

Company's Sale of Smartphone Extended Warranty Contract Not Taxable, Massachusetts DOR Says

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A company's retail sales of extended warranty contracts for smartphones are not subject to state sales and use tax, according to the Massachusetts Department of Revenue.

In a May 4 [letter ruling](#) released June 1, the DOR said that since the company's extended warranty contract is optional and does not include software upgrades, it is exempt from sales and use tax if separately stated on a customer's invoice.

The company's extended warranty contract extends the hardware repair coverage for a smartphone by two years and provides additional accidental damage coverage. It also does not include any software upgrades, which typically would be taxable under Massachusetts tax law, the ruling said.

The DOR said that "generally, sales of optional maintenance service contracts that do not include software upgrades or updates are not taxable." However, the ruling explained that if charges for upgrades and services are not separately stated on the customer's invoice, the tax would apply to 50 percent of the sales price of the maintenance contract.

The ruling also explained that a customer's enrollment in the company's smartphone upgrade program does not change the taxability of the extended warranty contract, and that it would still be exempt from sales and use tax.

The company's smartphone upgrade program allows customers to periodically upgrade their smartphones and the cost of a new smartphone through the program is listed separately on the invoice from the extended warranty contract. The DOR said that since the program is optional and free to enroll, it is not listed on the invoice, and therefore, the contract remains optional and nontaxable.

In an emailed statement to Tax Analysts, Richard Jones of Sullivan & Worcester said that while taxability of software sales has been "a growing source of confusion and controversy," this letter ruling addressed "nothing particularly controversial or remarkable."

"In the letter ruling, the Department of Revenue confirms what its regulations already make rather clear — that the taxpayer's contracts are not taxable," Jones concluded.

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