

Income/Franchise:

Massachusetts DOR Proposes Amendments to Corporate Nexus Rule Addressing P.L. 86-272 and Internet Activity

Proposed Amended Rule 830 CMR 63.39.1: Corporate Nexus, Mass. Dept. of Rev. (3/28/25); *Notice of Public Hearing*, Mass. Dept. of Rev. (3/28/25). The Massachusetts Department of Revenue (Department) is proposing changes to its rule on the circumstances pursuant to which certain business corporations may be subject to Massachusetts' corporate excise tax under Mass. Gen. Laws chapter 63 – specifically by amending 830 CMR 63.39.1(4)(e) to “clarify that certain in-state activities conducted by a vendor through an Internet website accessible by persons in the state may not be protected activities within the meaning of Public Law 86-272.” As an illustrative example, the proposed rule states:

URL: https://www.mass.gov/regulations/830-CMR-63391-corporate-nexus-proposed-regulation-amendment?utm_medium=email&utm_source=govdelivery

URL: https://www.mass.gov/info-details/notice-of-public-hearing-april-29-2025-63391?utm_medium=email&utm_source=govdelivery

“in-state activities that are conducted by a vendor through an Internet website accessible by persons in the state may include activity that is not entirely ancillary to the solicitation of orders of tangible personal property, such as the placement of Internet cookies onto the computers or other electronic devices of in-state customers that gather customer search information used to adjust production schedules and inventory amounts, develop new products, or identify new items to offer for sale.”

In proposing these rule amendments, the Department notes that under Mass. Gen. Laws. chapter 63, § 39 and 830 CMR 63.39.1, corporate remote vendors that lack physical contacts with Massachusetts and that are not protected under P.L. 86-272 are presumed to be subject to the net income measure of the corporation excise when the volume of their Massachusetts sales for the taxable year exceeds \$500,000. The Department has scheduled a virtual public hearing on April 29, 2025, to address these proposed rule changes, and any written testimony on the proposal is due on the same date. Please contact us with any questions.

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