



Sales and Use Tax DOR Directive 96-1

Massachusetts
Department of
Revenue

Prepaid Telephone Calling Cards

Introduction:

A prepaid telephone calling card ("Calling Card") entitles the holder of the card to a predetermined amount of long distance telephone service. Calling Cards may be marketed by retail vendors, such as convenience stores, which are not providers of telecommunications services. The holder of a Calling Card can generally initiate calls from any location in the United States. The telecommunications provider which issued the the Calling Card maintains a record of its usage, permitting the holder to redeem all or only a portion of the value of the card when making a call.

Issue:

Is sales tax due when a Calling Card is transferred by a retail vendor of the card to its customer or when that person later uses the card to purchase long distance telecommunications services?

Directive:

Sales tax on long distance telecommunications services which are purchased by using a Calling Card must be collected and remitted by the telecommunications provider based on the origination point of the call and the provider's tariff rate for the telecommunications services.

Discussion of Law:

Massachusetts imposes an excise upon all retail sales of tangible personal property and telecommunications services in Massachusetts by a vendor unless otherwise exempt. Telecommunications services are defined as "any transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiberoptics, laser, microwave, radio, satellite or similar facilities but not including cable television." The excise is imposed at the rate of five percent of the sales price of the property or telecommunications services sold. G.L. c. 64H, §§ 1, 2.

Sales of interstate telecommunications services are deemed to take place in Massachusetts if the call originates from or is received at a location within Massachusetts and the services are either paid for in Massachusetts or charged to a service address in Massachusetts. G.L. c. 64H, § 1. Calls which originate in Massachusetts and are paid for by a Calling Card are paid for or charged to a service address in Massachusetts within the meaning of G.L. c. 64H, § 1.

Since a Calling Card is a method of payment for a taxable service, the transfer of the Calling Card itself by a vendor to a retail customer for consideration is not a retail sale of tangible personal property nor a sale (or resale) of telecommunications

services. Amounts received by a vendor from its customers for Calling Cards are therefore not part the vendor's gross receipts presumed to be subject to tax. See G.L. c. 64H, § 8.

A "sale" of telecommunications services occurs when the Calling Card is used by a retail customer to purchase long distance telecommunications services. The "sales price" subject to tax is the telecommunications provider's applicable tariff rate for the services purchased with the card or, in the absence of a tariff rate, the full consideration for the telecommunications services that would have been paid without the use of the Calling Card. The tax must be included in the amount which the telecommunications provider debits from the Calling Card and must be remitted to the Department by the telecommunications provider.

The telecommunications provider which issues Calling Cards is the consumer of the plastic or paper cards themselves. Since the cards are not tangible personal property purchased for resale, the telecommunications provider must pay sales tax on cards purchased in Massachusetts and use tax on cards which are for use, storage or consumption in Massachusetts. G.L. c. 64H, §§ 1, 2 and G.L. c. 64I, §§ 1, 2.

The rules in this directive are specifically limited to Calling Cards and apply whether the card is transferred to a retail customer for consideration or as part of a promotional program. The rules in this directive may not apply to other cards, coupons, certificates or similar documents which may be redeemed by the holder for taxable property or services at a future date. The rules in this directive do not apply to fees for plans (e.g., discount calling plans) or memberships which entitle the holder to a reduced sales price on taxable property or services at a future date. The rules in this directive also do not apply to used Calling Cards which are later resold as collectibles (e.g., "commemorative" cards with pictures of sports or entertainment personalities).

Mitchell Adams
Commissioner of Revenue
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