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August 23, 2004

[name]
[firm]
[address]
[city and state]

FORMAL RULING 04-07

Dear [name]:

You have, by letter dated [date], asked the Vermont Department of Taxes ("Department") to issue a formal ruling addressing Vermont meals and rooms tax ("rooms tax") and Vermont property transfer tax consequences of certain transactions relating to a multisite vacation club and timeshare plan ("Plan") of [name] ("Club"). Your request was made on behalf of [company] ("Taxpayer").

Enclosed with your letter were copies of the [document] ("Declaration"), [document] ("Club Bylaws"), and [document] ("Club Guidelines"). You note in your letter that the rights of Club members are described in these documents.

You have, by transmittal letter dated [date], provided the Department with a copy of a [trust agreement]. Your transmittal letter indicates that this trust agreement typifies the trust agreements referred to in the presented facts that are noted below.

PRESENTED FACTS

The following facts are those described in your letter of [date], the Declaration, the Club By-laws, the Club Guidelines, and the [trust agreement].

The Taxpayer is a [corporation], with an office in [city and state]. It is qualified to do business in Vermont and other states. [Affiliated corporation] is a [jurisdiction of incorporation] that is affiliated with the Taxpayer.

[Affiliated corporation] created the Plan in [date]. The Club is a non-stock, non-profit [state of incorporation] that was formed by [affiliated corporation] as an integral part of the Plan.

[Affiliated corporation] transferred unencumbered condominium units ("Units") [located in] to an independent trustee, to be held in trust for use under the Plan. As payment for the transferred Units, the Club created and transferred [points] to [the affiliated corporation].

The Declaration authorizes [the affiliated corporation] and the Taxpayer to transfer additional Units in trust for use under the Plan. Under this authority, the Taxpayer and others have transferred [number and location of Units] into trust for use under the Plan. More Units are to be transferred in trust for use under the Plan by the Taxpayer at future sites in Vermont, [and other locations].

The Taxpayer received [points] for its transfers. It will thereafter sell these [points] to the public.

The trustee owns the bare legal title to Units held in trust. All equitable and beneficial interest in the Units is vested solely and exclusively in the Club for the benefit of the Club and its Members. The trustee will deal with the Units as the Club may determine in accordance with the terms of the Declaration and as permitted by law.

When Units are transferred to the trust, a trust agreement and a local timeshare declaration, with the Declaration attached, are recorded in the appropriate jurisdiction against the title to the Units. Upon transfer, the Units become part of the Club, and are subject to the terms of the Declaration and other Club instruments. Unless a Unit is damaged, destroyed, expropriated, or condemned, no Unit may be removed from the Club.

The Declaration refers to the various sites where Units are located as Projects. Each Project has multiple Units and each Unit is located in a Project.

When Units are transferred into trust, [the affiliated corporation] or other authorized transferor determines the total time value of the [points] that will be required to occupy all Units in the Project over a period not exceeding 51 weeks. Once a Project's total number of [points] is fixed, that total cannot be subsequently changed.

The total number of [points] required to reserve Units located in a particular Project is fixed at the time of the Units' transfer. The number required to reserve particular Units in the Project may vary from year to year, based upon seasonal changes and demand. The [points] required to reserve Units in a Project are [recorded] for that Project.

The primary benefit of Club membership is the use of [points] by a Club member ("Member") to reserve Units at any one of the Units' worldwide locations. As noted in the Declaration, [points] are the "currency of use" through which Members reserve Unit occupancy. Each Member owns an annual allotment of [points] based on the number that the Member purchases upon joining the Club, as well as any that the Member chooses to add later.

A [point] purchaser automatically becomes a Member of the Club at the time of initial purchase. Once a Member, the purchaser becomes entitled to all rights and benefits under the Plan. Each Member receives a Membership Certificate that evidences the number of [points] owned by the Member.

Unit reservations are made through the Plan's reservation system. Under this reservation system, Members must make reservations no earlier than 11 months prior to the first day of continuous occupancy. All reservations are subject to a two-night minimum stay requirement.

Reservations are honored on a first-received, first-confirmed basis, and a Member's ability to reserve a specific time is dependent on the availability of the Unit at the time. There is no guarantee that any particular reservation request will be fulfilled.

Reservations are confirmed by the Club in writing or by fax. The confirmation notice states the [points] charged to the Member for the reserved Unit and provides the reservation number.

Members may cancel a reservation without loss of [points] if the cancellation is made 30-days or more in advance of the scheduled arrival date. If a reservation is canceled within less than the required number of days, the Member will forfeit the number of [points] applied to the cancelled reservation for use during the current year.

Any change in a reservation will be considered a cancellation. In such case, a new reservation must be confirmed and will be subject to availability. If a waiting list is established, members canceling their reservations will be placed at the bottom of the list.

A Member's [points] that remain unused at the end of a use-year will expire for that year. The Member's [points] are automatically renewed at the beginning of the next use-year.

Members receive no deed or other indicia of title to the Units or other Club property. Members are, however, authorized to lease, rent, or otherwise make their reserved Units available for occupancy during their reserved periods of use.

Members may transfer their [points] to other Members for their use on a current Unit reservation. Such use must comply strictly with the terms and conditions imposed by the Project in which the Units are located and by Club rules.

Members are required to pay annual assessments. The assessments are used by the Club to meet its costs. These include items such as repairs, insurance coverage, capital contributions for reserves, and administration and operation of the Club. Members are subject to special assessments for capital improvements or other extraordinary expenses. Members must be current on the payment of their assessments in order to make reservations, use, or lease the Units, or maintain any other Club membership rights and privileges.

A lien to secure payment of assessments attaches to each Member's membership as of the date the assessments become payable. The lien continues to attach until payment is made. The Club also has a security interest in the Member's membership to secure payment.

If an assessment is not timely paid, the Club can, at its option, enforce its lien on the Member's membership, bring an action to recover a money judgment, and suspend some or all of the Member's rights and privileges. Enforcement rights include the power of sale under state law. In the event a membership is terminated through enforcement procedures, the Club will reacquire the Member's [points] in exchange for payment of the delinquent amounts. Memberships are not revocable for reasons other than assessment delinquency.

Members have the right to encumber their Club memberships. They cannot, however, encumber the Units, the Club's equipment, or the membership of any other Member.

Members are entitled to vote at the Club's membership meetings as provided in the Club Bylaws. The voting power of each Member is based on the number of [points] owned.

Members elect the Club's board of directors. The board is responsible for the operation and administration of the Club. It is required to engage, at all times, a responsible managing agent as Club manager.

Each Member is entitled to sell his or her Club membership and [points] to a third party under limited conditions. All third party sales are subject to [the affiliated corporation's] right of first refusal. This right of first refusal gives [the affiliated corporation] the opportunity to purchase the membership from the Member under the terms and conditions provided in the third-party sale agreement. All subsequent membership transfers by third party transferees are subject to the same right of first refusal.

The [points] and Club membership of a deceased Member are transferable to the Member's beneficiaries, but only if certain requirements are met. The personal representative is required to give [the affiliated corporation] written notice of the proposed transfer and [the affiliated corporation] must waive its right of first refusal or the right must have expired as provided in the Declaration. Each beneficiary and must receive not less than [a certain number of points]. Beneficiaries and purchasers acquiring memberships are subject to the restrictions on transfers and encumbrances that are applicable to all Members.

Club Bylaws provide for dissolution of the Club: (a) upon approval of 90% of the voting power of each class of membership if there is more than one class; or, (b) if there is only one class of membership, upon a vote of at least 90% of the voting power residing in Members other than [the affiliated corporation].

Surplus funds will not be allowed to accumulate. In the event assessments are greater than needed to operate the Club in any given fiscal year, the excess will be applied to reduce the assessments for the next fiscal year.

Units will not be removed from use under the Plan except in cases such as damage, destruction, expropriation, or condemnation. Any Unit that is so removed will be replaced with a comparable Unit.

All Units will be sold upon the Club's dissolution. The sale proceeds remaining after payment of all obligations will be distributed to the Members. The amount of the distribution is based upon the Member's proportionate number of [points].

REQUESTED RULINGS

REQUESTED RULING NUMBER 1. You have asked the Department to rule that the sale of [points] to Club Members will not be subject to the Vermont Hotel and Meals Tax or the Gross Receipts Tax of Vermont Stat. Ann. Section 9202 or 9242.

REQUESTED RULING NUMBER 2. You have asked the Department to rule that if the sale of [points] will be subject to the Hotel and Meals Tax, the amount of tax due on sales in Vermont should be calculated on a formula determined by the amount paid for such [points] multiplied by a factor, the numerator of which is the total number of Units owned by the Club in Vermont, and the denominator of which is the total number of Units owned by the Club on a worldwide basis.

REQUESTED RULING NUMBER 3. You have asked the Department to rule that the yearly membership dues/ assessments paid by the Members are not subject to the Hotel and Meals Tax.

REQUESTED RULING NUMBER 4. You have asked the Department to rule that Vermont real estate transfer tax due on the sale of [points] in Vermont should be calculated on a formula determined by the amount paid for such [points] multiplied by a factor, the numerator of which is the total number of Units owned by the Club in Vermont and the denominator of which is the total number of Units owned by the Club on a worldwide basis.

RULINGS

RULING NUMBER 1. The gross amount of the proceeds from each sale of [points] will be subject to the Vermont rooms tax (referred to in your Requested Ruling as Hotel and Meals Tax and Gross Receipts Tax). These proceeds constitute rent subject to the 9% rooms tax under 32 V.S.A. §§ 9241(a) and 9242(c). This Ruling applies to the Taxpayer and all others making such sales.

The proceeds from the sale of additional [points] subsequent to the Member's initial purchase also constitute taxable rent and gross receipts for occupancy. As with the initial sale, these proceeds are subject to Vermont rooms tax under 32 V.S.A. §§ 9241(a) and 9242(c).

RULING NUMBER 2. The Department agrees to allow the Taxpayer to use the formula described in Requested Ruling Number 2 to allocate the gross proceeds received from [points] sales, on a sale by sale basis. However, the Department agrees to allow the use of the formula only as long as it serves to allocate a fair share of the sale proceeds to Vermont, and the Department can

easily verify the formula's components from the Club's financial records and other credible sources.

RULING NUMBER 3. The annual and special assessments paid by the Members will not be subject to Vermont rooms tax (identified in your Ruling Request as Hotel and Meals Tax).

RULING NUMBER 4. Vermont property transfer tax does not apply to the sale of [points].

DISCUSSION

DISCUSSION OF RULING NUMBER 1.

Operators of hotels are required to collect rooms tax equal to 9% of the rent of each occupancy. 32 V.S.A. §§ 9241(a). This tax must be collected from the hotel occupants. 32 V.S.A. § 9242(a). Operators are personally obligated to pay a 9% rooms tax to the state based upon the gross receipts from the occupancy rentals which they receive. 32 V.S.A. § 9242(c).

Gross receipts referred to in Section 9242(c) are synonymous with rent described in Sections 9241(a). Department Reg. § 1.9242-3(a) (a rooms tax is imposed on gross receipts received by operators from Rent). Rent is defined in 32 V.S.A. § 9202(8) as:

[T]he consideration received for occupancy. . . ; and any monies received in payment for time-share rights at the time of purchase, provided, however, that such money received shall not be considered rent and thus not taxable if a deeded interest is granted to the purchaser for the time-share rights

The Plan is a timeshare plan. [Point] purchasers automatically become Members of the Club at the time of purchase, at which point they become eligible to exercise their rights under the Plan. Members accordingly acquire timeshare rights through their purchase of [points]. These purchase proceeds will therefore constitute rent under Section 9202(8) unless the Members are granted deeded interests for their timeshare rights.

Section 9202(8) contemplates two categories of timeshare rights: (1) those acquired by deed, and therefore coupled with a real property interest; and (2) those providing for the right to use and occupy timeshare property without a real property interest. This is a common distinction made between timeshare types. See Rohan and Reskin, *Condominium Law & Practice*, §§ 55.01(1) and 55.01(04). The non-deeded timeshare rights are, in the absence of a real

property interest, similar in nature to those enjoyed by hotel occupants. The proceeds from the sale of non-deeded timeshare rights are accordingly treated as rent.

Deeds are commonly understood to convey realty. Black's Law Dictionary, 5th ed., p. 373 (defining "deed"). This understanding is reflected in 27 V.S.A. § 301, which provides that a "[c]onveyance of land or of an estate or interest therein may be made by deed. . . ."

These two categories of timeshare rights have also been recognized in 24 V.S.A. § 4407(14) (addressing the regulation of timeshare development) and 27 V.S.A. § 607(a) (providing rules for canceling timeshare contracts). These statutes categorize timeshare rights as "timeshare estates" and "timeshare licenses."

Sections 4407(14) and 607(a) describe a timeshare estate as a right to occupy a timeshare unit during separate time periods over a period of years, coupled with a freehold estate or an estate for years in timeshare property. Freehold estates and estates for years each constitute real property interests. Restatement (First) of Property Div. II, Introductory Note (1936); Restatement (First) of Property § 19.

A timeshare license, on the other hand, is described in Sections 4407(14) and 607(a) as a right to occupy a timeshare unit during separated time periods, not coupled with a freehold estate or estate for years. The purchasers of timeshare licenses receive only a license to use and occupy timeshare property without receiving a real property interest. Mendez, 17 Fordham Urban L.J. 505, 510-511 (1990).

In sum, the purchasers of a "deeded interest" timeshare right receive the right to use the timeshare property coupled with a real estate interest. The purchasers of non-deeded timeshare rights acquire the right of use without the coupled real estate interest. The nature of the timeshare rights acquired by the Members must therefore be examined to determine whether they are coupled with real estate interests. If they are, the [points] purchase price will not constitute rent. The purchase price will otherwise constitute rent.

The nature of the Members' timeshare interests depends upon the manifest intent of the Club and the Members as evidenced by the terms of the governing instruments. *Bergeron v. Forger*, 125 Vt. 207, 210 (1965) (whether an interest is a license or a lease depends generally on the manifest intent of the parties gleaned from a consideration of the entire contents of the governing instruments). The governing instruments in this case are the Determination, Club-Bylaws, Club Guidelines, the trust agreement, and the letter of [date].

An examination of these documents shows that the timeshare rights held by the Members are of the "non-deeded" variety. Although the Members' rights may not constitute licenses due, for example, to their indeterminate duration, they are certainly not "deeded interests." Their qualification as licenses is irrelevant inasmuch as Section 9202(8) excludes from the definition of rent only those membership rights that are coupled with deeded interests.

Members do not receive deeds, leases or other indicia of title to or interest in real property. The Members are also not provided with an interest in the Units under the terms of the trust agreement. The trust agreement conveys legal title to the Units to the trustee and the beneficial interest to the Club. The Members' rights extend only to the use of the Units pursuant to the terms of the Plan, and to the right to receive the proceeds from the sale of the Units at the indefinite time of Club dissolution. Neither right constitutes a real property interest.

The right to receive the proceeds from the Units' sale merely provides a personal property interest. The Restatement of the Law of Trusts 2d, § 131, notes that if, as here, there is a duty to sell real property held in trust at an indefinite time, and to distribute the proceeds from the sale of this property, the recipient's interest in the proceeds constitutes personal property. In this respect it should be noted that the Club is barred from distributing property, or the proceeds from its sale, to the Members prior to its dissolution.

Members are barred from transferring or mortgaging the Units or an interest in the Units. And although the Declaration refers to the Members' right to "lease," they cannot lease property they do not own. A lease of the Units would constitute an interest in real property, and the Members have no such interest.

In the same vein, Members have no real property rights attendant upon their right to transfer their Club memberships, subject to [affiliated corporation's] right of first refusal. They can transfer only what they own, which in this case are membership rights without real property interests.

The Members, furthermore, acquire no interest in the Club's property through their status as members of the Club or board of directors. Even though the Club is a [corporation], such corporations are generally treated as for-profit corporations. Jacobson, 20 Del. J. Corp. L. 635, 636 (1995). It is well-settled that corporations own property in their own right, and such property belongs to them rather than their stockholders or directors. Fletcher Cyclopedia of Private Corporations, Perm. Ed., §§ 14, 853, and 5753.

Courts in several states have addressed the question of whether timeshare purchasers acquire real property interests through their rights to occupy and otherwise control the units under their timeshare agreements. In this context, the element of exclusive use of the timeshare property has been the decisive factor. *Realty of Missouri, Inc. v. Shivers & Associates, Inc.*, 705 F. Supp. 556, 559 (S.D. Fla., 1989). Two representative cases are described below.

Timeshare club members were deemed to have a real property interest in the timeshare units under the facts and circumstances presented in *Cal-Am Corporation v. Department of Real Estate*, 163 Cal.Rptr. 729 (1980). Members could purchase up to four one-week timeshare interests in the club's 154-unit condominium resort. This interest would terminate on December 31, 2041. Although unit reservations were on a first-come-first served basis, and the club retained the right to assign a particular unit, each member was guaranteed the exclusive right to occupy one of the club's units for at least one week per year. This guaranteed right was held to be sufficient to provide the members with a real property interest in the units.

On the other hand, the purchasers of timeshare rights were held not to acquire real estate interests under the facts and circumstances described in *Bernhardt v. Hemphill*, 878 P.2d 107 (Colo., 1994). The purchasers acquired timeshare rights in a motel which authorized them to use an unspecified unit at the motel for two, two-week periods each year for 25 years, as long as the annual maintenance fee was paid. The contracts did not provide the right to reserve any particular unit, and although the purchasers received the right to use the unit during specified seasons, the contracts did not guarantee that the right to use could be exercised during any particular recurrent two-week period. The contracts also did not give the purchasers the right to exclusively possess the unit; if the purchaser failed to reserve the unit or occupy the unit during the reserved period, the motel had the right to use the unit for its own purposes.

The interests of the Members more resemble the real property rights described in *Bernhardt* than those in *Cal-Am*. The Members have no right to designate any particular Unit or location, and reservations are confirmed only on a first-come first-served basis. The Members, in fact, are not guaranteed the right to the use of any Units at all. Their right to use and possess the Units clearly confer no real property interests under the guidelines of these cases.

In sum, the Members do not acquire timeshare rights coupled with real property interests. They acquire the use of the Units but do not acquire a real estate interest. They receive no deeds of other indicia of title, nor do they have the right to convey or encumber the Units or interests therein. Although a Member can "lease" a Unit or transfer his or her membership interest, the

Member has no real property interest to lease, transfer or convey. Nor do the Members acquire real estate interests through their possessory rights.

Although the terminology used in Chapter 225 (imposing rooms tax) is not tailored to non-deeded timeshare rentals, these rents clearly fall under this Chapter, as discussed above. The provisions regarding imposition and collection of the tax must accordingly be construed to accomplish the result intended by statute.

With this maxim in mind, the Taxpayer and any others receiving proceeds from the sale of [points] will, as operators, be required to collect the tax on the proceeds from the sale of [points] pursuant to 32 V.S.A. §§ 9241(a) and 9242(a). These operators will also be required to pay the tax to the state according to the provisions of 32 V.S.A. § 9242(c).

The Taxpayer will need to apply for and receive from the Department a Vermont Business Tax Account prior to commencing business in Vermont. The procedures for obtaining such an account are set forth in the Guide to Vermont Business Taxes published by the Department. This Guide can be found on the Department's website or can be obtained from the Department.

You argue in the memorandum included in your letter of [date] that the Members acquire deeded interests in the Units because they have the same rights held by shareholders in cooperative housing corporations. As evidence of this similarity, you note that the Club is governed by a board of directors elected by the Members, and that Members have the right to transfer their memberships interests in accordance with the Declaration. You further note that the Members can cause the Club to dissolve, sell all of the Units, and distribute the proceeds to the Members.

The situations you cite as analogous do not support your argument that a real property interest is acquired in these cases. You first argue that [11 V.S.A. § 1608] gives members' of cooperative housing corporations the same homestead property tax treatment as direct owners of real property. You next argue that Vermont formal ruling [83-2, dated April 22, 1983], made no distinction between a timeshare cooperative and a deeded timeshare interest. 1

Section 1608 does give members the right to claim homestead rights for property tax adjustment and income tax rebate purposes as provided in 32 V.S.A. § 6066. This provision is, however, nothing more than a tax relief

1 You refer in your memorandum to Ruling 83-3, dated April 15, 1983. This ruling addresses the taxation of cable services. Ruling 83-2 cited above, addressing timeshare units, appears to be the Ruling that you sought to address.

measure and is clearly not intended to treat members as direct real property owners. This consequence would not flow from an interest in a housing corporation, so the legislature had to specifically provide it.

Ruling 83-2 concerned the land gains tax consequences of sales of timeshare units. Timeshare unit owners transferred their timeshare real property interests through the sale of their shares in the cooperative that owned the property. The sale of the shares was considered to be the transfer of the shareholder's interest in land because 32 V.S.A. § 10004(c) specifically provides that a sale of shares in a corporation or other entity which effectively entitles the purchaser to the use or occupancy of land will constitute a sale of the land. Again, the legislature had to specially provide for this result. It did not choose to do so with respect to the rooms tax.

You have attached a ruling from the State of Florida opining that the sale of Membership units will not be subject to Florida state or local sales or use tax. Florida opined that such sales would not be taxable because sales of timeshare estates were exempt from tax. The ruling notes that the taxpayer represented that the membership units were in the nature of cooperative interests. A Florida statute specifically identifies a cooperative unit as a timeshare estate. This ruling is, therefore, inapplicable here because Vermont has no such statute.

DISCUSSION OF RULING NUMBER 2.

Operators must remit Vermont rooms tax equal to nine percent of their gross receipts from occupancy rentals. Section 9242(c). This tax is payable to the state on a quarterly basis where tax liability is \$500 or less for the prior year, or would have been had the business operated for that entire year. 32 V.S.A. § 9243. In all other cases, the tax is payable monthly. *Id.* The rooms tax is, accordingly, payable near the time of receipt regardless of the date of actual occupancy.

Monies received from the sale of "non-deeded" timeshare rights constitute rent at the time of purchase. 32 V.S.A. § 9202(8). Such rights are acquired by the Members at the time they purchase their [points]. The Taxpayer, as the [points] seller, will accordingly be required to determine the amount of proceeds attributable to Vermont and pay the rooms tax on that amount shortly after receipt.

The Plan is a multisite vacation plan, with Units located in Canada and several states. Units will soon be added in Vermont and [other location]. Each

Member has the opportunity at the time of his or her [points] purchase to enjoy all benefits provided by the Plan during the term of the Member's Club membership. This includes the right to reserve all of the Units available under the Plan and to use those Units upon confirmation.

The states and countries in which the Units will be used cannot be identified at the time of the Member's [points] purchase. The Member might end up using only those Units located in Vermont, none of the Units in Vermont, or some in Vermont and some elsewhere.

Vermont is authorized to impose rooms tax only on rents derived from the occupancy of facilities located within its boundaries. The use of a formula that fairly allocates the [points] purchase price to Vermont is a reasonable way to address this limitation where, as in the Taxpayer's case, it cannot be determined at the date of purchase which Units will eventually be used.

You have proposed an allocation formula, as described in Requested Ruling 2. This formula appears reasonable on its face, taking into account the number of available Units and their respective locations.

There is precedent for the formulary allocation of rooms tax charges. Department regulations provide for the allocation of itemized package-plan charges attributable to rent, meals, equipment rentals and use of recreational facilities, provided the allocation formula is reasonable and is easily ascertainable from the taxpayer's financial records. Department Reg. § 1.9202(8)(3). The purpose of the Regulation is to provide a practical and fair method for allocating charges. Although the Regulation does not address the allocation of interstate charges, its underlying principal is nevertheless applicable in the instant case.

The Department therefore will allow the Taxpayer to use the formula described in Requested Ruling 2 for as long as the formula serves its intended purpose and the Department can easily verify the formula's components from the Club's financial records and other credible sources.

DISCUSSION OF RULING NUMBER 3.

Vermont rooms tax applies to rent and gross receipts, as provided in 32 V.S.A. §§ 9241(a), 9242(a), and 9242(c). Members are required to pay annual and special assessments. (The facts do not indicate that Members pay dues as such.) These assessments are used by the Club to pay for items such as maintenance and repair, capital improvements, and capital reserve contributions.

The given facts indicate that none of the assessment proceeds are used to purchase [points] or other costs that may be identified as rent or gross receipts. The annual and special assessments are therefore not subject to Vermont rooms tax.

DISCUSSION OF RULING NUMBER 4.

Vermont property transfer tax applies only to the transfer by deed of title to property. 32 V.S.A. § 9602. "Property" referred to in Section 9602 is real property, and specifically does not include personal property transferred with real property. 32 V.S.A. § 9601(10).

[Points] serve to provide Members with timeshare rights under the Plan. As noted in Ruling Number 1, these rights do not constitute real property or interests in such property. Property transfer tax therefore does not apply to [points] sales.

GENERAL PROVISIONS

This ruling will be made public after deletion of the parties' names and any information that may identify the parties. A copy of the ruling showing the proposed deletions is attached, and you may request, within 30 days, that the Commissioner delete any further information that might tend to identify interested parties. The final discretion as to deletions, however, remains with the Commissioner.

This ruling is issued solely to you and is limited to the facts presented as affected by statutes and regulations in effect on the date of this ruling. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in case of any change in the relevant statutes and regulations.

3 V.S.A. § 808 provides that this ruling will have the status of an agency decision or order in a contested case. You have the right to appeal this ruling within thirty (30) days.

Very truly yours,

John M. Bagwell
Attorney for the Department

Approved this 23d day of August, 2004.

Tom Pelham
Commissioner of Taxes