

Massachusetts Sales Tax Rules Summary

Hilco Industrial, LLC Massachusetts Sales Tax Rules Summary

Clark-Cutler-McDermott
5 Fisher Street
Franklin, MA 02038

Asset Type: Waterjet Cutting System, Non-Woven Lines, Fiber Injection Molding Line, Thermoforming Presses, Hydraulic Presses & Support Equipment

Tax Rate: 6.25%

Auctions:

All retail sales, unless otherwise exempted under a specific provision, are subject to the sales tax. An auction is treated as a retail sale. Thus, anyone engaged in retail sales of tangible personal property at auction is a retailer, with the same collection and remittance duties as other retailers.

EXEMPTIONS:

Production machinery - The law exempts machinery and its replacement parts used directly and exclusively in:

- industrial plant in the actual manufacture of tangible personal property to be sold, or
- in research and development by a manufacturing corporation or a research and development corporation.

[Mass. Gen. L. Chapter 64H §6(s) .]

To qualify for the exemption, the buyer must be engaged in manufacturing (a qualified manufacturer). A company is not required to have built and distributed a finished product in order to be engaged in manufacturing. The proper test for determining whether a company is engaged in manufacturing is whether the company was engaged in an essential and integral step in the manufacturing process.

Machinery is used directly and exclusively in actual manufacture, conversion or processing when it is used solely during a manufacturing, conversion or processing operation to:

- effect direct and immediate physical change on tangible personal property to be sold;
- guide or measure direct and immediate physical change upon property where it is an integral and essential part of tuning, verifying or aligning component parts of property;
- place property in container, package or wrapping in which property is normally sold to ultimate consumer;
- test or measure such property where such function is an integral part of the production flow or function; or
- store, transport, convey or handle property during manufacturing, converting or processing operations.

[Mass. Gen. L. Chapter 64H §6(s) .]

Buyers claiming the manufacturing exemption must provide a properly completed Form ST-12, Exempt Use Certificate (see below)

Resale – Sales for resale are exempt. In a transaction involving a sale for resale, the vendor can prove the excludability of the transaction from sales tax liability only by accepting a valid resale certificate from the purchaser. [Mass. Gen. L. Chapter 64H §8(a) ; Mass. Regs. Code 830 CMR §64H.8.1(4)(a)] The resale certificate must be accepted by the vendor in good faith from a person who, at the time of the purchase, intends to resell the service or property at retail in the regular course of business, or who, at the time of purchase, is unable to ascertain whether the service or property will be sold or used for some other purpose. [Mass. Gen. L. Chapter 64H §8(b) ; Mass. Regs. Code 830 CMR §64H.8.1(4)(b).] The certificate must be signed and bear the name, address, and registration of the purchaser and indicate the

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general character of the service or property sold by the purchaser in the regular course of business. [Mass. Gen. L. Chapter 64H §8(c) ; Mass. Regs. Code 830 CMR § 64H.8.1(4)(c).]

Buyers claiming the resale exemption must provide a properly completed Resale Certificate, Form ST-4 (see below)

Sales for resale to out-of-state vendor - The Department does not require a notarized statement from purchasers in lieu of a Massachusetts resale certificate so long as the seller has accepted, in good faith, a statement, either on the purchaser's letterhead or with a business card attached, signed by the purchaser under the pains and penalties of perjury. The statement must declare that the purchaser is not engaged in business in Massachusetts within the meaning of M.G.L. ch. 64H, §1 and the purchaser is purchasing the property solely for resale in the ordinary course of its business. If the purchaser is registered to do business in another state, a copy of that registration or permit must be attached to the statement. In the alternative, the statement must list the registration or permit number and the state of registration. [Massachusetts DOR Directive 89-10, 12/11/1989].

Motor Vehicles - The auctioneer is not required to collect sales or use tax on a motor vehicle sold to a Massachusetts resident. The Massachusetts resident pays directly to the registry. The auctioneer may rely on the address listed on the purchaser's driver's license when determining whether the purchaser is a resident. No Massachusetts sales tax is due if an auctioneer delivers a motor vehicle purchased at an auction in Massachusetts to the purchaser outside of Massachusetts.

TAXABLE:

Sales to Nonresidents - Nonresident buyers who come into Massachusetts, purchase a taxable item, and take delivery of the item are required to pay tax when the items are purchased. [Mass. Gen. L. Chapter 64H §1 .]

EXEMPTION CERTIFICATES:

Resale Certificate Form ST-4: <http://www.mass.gov/dor/docs/dor/forms/wage-rpt/pdfs/st-4.pdf>
Exempt Use Certificate ST-12: <http://www.mass.gov/dor/docs/dor/forms/wage-rpt/pdfs/st-12.pdf>

Although Massachusetts is an associate member of the Multi-state Tax Commission, it has not indicated that it accepts the MTC's uniform sales and use tax exemption certificate.