



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Lowell Saltonstall Building,

100 Cambridge Street, Boston 02204

October 4, 1983

You request a ruling as to the application of the Massachusetts sales tax to the purchase by ("Company") of certain utensils and supplies intended for use by the Company outside Massachusetts.

The Company operates stores in and outside Massachusetts. The Company purchases supplies for use in its stores, stores them in a central warehouse located in Massachusetts, then ships them out as needed to individual stores, most of which are located outside Massachusetts.

Chapter 64H, Section 2 of the Massachusetts General Laws imposes a tax on retail sales made in Massachusetts of tangible personal property. A sale of tangible personal property takes place in Massachusetts if title or possession of the property is transferred in Massachusetts. (G.L. c. 64H, § 1(12)(a)).

General Laws Chapter 64I, Section 2 imposes a tax on the storage, use, or other consumption in Massachusetts of tangible personal property purchased from any vendor for storage, use, or other consumption in Massachusetts, but the use tax does not apply to sales for which the sales tax has been collected. (G.L. c. 64I, § 7(a)). If the use tax is not collected by the vendor, the person using or otherwise consuming the property in Massachusetts is

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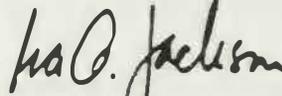
liable for the tax. (G.L. c. 64I, § 3). "Storage" does not include "the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the commonwealth for use thereafter solely outside the commonwealth." (G.L. c. 64I, § 1).

Based on the foregoing, it is ruled that:

1. Purchases of supplies and utensils by the Company in Massachusetts are subject to the sales tax, whether or not the items are to be used in Massachusetts.

2. The storage by the Company in Massachusetts of supplies and utensils purchased outside Massachusetts is subject to the use tax, except to the extent that the items are kept or retained for the purpose of subsequently transporting them outside Massachusetts for use thereafter solely outside Massachusetts.

Very truly yours,



Commissioner of Revenue

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