



MASSACHUSETTS MARINE TRADES ASSOCIATION

Important Clarification on State Tax Matters

From the Desk of Jamy B. Madeja, Esq., MMTA Legal and Government Relations Counsel

Buchanan & Associates/617.227.8410/jmadeja@buchananassociates.com

If you read our prior ENEWS briefs around this time of year, you already know the Massachusetts Legislature does the most unexpected things during the last few weeks/days of the legislative session. Sometimes the laws passed sound better than they really are, sometimes they are actually a big deal. This year is no exception. **This ENEWS is a single issue clarification of one of the two subjects we all face eventually and which few of us are truly prepared for: taxes.** You also know what the other one is.

On July 11, 2014, Governor Patrick signed into law a two-month "tax amnesty" for September and October of 2014. The tax amnesty bill looks and sounds like it provides a general amnesty for all kinds of overdue taxes, including **sales and use tax on boats**, as well as many other business taxes. The Massachusetts Department of Revenue is authorized to add other types of unspecified taxes to the amnesty program, as well as individual income tax amnesty.

HOWEVER, the Massachusetts Department of Revenue has quickly published information on [DOR's webpage](#) which makes it clear the hand that giveth also taketh away and **ONLY TAX ASSESSMENTS "ON THE BOOKS PRIOR TO JULY 1, 2014"** will be eligible for amnesty (waiver of penalties) upon payment.

This means that if no notice has been sent yet by Mass DOR that some tax is due, the taxpayer cannot self-assess and "fess up" and decide to pay up without penalty. Sigh. For example, this means those who don't qualify for amnesty include owners of boats purchased out of state who

may recently have learned that MassDOR believes sales tax is still due and outstanding for an unlimited period of time if there was a purchaser's intent to eventually bring the boat back to Massachusetts. The actual words from DOR are:

Tax amnesty notices showing the tax and interest due, along with the penalties to be waived, will be mailed on September 2, 2014 to taxpayers who qualify. If you pay the tax and interest shown on the bill on or before October 31, 2014, the Commonwealth will waive the unpaid penalties for the period. Please note that the amnesty only applies to assessments that were on the books prior to July 1, 2014.

In general, in early September, the DOR will mail out "tax amnesty notices" to qualifying taxpayers. The notices will show the tax and interest due, and the amount of the penalties that will be waived. The DOR webpage says that taxpayers must pay the entire amount owed (taxes and interest) by October 31, 2014 in order for the DOR to waive all penalties. Gee, thanks.

In another example of the executive branch overreaching beyond legislative authority, the DOR's apparent requirement of full payment by October 31, 2014 is not in the statute. The law as voted by our elected officials states " . . . all required payments shall be made on or before June 30, 2015 in order for the amnesty to apply. If a taxpayer fails to pay the full liability before June 30, 2015, the commissioner shall retain any payments made and shall apply those payments against the outstanding liability and the tax amnesty program shall not apply."

Oh, and yes, we anticipate there will be another general sales tax holiday next month as in many prior years. While the exact dates are still in play Conference Committee member and stalwart Boating Caucus Co-Chair, Susan Gifford, has informed us that the tax holiday will likely be the second or third weekend of August. Our Legislature isn't big on advance notice for tax holidays! And yes, boat sales remain ineligible for the tax holiday, although boating accessories are eligible.

*Jamy Buchanan Madeja, Esq., Buchanan & Associates, 33 Mount Vernon St, Boston MA 02108,
617.227.8410 office, 617.256.8491 cell, www.BuchananAssociates.com*



MASSACHUSETTS MARINE TRADES ASSOCIATION
PO Box 272, MILTON MA 02186
(617) 296-8336
WWW.BOATMA.COM INFO@BOATMA.COM