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## Letter Ruling 79-29: Engaged in Business in the Commonwealth, Defined; Installation Charges

August 24, 1979

You request a ruling as to whether an out of state manufacturer of signs is responsible for the collection and payment of Massachusetts sales and use taxes.

The manufacturer produces large signs, primarily for fast-food operations. The signs are either attached to poles and placed in front of the building, or attached to walls and placed in and around the building. Generally speaking, the signs are intended to remain in their location permanently.

The regular course of business of the manufacturer is to produce the signs in Tennessee, deliver them in its own trucks or by common carrier to the location where they are to be installed, and hire local subcontractors to install them.

The manufacturer invoices the amount of the sales price of the signs and the installation charge to the customer ordering the signs; generally, the installation charge and the sale price of the signs are separately stated.

Massachusetts General Laws Chapter 64H, Section 1(18) defines a "vendor" as a retailer or other person selling tangible personal property of the kind the gross receipts from the sale of which are required to be included in the measure of the tax imposed by Chapter 64H. Vendors may not do business in Massachusetts unless they are registered as such. (General Laws, Chapter 64H, Section 7)

Based on the foregoing, it is ruled:

1. The manufacturer is engaged in business in Massachusetts and should register as a vendor under the Massachusetts sales and use tax.
2. The sale and installation of signs in Massachusetts is a taxable event regardless of where the invoice is sent.
3. The sales and use tax is levied on the full sales price. If the installation charge is separately stated, it is not subject to the tax.

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4. The sales and use tax returns and payments are due on a monthly, quarterly or annual basis depending on the amount of the vendor's tax liability.

I am enclosing a registration application and a copy of Massachusetts Sales and Use Tax Regulation No. 15 dealing with quarterly and annual returns.

Very truly yours,

/s/L. Joyce Hampers

L. Joyce Hampers  
Commissioner of Revenue

LJH/RSF/jmp  
Enc.

LR 79-29