tax when it purchases them. Alternatively, if the test kits are purchased or manufactured outside of Massachusetts, the company must pay Massachusetts use tax on the saliva test kits that are ultimately transferred to its customers in Massachusetts. Please contact us with any questions.

URL: <https://www.mass.gov/letter-ruling/letter-ruling-24-1-taxability-of-genetic-testing-and-analysis-services>

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