

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

April 7, 1982



L. JOYCE HAMPERS
COMMISSIONER

Your mother, who is permanently disabled, has been living in the Nursing Home for almost four years. You ask whether she is entitled to the income tax deduction for rent under General Laws Chapter 62, Section 3(B)(a)(9).

Chapter 62, Section 3(B)(a)(9), as amended by Chapter 782 of the Acts of 1981, allows a deduction from Part B adjusted gross income "in the case of an individual who pays rent for his principal place of residence and such residence is located in the Commonwealth, an amount equal to fifty per cent of such rent."

Subsection 3 of the Department of Revenue's regulation on the rental deduction (830 CMR 62.40) provides that consideration paid for occupancies where no landlord-tenant relationship is involved, such as in a hotel, lodging house or motel "is not rent unless and until such premises are occupied under a rental agreement, written or oral, creating a landlord-tenant relationship." Such an agreement gives the tenant the right of exclusive possession of specifically described premises for all purposes. An individual does not occupy a nursing home under a rental agreement; fees paid for such occupancy are not "rent" in the ordinary meaning of the word.

Based on the foregoing it is ruled that fees paid by your mother to the nursing home do not qualify for the rental deduction.

Very truly yours,

A handwritten signature in cursive script, appearing to read "L. Joyce Hampers".

Commissioner of Revenue

LJH:RSF:mf

LP 82-34