

The Commonwealth of Massachusetts



L. JOYCE HAMPERS
COMMISSIONER

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

May 16, 1980

You inquire whether your client, a New Jersey corporation, must collect Massachusetts sales and use taxes. Among your client's activities is the leasing of equipment to businesses in Massachusetts for use in Massachusetts.

Massachusetts General Laws Chapter 64H, Section 7 requires every person doing business in Massachusetts as a vendor to register with the Department of Revenue. Chapter 64H, Sections 2 and 3 impose on vendors the obligation to collect and pay over to the Commissioner a tax on sales at retail in Massachusetts.

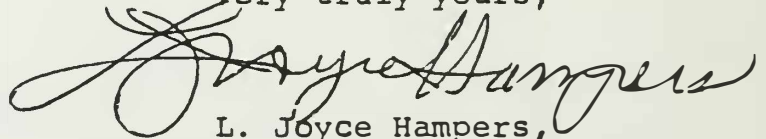
Chapter 64I, Section 4 requires vendors engaged in business in Massachusetts to collect the use tax on storage, use or other consumption in Massachusetts of property sold for storage, use or other consumption in Massachusetts.

Under Chapter 64H, Section 1(5) and Chapter 64I, Section 1(1), "engaged in business in the commonwealth" is defined for purposes of the sales and use taxes as including "having a business location in the commonwealth," and a person who regularly leases out tangible personal property for use in Massachusetts is considered to have a business location in the Commonwealth.

Based on the foregoing, it is ruled that your client must collect and pay over Massachusetts sales and use taxes on tangible personal property sold in Massachusetts or sold out of state for storage, use or other consumption in Massachusetts.

No opinion is expressed on the question whether activities of your client other than the leasing of equipment in Massachusetts constitute engaging in business in Massachusetts for sales and use tax purposes, because your request for a ruling does not supply all the information necessary to decide that question.

Very truly yours,

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

L. Joyce Hampers,
Commissioner of Revenue

LJH/JXD/jmcd

LR 80-25