

[DOR Home](#)
[For Individuals and Families](#)
[For Businesses](#)
[For Local Officials](#)
[For Tax Professionals](#)

[Home](#) > [Businesses](#) > [Help & Resources](#) > [Legal Library](#) > [Letter Rulings](#) > [Letter Rulings - By Year\(s\)](#) > [1984 and Prior](#) > [1979 Rulings](#) >

## Letter Ruling 79-16: Partial Refunds

June 28, 1979

You have requested a ruling as to whether amounts refunded to subscribers of the stock quotation services of [A], Inc. are excludible from the measure of the Massachusetts sales and use tax.

[A] Inc. is a wholly-owned subsidiary of (" [B] ")

Inc. is the owner of a computerized communications system that collects, stores, and disseminates "up-to-the-second" quotations from a nationwide network of over-the-counter dealers making markets in stocks which have been approved for inclusion in the system.

[A], Inc. charges its users for services according to rates set in Schedule D of the by-laws of [B]. Schedule D (IV) (G) of the by-laws declares that "[t]he Board of Governors [of [B]] may, at any time, refund to subscribers any charges or portion of charges that it deems appropriate. Such action shall be subject to approval by the Securities and Exchange Commission." A portion of the revenue received for [A], Inc. quotation services was refunded to subscribers at the end of each of the fiscal years 1976 and 1977. These refunds were granted by the [B] Board of Governors with the approval of the Securities and Exchange Commission. These refunds were not ordered by the SEC as the result of overcharges by [A] Inc.

The Massachusetts sales and use tax is charged by vendors to purchasers on the basis of the total sales price, defined in General Laws Chapter 64H, Section 1(13).

General Laws Chapter 64H, Section 1(13)(c)(i) excludes from the taxable sales price "cash discounts allowed and taken on sales." The refunds disbursed to subscribers do not qualify as cash discounts allowed and taken because subscription rates were not reduced at the time they became due, because subscribers did not know about the existence or rate of discount at the time they were charged, and because the refunds were discretionary and granted apart from the actual sales.

General Laws Chapter 64H, Section 1(13)(c)(ii) excludes from the taxable sales price "the amount charged for property returned by purchasers to vendors upon rescission of contracts of sale when the entire amounts charged therefor are refunded ..., and when the property is returned within ninety days from the date of sale." In this case there was no return of property to NASDAQ, Inc., no rescission of contracts of sale, and no refund of the entire amounts charged.

### SEARCH

Select an area to search

Search

No other exclusion or exemption applies under the sales and use tax.

Based on the foregoing it is ruled that the gross charges made to Massachusetts subscribers of [A] , Inc.'s quotation service may not be reduced by subsequent partial refunds for purposes of computing the Massachusetts sales and use taxes.

Very truly yours,

/s/L Joyce Hampers

L. Joyce Hampers  
Commissioner of Revenue

LJH:PAG:FC

LR 79-16