



Massachusetts  
Department of Revenue

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## **Managed Compliance Agreements**

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### **A Program to Simplify the Audit Process for Business Taxpayers – Sales/Use Tax**

#### **From the Commissioner**

Dear Taxpayer,

The Department of Revenue (DOR) will assist you in meeting your responsibility to collect and remit the Commonwealth's "Sales/Use Taxes". Part of the DOR's mission is to verify taxes remitted by taxpayers to insure that the correct tax is accrued and paid. This booklet explains how the DOR provides methods to reduce the administrative and personnel burden on taxpayers while maintaining a high degree of accuracy in connection with its program of Managed Compliance Agreements. This booklet includes an explanation of the techniques, forms and instructions.

We are working to make the process of accrual and payment of sales/use taxes as simple as possible and will provide taxpayer assistance and education. The Managed Compliance Program is an important step in this direction. We have trained our audit staff, and as technology expands further into bookkeeping and accounting, DOR is committed to working with taxpayers to make sure that progress is not interrupted.

I urge you to read this booklet, visit our website and send us your comments and suggestions for improvement. Other publications, which you will find useful, are "Computer Assisted Audit Techniques" and "Direct Payment Permit".

Sincerely,

Commissioner of Revenue

## *The Managed Compliance Agreement Program – Our Goal*

### **“Correct Tax Paid on Time”**

The Massachusetts Department of Revenue and taxpayers share a common goal – to assess and pay sales/use tax with minimal administrative burden. Managed Compliance Agreements maximize the use of computers and scientific sampling to minimize the need to examine individual transactions. A successful MCA reduces administrative costs, fosters cooperation and streamlines the audit process.

The essential first step in an MCA is COOPERATION. The DOR and the taxpayer work together to create a system which will be accurate, fair, and easily maintained. A successful MCA can eliminate or reduce the time, money and resources of a periodic audit, and can reduce or eliminate misinterpretations of law or other mistakes in identifying taxable purchases at an early stage.

#### *How the Managed Compliance Agreement Program Works*

Managed Compliance Agreements between a taxpayer and the Department of Revenue are a collaborative method to assess sales/use tax using a scientific sampling method to create a *taxability rate*. This rate represents the taxable percentage of the dollar amount of all transactions contained in accounts covered by the agreement.

The taxpayer agrees to monitor the accuracy of its Agreement, and in return, if the taxpayer's liability falls within the parameters of the Agreement, the DOR agrees to forego a comprehensive audit of books and records. The taxpayer assumes the responsibility of ongoing review of their business practices and requesting changes to the Agreement during its term. The DOR will accept tax accrued and remitted if a subsequent review indicates that the amount accrued fell within pre-agreed parameters.

#### *Managed Compliance Agreements – The Steps*

**NOTE: ALL Managed Compliance Agreements require an applicant to hold a valid Direct Payment Permit at the effective date of the Agreement.**

*To apply for a Direct Payment Permit, obtain Form DPP1 and Instructions “Application for Direct Payment Permit”. Call (617) 887-6809 for information about forms and assistance.*

**All taxpayers accruing tax under a Managed Compliance Agreement must be registered as a Sales/Use Tax Vendor to file sales/use tax returns monthly. (You may register as a vendor at the same time you submit an application for a Direct Payment Permit. See Form TA-1 and Instructions for application as a vendor).**

### Starting the Agreement Process

All Managed Compliance Agreements begin with an application and supporting data submitted to DOR by the taxpayer. (These forms are available from the DOR). DOR assigns a tax auditor, and together the taxpayer and the auditor begin the process of reviewing accounting systems and transactions to determine what will be covered by the Agreement, and what will be examined separately. The steps follow:

- The DOR verifies information indicated on the MCA Application, and approves or disapproves the application. In some cases, the DOR may ask for additional information. In other cases, certain aspects of the taxpayer's sales/use tax or other registration accounts may require correction. This is completed before the MCA process starts.

The DOR makes certain that the taxpayer's accounting system is compatible with common computer sampling programs, and that the DOR and the taxpayer have a compatible media system.

- Taxpayer and DOR review the taxpayer's Chart of Accounts, and individual classes of accounts to determine which accounts will be included in the Agreement, which accounts will be excluded, and any other transactions to be excluded from the agreement.
- Taxpayer and the DOR agree to include or exclude different types of transactions, or transactions over or under a dollar amount.
- Automated data processing is used to stratify, sort or classify data as above, and verify account totals.
- A representative sample is drawn from the items contained in the overall sample population.
- Individual transactions within the sample are examined and classified as taxable or non-taxable. The taxpayer and the auditor agree on the taxability of items, or agree to exclude disputed items from the sample population, and address them separately.
- The total taxable dollar amount representing taxable amounts within the sample is compared to the total dollar amount represented by the population sample. This result becomes the *Taxability Rate*.

### IMPLEMENTING THE AGREEMENT

The taxpayer and the DOR complete a Managed Compliance Agreement. The Agreement includes a basic contractual commitment to implement the Agreement, and governs its conduct. A *Memorandum of Understanding* is appended to and becomes a part of the Agreement. It details treatment of specific aspects of a taxpayer's business as far as the Agreement is concerned. All Agreements contain the following:

- Specific listing of accounts and transactions included in the Agreement, subject to the taxability rate
- Specific listing of accounts and transactions excluded from the Agreement, *not* subject to the taxability rate.
- Procedure for a taxpayer or the DOR to terminate an Agreement.
- An acceptable range in which the taxpayer's tax accruals must fall, to avoid an audit of interim years.
- The method of reviewing and modifying an Agreement if it is to be extended.

### THE AGREEMENT IN OPERATION

- Each month, the taxpayer stratifies data to create a transaction population covered by the taxability rate. This creates an account balance adjusted to exclude transactions not covered by the Agreement.

- The taxpayer multiplies the dollar amount of the adjusted account totals by the taxability rate. The result is multiplied by the tax rate, and is accrued as tax due.
- Transactions *not* covered by the Agreement are examined separately, and tax is accrued on taxable transaction amounts.
- The amounts accrued under the Agreement and other transactions are added and remitted on a monthly sales/use tax return.

#### MAINTAINING ACCURACY

At the inception of the Agreement, the taxpayer agrees to monitor the agreement to insure that it remains accurate. Changing business conditions, addition or deletion of Massachusetts operations, or other factors might require a change in the taxability rate. It is the responsibility of the *taxpayer* to notify the DOR of any of these changes that would require a change in a taxability rate, and provide substantiation for the change.

*NOTE: The following is based on the usual three year Managed Compliance Agreement sample.*

Steps designed to make sure that the Agreement is accurate at the inception, and continues to be accurate are as follows:

- The initial examination of transactions and creation of a taxability rate is based on a scientific sampling program, and represents an audit of the sample population.

#### **THIS ACTIVITY IS REFERRED TO AS THE “INCEPTION YEAR”, or “YEAR ONE”**

- “**YEAR TWO**” and “**YEAR THREE**” are the intervening years in which the taxpayer uses the taxability rate to determine tax in covered accounts. The taxpayer has accepted the responsibility for informing DOR of the need to adjust the taxability rate as required to maintain it accurately.
- At the end of the three-year period, the final year is reviewed, using a scientific method. A taxability rate is developed. This rate is compared to the rate established and/or adjusted in previous years.

1. If the taxability rate established in YEAR FOUR is within the parameters contained in the Agreement, YEAR TWO and YEAR THREE are accepted as computed and filed.

2. If the taxability rate established in YEAR FOUR is not within the parameters contained in the Agreement, YEAR TWO and YEAR THREE are open to audit. An assessment will be made as necessary, and the newly established taxability rate will be used in the future, should the Agreement be extended.

3. The taxpayer and DOR may agree, in writing, to extend the agreement for a specific period of time.

**It is to the taxpayer’s benefit to conduct ongoing review of the Agreement, and make any change to adjust a taxability rate - failure to do so will result in audit, and represent additional personnel and administrative costs to the taxpayer.**

## **FREQUENTLY ASKED QUESTIONS**

### ***Is the MCA Program mandatory?***

NO. Taxpayers are not required to participate in the program.

### ***Can I as the taxpayer make a proposal and submit a sampling and sales tax accrual plan?***

YES. Taxpayers should bear in mind that the basic Agreement will remain the same and the plan submitted will be considered for inclusion in a Memorandum of Understanding, which will become part of the Agreement. The DOR will consider proposals submitted by taxpayers or tax practitioners.

***Our business may change during the course of the Agreement period, and we may not be able to anticipate the changes or the effect on tax accrual. Can changes be made to the Agreement “mid-stream”?***

YES. Taxpayers are required to monitor their Agreements in the context of their business activities, and report any change to the DOR. The Taxpayer and the DOR will work together to effect a change which will make the Agreement accurate.

**If we disagree that an item or type of transaction is taxable, how is it handled?**

You can either include the transactions or items in the accrual amounts, and pay tax on those items, or inform the DOR auditor that you wish to exclude those transactions or items from the Agreement. In either case, you must track those items or transactions.

If you choose to include those items in the accrual amounts, and wish to contest the taxability, you may file a request for an abatement. If you elect NOT to include those items, you will be issued a Notice of Intention to Assess by the DOR, and you may avail yourself of the usual appeal procedures.

**If the law changes related to the taxability of an item previously considered as taxable or not taxable, can we modify the Agreement prospectively, and make an adjustment for the period covered by the law?**

Yes. DOR will modify an Agreement if a change in law causes a covered item or type of transaction to change from taxable status to nontaxable status or vice versa. You should monitor this and inform the DOR. If the law change is retroactive in effect, you may claim a refund or be required to pay additional tax, as the case may be.

**Our business held a valid Direct Payment Permit, which we surrendered when our company merged into another. Does this affect our Managed Compliance Agreement?**

YES. You are required to hold a valid Direct Payment Permit for the entire MCA period. If you surrender the permit (or it is revoked, or not renewed), DOR will TERMINATE the MCA.

The DOR will assist taxpayers who held a Managed Compliance Agreement, and wish to enter into a new Agreement under the reorganized entity. In many cases, the

additional work required to create a new Agreement for the surviving organization is minimal.

*The new business is required to obtain a Direct Payment Permit under a new or existing identification number of the reorganized entity.*

**We are conducting business in the same way, but have added locations. These are reported under the same identification number as we presently file sales/use tax covered by a Managed Compliance Agreement. Should we amend the Agreement?**

If you simply charge additional amounts to existing accounts covered by the Agreement, no change would be necessary. You would be required to accrue and pay tax on any item acquired which is NOT covered by the Managed Compliance Agreement.

If you create additional accounts *similar to* those already included in the Agreement, you should inform the DOR and the parties can amend the Memorandum of Understanding. This is generally a simple procedure.

## **EXAMPLES**

### **Description of Taxpayer**

Tacks Company, Inc. ("Tacks") operates 150 retail stores throughout the East and operates one distribution warehouse in each of the following states: Massachusetts, Vermont, Wisconsin and Georgia. Of the 150 stores operated by Tacks, 30 are located in Massachusetts. The company headquarters are in Somewhere, Massachusetts, and administrative functions, data processing, purchasing and payroll operations are conducted at the Massachusetts location.

Tacks is registered in Massachusetts as a sales/use tax vendor, and is the holder of a Direct Payment Permit issued by the Commonwealth of Massachusetts. Tacks issues Direct Payment Certificates to vendors for its purchases.

On January 3, 2011 Tacks submitted an application to the DOR for a Managed Compliance Agreement to be effective on May 1, 2011, and run through April 30, 2015. Tacks submitted substantiation that the company had the data processing capability to account for its transactions in such a way as to permit proper determination of sales/use tax. Over the past three years the company had accrued and remitted use tax on \$12,000,000 in taxable purchases, approximately \$4,000,000 per year, resulting in use tax paid of \$250,000 per year. Tacks had a record of consistent filing of returns and payment of tax in a timely manner.

On January 20, 2011 the DOR assigned an auditor to review Tacks' application. On January 21, 2011 the auditor began a review of the books and records, and examined the suggested methodology and

substantiation submitted by the taxpayer.

The results indicated the following:

**Certain transactions and accounts were determined to be not feasible for inclusion in the Agreement, and were excluded.** These transactions fell in the categories below:

- Fixed assets over \$10,000. Purchases of this type of asset were irregular, and were not always apportioned evenly among the states. Renovation of stores in one particular state might tend to skew amounts improperly, and fixed assets located at the headquarters location would improperly apportion taxable purchases to Massachusetts.
- Transactions over \$10,000 in individual accounts. These usually related to extraordinary expenses in an individual store, a particular warehouse, or headquarters. In the most recent year, there were a total of 28 invoices over this amount in the covered accounts, not enough to sample.
- Accounts which were not related to purchases of tangible personal property subject to tax. This was a large category, and included such accounts as payroll, reserve for depreciation, bonus and stock options, and non-taxable labor, such as a guard and security service.
- Accounts which directly related to expenses for locations outside Massachusetts, such as rent on business property, and utilities for property outside Massachusetts.

**Certain accounts were determined to be always taxable, and were excluded for that reason – the taxpayer would simply accrue tax on total, unadjusted amounts in those accounts.**

An example would be the purchase of natural gas used for heating in a retail location. Since all retail locations had a minimum of 20 employees, the total charge was taxable, and taxed that way. Individual bills were rendered for each location, and allocation to the correct state could be done simply and automatically through a software program.

**The remaining transactions and accounts were considered taxable in Massachusetts to some extent, and were included in the sample population.**

The taxpayer and the auditor began the process of creating a *taxability rate*, using the following steps:

1. Data was sorted to exclude items and transactions not subject to the sample population.
2. The result was stratified, to create different strata from which a proportional sample would be drawn. This was done using specialized software.
3. A sample population was drawn from each strata, using specialized software. This sample is drawn to preserve the correct proportion of the total to the entire population.
4. The auditor examined the sampled invoices. Taxable amounts were determined for each. Taxpayer and auditor agreed on the taxable amounts.
5. The total taxable amounts were compared to the total population. This percentage is to be used as the taxability rate.

RECAP:

- |  |              |
|--|--------------|
| 1. Total Purchases, year ending 3/1/2011 | \$ 9,750,000 |
|--|--------------|

Less: purchases NOT covered by the MCA	5,750,000
= Total Purchases covered by MCA	4,000,000
2. Total purchases sampled from purchases above - 200,000	
Amount of above purchases which were taxable - 80,000	
= Taxability rate of 40% (\$80,000/\$200,000)	<b>40% Taxability Rate</b>

## **THE AGREEMENT**

Tacks and the auditor agreed on a taxability rate of 40%. This was included in the Agreement and Memorandum of Understanding, along with details concerning items included and excluded.

Tacks and the DOR agreed that the statistical benchmark for accuracy for this agreement would be “95% confidence in a 2% error rate”. This is a standard statistical expression indicating that samples drawn would be of a size which would permit 95% confidence that the amount arrived at would be within 1% either way of the correct amount, e.g. if the correct tax is \$100.00, the amount arrived at would be within \$99.00 or \$101.00.

This is a level which was agreed to be reasonably achievable by the DOR and Tacks.

**The taxpayer applied the taxability rate of 40% to the adjusted account balances each month, and accrued tax at 6.25%.**

**Each month the tax return reflected the tax amount above, PLUS tax due on items not included in the agreement.**

**Example: July, 2011**

1. MCA accounts totaled \$350,000 x 40% = \$140,000 = tax due	\$ 8,750
2. Fixed asset purchase of \$18,000 taxable in Massachusetts = tax due	1,125
3. Accounts totally taxable in Massachusetts = \$8,000 = tax due	500
Tax accrued and remitted is	\$10,375

## **The “True-Up”**

Accuracy is essential. Two examples follow, with the result.

**In each case, the following actions were performed:**

An examination of the covered accounts was conducted on July 1, 2010. The period examined was May 1, 2007 through April 30, 2010. The examination included:

1. Verification of account balances. All were correct.
2. Verification of the mathematical accuracy of the application of the taxability rate. Found to be correct.
3. Verification of the tax rate to the taxable amount. Found to be correct.
4. Creation of a representative stratified sample



5. Examination of transactions contained within the stratified sample, and classification of transactions as taxable or not taxable.
6. Calculation of a taxability rate for the period 5/1/2007 through 4/30/2010.

### ***Example 1***

The taxability rate calculated in the re-examination for the 1 year period ended 4-30-2010 was 40.25%. This was equivalent to 99.4% , which is within the 2% error rate factor.

As a result, the years ended 4/30/2008 and 4/30/2009 were accepted as filed as related to MCA covered accounts.

### ***Example 2***

The taxability rate calculated in the re-examination for the 1 year period ended 4-30-2010 was 47.75%. This was equivalent to 119.4% of the 40% rate, which was NOT within the 2% error rate factor.

As a result, the years ended 4/30/2008 and 4/30/2009 were NOT ACCEPTED as filed as related to the MCA, and the taxpayer was subjected to an audit on the accounts for the period 5/1/2007 through 4/30/2010. The taxpayer was required to draw a stratified scientific sample for the period, and create a corrected taxability rate.

The taxability rate for the entire period was calculated at 44.5%, and an assessment was made for all months in the period, by applying the corrected taxability rate to account balances.

The taxpayer requested and received permission to use the results of the most current year, ended 4/30/2010 to establish the taxability rate for the period 5/1/2010 through 4/30/2013.

The taxpayer also agreed to monitor his business more accurately in the future, and inform the DOR of any change.

### ***Example 3***

The taxpayer conducted in-house sampling for the period ended 4/30/2008, and found that the taxability rate was higher than they had anticipated. The taxpayer informed the DOR that they had identified a trend in their purchases which was tending to skew more purchases to Massachusetts. The taxpayer requested and the parties agreed to increase their taxability rate to 47.8%.

The taxpayer continued to monitor their business, and conducted in-house sampling for the year ended 4/30/2009. The taxability rate for that year was found to be 47.70%. The taxpayer requested and the parties agreed to decrease their rate to 47.75%, essentially “blending” the rate.

The examination of the final year, indicating a taxability rate of 47.75%, though higher than the initial rate established in the original agreement indicated that the taxpayer was within the “95% confidence with a 2% error rate”, and all years were accepted as filed for the MCA.

The taxpayer received permission to use the rate of 47.75% for the ensuing three year period.

By timely self-examination and requested taxability rate adjustments the taxpayer was able to avoid an audit by the DOR, and accrue proper tax.

### ***Example 4***

In this example, the examination of the taxpayer’s accounts indicated a taxability rate of 85% taxable. When brought to the taxpayer’s attention, it indicated that all distribution facilities had been moved into Massachusetts, and expanded greatly, and additional retail locations had largely been opened in Massachusetts. Approximately

½ of the retail locations in other states had been sold as of 8/1/2008. This also skewed the percentage of purchases toward Massachusetts.

An examination of the entire period of the MCA was conducted, and it was found that the effective tax rate over the entire MCA period was 83.4%, or over double the initial rate.

Because the taxpayer was judged to have failed to reasonably monitor the terms of the MCA, DOR, when it learned of these changes, terminated the agreement. The change in location of its distribution facilities and the opening of retail facilities in Massachusetts were so substantive that prudent business practice would have indicated that the taxpayer should have notified DOR as to the need for a change in the taxability rate.

An additional assessment was made, and the taxpayer was informed that no further Managed Compliance Agreement would be approved until such time as the taxpayer could substantiate that they could reasonably be expected to closely monitor the terms of a Managed Compliance Agreement. The taxpayer would be required to return to an individual transaction based accrual system.

Please feel free to contact the DOR regarding your Agreement at any time. Your first line of inquiry should be to the Auditor and/or Supervisor assigned to your Agreement.

THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF REVENUE  
AUDIT DIVISION

**MANAGED COMPLIANCE AGREEMENT**

This Managed Compliance Agreement ("MCA") is entered into in a spirit of mutual cooperation by and between the Massachusetts Department of Revenue (the "Department") and \_\_\_\_\_ (the "Taxpayer") (collectively referred to as the "Parties") and is related to compliance with Massachusetts sales and use tax laws. The Parties wish to implement this MCA whereby the Taxpayer will report and remit the appropriate Massachusetts sales and use tax utilizing a single rate reporting percentage.

In recognition of the Parties' duties and responsibilities under Massachusetts law, specifically sales and use tax laws (M.G.L.c.64H and c.64I); their desire to seek a method of sales and use tax compliance that effectively and consistently assures an accurate reporting of tax due on a large volume of repetitive purchases; the need to verify sales and use tax compliance with a minimum of time and expense; and their desire to establish a recognized and efficient procedure for resolving any overpayments or underpayments that may result, the Parties enter into this MCA in order to memorialize the terms used to administer the Taxpayer's sales and use tax liability on Applicable Purchases (as defined below at "Scope") through the use of a single rate reporting percentage. The single rate reporting percentage is based upon an analysis that reflects the percentage of Applicable Purchases that are appropriately subject to Massachusetts sales or use tax.

Taxpayer and the Department understand that this MCA does not relieve the Taxpayer of any tax obligation, through examination or otherwise, and that it is the Taxpayer's obligation to extinguish any liability properly assessed against it. In addition, the Parties agree that the audit period for all Applicable Purchases subject to this MCA will consist of any period within the statute of limitations, plus an additional three years.

By entering this MCA, the Department assumes no obligation to enter similar agreements and extend like terms for adoption of these procedures to any other taxpayer.

**1. BACKGROUND**

The general nature of the Taxpayer's business and its activities carried on in Massachusetts are described in Attachment 1.

**2. SCOPE**

The Parties agree that this MCA will control the reporting of the Taxpayer's sales and use tax liability on all "Applicable Purchases." A detailed listing of the Applicable Purchases reviewed and subject to this MCA and computation of the single rate reporting percentage is attached as Exhibit I. All purchases not explicitly listed in Exhibit I are excluded from the scope of this agreement.

**3. DIRECT PAYMENT AUTHORITY**

Taxpayer must have been granted, and must use, direct payment authority under the provisions of M.G.L. c. 64H, §3(b) and 830 CMR 64H.3.1 for its Applicable Purchases under this agreement. If such authority is forfeited voluntarily, revoked, or has expired, the Department will proceed to terminate this MCA under the provisions of Section 9 herein.

#### **4. SINGLE RATE REPORTING PERCENTAGE**

A single rate reporting percentage has been determined by sampling certain historical accounts payable data of Applicable Purchases. The sample period and the statistical sampling methodology have been agreed to by the Parties and are memorialized in the Memorandum of Understanding attached hereto as Exhibit II. Once a sample had been drawn, the Taxpayer gathered invoices, purchase orders and other documentation required to determine the proper tax status of each sample item. The Taxpayer then made an initial tax status determination for each sample item. The Department reviewed the Taxpayer's completed listing of tax status determinations. Once the tax status determinations were agreed upon, the percentage of taxable sample items was calculated. This percentage is the single rate reporting percentage.

The Taxpayer itself, or through outside parties, has performed this analysis of its Applicable Purchases in order to determine the appropriate single rate reporting percentage. The analysis produced reasonable results and indicated a stable and consistent percentage of taxable purchases compared to total purchases. The Department has reviewed the methodology used to determine the single rate reporting percentage, determinations of taxability of Applicable Purchases and mathematical computations and finds them to be acceptable. The single rate reporting percentage is limited to Applicable Purchases.

The Parties agree that the single rate reporting percentage to be used is \_\_\_\_\_.

Although the parties intend to be bound to the percentage stated above, if the Department determines, in its reasonable discretion, that any individual transaction or account, due to extraordinary circumstances, is not representative of the Taxpayer's business operation for the period covered by this agreement, the transaction or the account may be eliminated from the agreement upon written notice to Taxpayer, and may be separately assessed by the Department or be subject to a refund to Taxpayer, whichever is applicable. The terms of this MCA will remain in force for all other transactions and accounts not so eliminated.

#### **5. REPORTING AND PAYMENT OF THE TAX LIABILITY**

On a monthly basis, the total volume of Applicable Purchases will be multiplied by the single rate reporting percentage to determine the Applicable Purchases amount subject to tax. The resulting Applicable Purchases amount subject to tax will then be multiplied by the appropriate sales and use tax rate in effect for the period. The resulting tax liability will then be reported and paid on a timely filed electronic sales and use tax return, Form ST-9 via the DOR WebFile for Business application found at [www.mass.gov](http://www.mass.gov).

#### **6. DURATION AND UPDATES TO THIS MCA**

This MCA is intended to remain in effect indefinitely and not terminate until notice is given by either of the Parties as described below at "Termination of this MCA." The single rate reporting percentage will

remain in effect for thirty-six (36) months from the execution of this MCA unless modified as otherwise provided in this MCA.

Prior to the expiration of the thirty -six (36) month period, the Parties will review the functioning of the MCA and mutually agree upon a methodology for generating a new single rate reporting percentage for the subsequent thirty-six (36) month period. Prior to the performance of any sampling, the Taxpayer will submit the sampling procedure to the Department for its review and agreement. The Parties' intention will be to develop and agree upon a new single rate reporting percentage which will apply to Applicable Purchases in the subsequent thirty-six (36) month period.

Other than amounts attributable to material changes as specified in the next section, miscalculations, or other similar errors in the original determination of the single rate reporting percentage, no refund or additional payment of tax is anticipated. However, any additional tax payment or refund will include interest as determined by Chapter 62C, § 32 or §40 of the Massachusetts General Laws.

## **7. MATERIAL CHANGES**

During the effective period of this MCA, the Taxpayer will be responsible for monitoring its business and the sales and use tax laws of Massachusetts to ascertain any changes that will materially affect the taxable percentages of the Taxpayer's purchases. If such a change occurs, the Taxpayer will notify the Department within ninety (90) calendar days from the date of the change. For purposes of this MCA, a material change is any alteration of the Taxpayer's business operations or processes or any change in the Massachusetts General Laws, regulations, rulings, case law, or policy, or combination thereof, that will likely cause the taxable percentage of Applicable Purchases to vary in an amount that exceeds an acceptable deviation of \_\_\_\_\_.

In addition, if the Department, in its sole discretion, determines that there have been significant changes in applicable law, including changes in interpretation of existing laws and rules, which render the single rate reporting percentage no longer representative of Taxpayer's taxable purchases, the Department may adjust the single rate reporting percentage by agreement with the Taxpayer as noted below, or at its sole discretion, immediately terminate this MCA. The Department retains the right to audit the Taxpayer's records to determine if the Taxpayer's business operations or processes have changed.

Upon agreement between the Parties that a material change has occurred, the impact of the change will be agreed upon, including any necessary reworking of the single rate reporting percentage, and memorialized in writing and appended to this MCA prior to any adjustment to the single rate reporting percentage.

In the event that the material change results from a change in the Taxpayer's business operation or process, the adjusted single rate reporting percentage will be applied on a current and prospective basis. However, if the material change results from a change in the Massachusetts sales and use tax law, whether by statute, regulation, rulings or case law, which allows retroactive application, the adjusted single rate reporting percentage will be applied retroactively to the full extent allowed by such change. In such an event, the Taxpayer may claim and/or pursue any Massachusetts sales and use tax refund for overpayment of taxes paid in accordance with the MCA. Likewise, the Taxpayer will make up any underpayment that may arise from a required retroactive application of a change in the Massachusetts sales and use tax law.

## **8. MAINTENANCE OF BUSINESS RECORDS**

The Taxpayer agrees to maintain adequate primary and secondary business records to allow the Department to review its compliance with Massachusetts sales and use tax laws and support its computation of tax on its sales and use tax returns. Business records will be maintained for all Applicable Purchases covered under the single rate reporting percentage and all other purchases of property or services not covered by the single rate reporting percentage.

## **9. TERMINATION OF THIS MCA**

Notwithstanding any other provision of this agreement to the contrary, either party may terminate this MCA without cause upon not less than 90 days written notice to the other party. Such termination of this MCA will be effective the last day of a reporting period in which the notice period is complete.

Any notice under this section may be waived by an agreement signed by both Parties. The written notification of a decision to terminate the MCA shall be sent to the other Party via United States certified mail, return receipt requested.

## **10. COMMUNICATIONS**

Any notices, demands or communications required or permitted under this MCA shall be in writing and shall be sent to the following addresses and persons:

To the Massachusetts Department of Revenue:

To \_\_\_\_\_ company:

## **11. GOVERNING LAW**

This MCA shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

## 12. ENTIRE AGREEMENT

This MCA and application of the single rate reporting percentage is effective

\_\_\_\_\_.

This MCA, consisting of this MCA document, Exhibits I and II, Attachment 1, and any attached schedules, is the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, representations, negotiations and undertakings not set forth or incorporated herein.

In recognition of the Parties' desire to fairly and accurately report, pay and administer Massachusetts' sales and use tax liabilities under the terms set forth above, acceptance of this MCA is indicated by signature of their duly authorized representatives below.

\_\_\_\_\_

Massachusetts Department of Revenue

by: \_\_\_\_\_

Signature of Taxpayer's  
Representative

by: \_\_\_\_\_

Signature of Department's  
Representative

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title

\_\_\_\_\_

Title

\_\_\_\_\_

Date

\_\_\_\_\_

Date

D#94338

Managed Compliance Agreements

FORM ASU-15

Commonwealth of Massachusetts  
Department of Revenue



APPLICATION FOR  
MANAGED COMPLIANCE AGREEMENT

Business Name:		
D/B/A:		
FID#:		
Business Address:		
Name of Owners, Partners, Corporate Officers, LLC Members		
Contact Person:		
Title:		Telephone Number: ( )
Describe your business in detail:		

**Multiple Business Locations:** Complete this section if multiple locations are reported on one FORM ST-9

Check Box if additional sheets attached ☐.

**Answer the following questions and provide the following information:**

- Does your **business** hold a Massachusetts Direct Payment Permit?  
If "Yes" indicate Permit No. \_\_\_\_\_ Expiration \_\_\_\_\_ ☐ Yes ☐ No ☐ Pending
- Are you presently under audit by Massachusetts for Sales/Use Tax? ☐ Yes ☐ No
- Does your accounting system have sufficient internal controls to develop a taxability rate? (See Instructions) ☐ Yes ☐ No
- Can your accounting system isolate purchases for your Massachusetts Registered Locations? ☐ Yes ☐ No
- Does your accounting system maintain separate general ledger accounts for sales tax collected from customers and use tax accrued? ☐ Yes ☐ No
- Does your accounting system maintain separate general ledger accounts for sales tax paid to vendors or paid directly to the DOR? ☐ Yes ☐ No
- Has the DOR or the IRS filed any liens or levied any tax against your business



### Managed Compliance Agreements

during the past 3 years? If yes, check box and attach explanation

☐ Yes ☐ No

- Has a previous application for a MCA or similar agreement been denied in Massachusetts or any other state? If yes, check box and attach details. Indicate state(s) and effective date(s).

☐ Yes ☐ No

ESTIMATE THE FOLLOWING AMOUNTS FOR THE 12-MONTH PERIOD FOLLOWING THE DATE OF APPLICATION. AMOUNTS RELATE TO **TANGIBLE PERSONAL PROPERTY** AND TAXABLE SERVICES SUBJECT TO MASSACHUSETTS SALES/USE TAX.

- ANNUAL PURCHASES for locations everywhere: \$ \_\_\_\_\_
- ANNUAL PURCHASES for Massachusetts locations: \$ \_\_\_\_\_

**MAIL TO: Massachusetts Department of Revenue, Audit Support Unit, 200 Arlington St. RM 4300 Chelsea, MA 02150.**

I hereby certify that the statements made herein have been examined by me and are, to the best of my knowledge and belief, true and correct. Signed under the pains and penalties of perjury.

Signature	Title	Date
<b>PRINT NAME:</b>		

## ASU-15 INSTRUCTIONS

### GENERAL

Answer all questions. Application will not be considered if incomplete. Incomplete applications will be returned.

The Commissioner of Revenue, at his discretion, may enter into a Managed Compliance Agreement. Within 90 days from receipt, the Commissioner will review this application and send a response.

If your application is considered for further evaluation, the Department of Revenue will contact you.

The Commissioner may reject an application, for any of the following reasons:

- failure to cooperate with DOR in the past;
- failure to remedy improper reporting habits;
- bankruptcy filed within last ten years;
- applicant is controlled by or related to taxpayers that have filed for bankruptcy within the last ten years;
- current subject of an ongoing investigation;

### **Managed Compliance Agreements**

- insufficient internal financial controls; or
- do not have a sufficiently large volume of taxable purchases.
- if in the opinion of the Commissioner entering into an agreement would jeopardize collection of tax.

If you have any questions, call the Computerized Audit Section (617) 887-6809.

Mail the completed application to: Massachusetts Department of Revenue  
Audit Division – Audit Support Unit  
200 Arlington St. Room 4300  
Chelsea, MA 02150  
Attn: Managed Compliance Unit

**This form approved by the Commissioner of Revenue**

## Managed Compliance Agreements

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