

Income/Franchise:

Massachusetts DOR Still Says Other State Business Privilege Taxes Generally Remain Nondeductible

Technical Information Release (TIR) 22-4, Mass. Dept. of Rev. (2/4/22). The Massachusetts Department of Revenue (Department) posted a technical information release addressing the Department's position with respect to application of a Massachusetts Appeals Court (Court) decision from 2020 involving the Massachusetts corporate excise (income) tax deduction for specified taxes imposed by other states allowed by G.L. c. 63, § 30(4) – concluding that despite the 2020 decision, “it remains the case that taxes imposed on a business as a whole, measured by gross receipts, for the privilege of doing business” generally are *not* deductible under state law and policy. In doing so, the Department explains that the Court in that 2020 case determined that an Indiana gross receipts tax imposed on utilities (*i.e.*, the Indiana Utilities Receipts Tax (URT)) was deductible for Massachusetts corporate excise (income) tax purposes because it “was in substance fundamentally similar to [a] transaction tax[] on retail sales” (as it was imposed on certain receipts but not others and included a complementary use tax), rather than a franchise tax on the privilege of doing business. In this respect, according to the Department, “each state tax statute is unique and therefore would need to be analyzed independently to determine whether a similar analysis should apply,” and thus the Department's previously issued guidance explaining the relevant criteria for deduction disallowance under G.L. c. 63, § 30(4)(iii) (*i.e.*, Directives 08-7 and 99-9) continues to apply. Please contact us with any questions.

URL: <https://www.mass.gov/technical-information-release/tir-22-4-bay-state-gas-company-affiliates-v-commissioner-of-revenue-deductibility-of-indiana-utilities-receipts-tax>

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