



From the desk of Jamy B. Madeja, Esq.,  
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**URGENT WARNING REGARDING DEPARTMENT OF  
REVENUE UNANNOUNCED VISITS**

I have learned that once again, MassDOR is making site visits, seeking access to docks and records. MassDOR has indicated they are seeking documentation to support suspicions of vessel owners who have not paid sales or use tax and yet may owe it to the Commonwealth because their vessel was originally purchased with the intention of storage or use in Massachusetts. (There is no statute of limitations if the original intention of the boater at time of purchase was to return to Massachusetts, although the burden of proof switches to the Commonwealth after a while). The DOR has every right to seek out possible tax evaders, and you also have obligations under law which are not the same as the DOR's. The boaters MassDOR is investigating are also customers and may not even know of MassDOR's convoluted policies about collecting sales tax on boats purchased out of state years ago."

You may also receive a written notice from MassDOR "requesting" copies of "dockage and storage contracts and/or a list with Out of State and Documented vessels." The request

also usually states that “the list should include the owners name, address, telephone number, boat make, length, boat name or registration id number and the number of years the vessel has been docked or stored at your location.”

**First**, businesses are under no legal obligation to comply with the MassDOR’s request for information or even to respond to it. It is not the required subpoena for records nor is it a court order. It is an agency requesting that the business help them find possible tax evaders and help them build their case against them.

**Second**, the marina is under a statutory requirement not to provide the information as the statute requires businesses and others to keep confidential personal information of this nature, absent a court order or similarly dominant provision of law such as a subpoena in a DOR proceeding against a particular vessel owner. In the new Consumer Personal Information Statute and Regulations, there is no exemption allowing provision of confidential information to a government agency. So if someone from DOR physically shows up at your facility, simply tell them the marina has no authority to violate this state statute, unless the DOR person can provide some law saying its ok.

In 2013, MMTA contacted the MassDOR about this issue and their representatives have stated that 1) the notices are indeed requests, not legally enforceable court orders or subpoenas, such that compliance is voluntary; and 2) that no written exemption is available from DOR regarding the confidentiality laws, because it is the taxpayer who is entitled to confidentiality, not a business providing information to the MassDOR voluntarily.

The MassDOR representatives seemed most anxious to provide assurances that they generally would not disclose this personal information, yet they could not cite to any clear authority for them to withhold it from public records requests or to protect the business from violations of the confidentiality statute, making the business quite vulnerable to private action by a customer should the business voluntarily provide personal records to MassDOR.

**Finally**, DOR also has no authority to require you to allow them to walk your private docks,

but they do have authority to be in any area open to the public. If you wish, you can tell them you try to help the Commonwealth when it is legal for you to do so, but you were advised it is not legal for you to provide personal information of customers voluntarily and that your insurance isn't meant for non-customers and their guests walking the docks, so you aren't supposed to provide that access voluntarily either, so sorry.

MMTA supports full compliance with tax laws, even while we work to modify unclear or counterproductive tax laws. MMTA also supports full compliance with the Consumer Personal Information statute and regulations. Only you can decide for your business how you chose to balance the MassDOR's request with your statutory obligations.

***Be sure to tell your staff what to do if you are not there when MassDOR comes in the future.***

Please see the below example of the MassDOR **REQUEST** letter.



MICHAEL J. HEFFERNAN  
COMMISSIONER

STEPHEN E. MOFFATT  
DEPUTY COMMISSIONER

*The Commonwealth of Massachusetts*  
*Department of Revenue*  
*Tax Division*  
*Trustee Tax Bureau*  
*200 Arlington Street*  
*Chelsea, MA 02150*

Date: 07/24/2017

Re: Out-of-State and Documented Vessels.

Dear Sir/madam:

The Massachusetts Department of Revenue is conducting a review of Marina docks and moorings in your area. Massachusetts General Laws Chapter 64H & Chapter 64I imposes a sales/use tax for vessels either purchased in Massachusetts, or purchased for storage or use in Massachusetts. Pursuant to the provisions of Massachusetts General Law, Chapter 62C, Sections 24 and 70, the following request is made.

Please furnish the Department of Revenue with copies of the dockage and storage contracts and/or a list with Out Of State and Documented vessels. The list should include the owners name, address, telephone number, boat make, length, boat name or registration id number and the number of years the vessel has been docked or stored at your location.

Thank you for your consideration in this matter.

Sincerely yours,

*EAZ*

*LALNERE @STATE. MA. US. DOZ*

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Trustee Tax Bureau  
Tel. 617-887-5024

Massachusetts Marine Trades Association

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