

[DOR Home](#)
[For Individuals and Families](#)
[For Businesses](#)
[For Local Officials](#)
[For Tax Professionals](#)

[Home](#) > [Businesses](#) > [Help & Resources](#) > [Legal Library](#) > [Technical Information Releases](#) > [TIRs - By Year\(s\)](#) > [2010 Releases](#) >

TIR 10-21: Trade Show and Flea Market Promoters

Recent legislation, chapter 308 of the acts of 2010 ("the Act") amends the definition of "promoter" contained in the tax administration provisions, G.L. c. 62C, § 1. The definition previously contained an exclusion for a person that operates less than three shows^[1] per year and defined a single show as an event that takes place on one day alone or on a series of up to seven consecutive days. These exclusions have been deleted from the definition of "promoter" by the Act.

The amended definition of "promoter" for purposes of the chapter 62C notice and registration requirements applies to "[a] person who, either directly or indirectly, rents, leases or grants a license to use space [at a show] to a person for the display for sale or for the sale of tangible personal property subject to tax under chapter 64H."

Promoters are also required to be licensed by the Division of Standards. Fees for such licenses are based on the number of shows held per year. However, the term "promoter" for purposes of the G.L. c. 101 licensing requirements and fees is defined to include only those who are in business as promoters and who operate for such purpose. A state or county fair as defined in section 1 of chapter 128A is excluded from the statutory licensing requirements. Entities with questions about the applicable licensing requirements and fees should contact the Division of Standards at the following address:

Division of Standards
One Ashburton Place, Room 1115
Boston, MA 02108

www.mass.gov/standards

All promoters must also file a notice of a show with the Department of Revenue by completing Form PR-1, Promoter's Registration Application, at least ten days prior to the opening of a show. Within five days after receipt of a properly completed Form PR-1, DOR will issue to the promoter, Form PR-2, Promoter's Registration Certificate to Operate a Show. Promoters must file Form PR-3, Promoter's Report, within twenty days after the end of each calendar month that a show(s) was held.^[2] Forms that promoters are obligated to file may be found on the Department's website at www.mass.gov/dor. Completed forms may be faxed to the Show and Fair Unit at 617-887-6589 or mailed to:

Massachusetts Department of Revenue
Filing Enforcement Bureau
Show and Fair Unit
200 Arlington Street, Room 4300
Chelsea, MA 02150

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Select an area to search

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Every person shall furnish the promoter of any show at which such person displays for sale or sells tangible personal property subject to tax under chapter sixty-four H with a statement of his name, address and vendor registration number for the promoter's use in filing the report required herein." See also, G.L. c. 62C, § 67A (relating to promoters' notice requirements, tax registration certificates and penalties). That section provides, in part:

(d) A promoter shall not permit any person to display for sale or to sell tangible personal property subject to tax under chapter sixty-four H at a show unless such person is registered under section sixty-seven as a vendor and displays his certificate of registration in accordance with the provisions of said section.

(e) Any promoter who fails to file a notice of a show, operates a show without a registration certificate, fails to file a report of a show, files a report which is willfully false, or fails to comply with any provision contained in this chapter or any regulation promulgated by the commissioner pertaining to shows shall, after hearing, be subject to the revocation of all existing registration certificates issued, pursuant to this section. The commissioner may, after such hearing, issue an order denying such promoter a registration certificate to operate a show for a period of not more than six months from the date of such order. Such penalty shall be in addition to any other penalty imposed by this chapter.

In addition, G.L. c. 62C, § 73(c) authorizes imposition of potential criminal penalties on those who willfully fail to collect or pay taxes, keep records or supply information required by chapter 62C. These provisions together with the expansion of the definition of promoter to include those who operate less than three shows (regardless of duration) will facilitate sales/use tax compliance and enforcement.

The Act does not contain an emergency preamble and thus takes effect on November 9, 2010, ninety days from its enactment. Note also that the Act does not alter any vendor's obligation to register as such through Webfile for Business at www.mass.gov/dor and to collect and remit all applicable sales tax.^[3]

To the extent that the provisions of Letter Ruling 80-66, Directive 91-3 and/or any other public written statement issued by the Department are inconsistent with the provisions of G.L. c. 62C, § 1 as amended by the Act and this TIR, they are superseded.

/s/Navjeet K. Bal
Navjeet K. Bal
Commissioner of Revenue

NKB:MTF:ds

November 12, 2010

TIR 10-21

[1] The definition of the term "show" was also amended by the Act to read as follows: "a flea market, either indoor or outdoor, craft show, antique show, coin show, stamp show, comic book show fair and any similar show, whether held regularly or of a temporary nature at which more than one vendor displays for sale or sells tangible personal property subject to tax." G.L. c. 62C, § 1 as amended by St. 2010, c. 308, § 2. The added language is underscored.

[2] Pursuant to G.L. c. 62C, § 8A a promoter must "file with the commissioner a report for each

calendar month for all shows held within the commonwealth...listing the date and place of each show and the name, address and vendor registration number, by show, of every person whom he permitted to display for sale or to sell tangible personal property subject to tax under chapter sixty-four H at such show.”

[\[3\]](#) See 830 CMR 62C.66.1 as to bond requirements for transient vendors that fail to properly register.