

February 4, 2010

<REQUESTER>  
<ADDRESS>

FORMAL RULING 2010-04

Dear <REQUESTER>:

You have requested a ruling that <COMPANY> dba <DBACOMPANY> is exempt from payment of the Vermont meals and rooms tax, sales and use tax and “any other state, county, municipal and local taxes that might be imposed on the corporation while pursuing its activities in the State of Vermont.”

The corporation was created by Congress in <YEAR> as a nonprofit public corporation. 42 U.S.C. §8102(d). The law provides that:

The corporation, including its franchise, activities, assets, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

The corporation received at ruling from the Department in <YEAR> stating that the exemption “is broad enough for the <COMPANY> to avoid all state taxes, with the exception of real property taxes ... and possibly the Railroad Tax found in § 8211et seq...”. The ruling specifically addressed the sales tax, stating that “where the <COMPANY> is considered the taxpayer by terms of the statute” it would not apply, but noting that if the corporation sells property, tax should be collected and remitted. The law is unchanged in that regard.

Similarly, with respect to meal and rooms tax, where the corporation is the taxpayer under Chapter 225 of Title 32 no tax applies to the purchased meal or occupancy. However, if the corporation sells taxable meals or rents occupancy in a “hotel” as that term is defined in 32 V.S.A. § 9202(3), it must collect and remit the tax.

While federal law prohibits states from charging the corporation a tax, this immunity does not extend to all employees or agents acting on behalf of the corporation. Payment must be made by the corporation in order for the charge to be exempt.

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

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

Section 808 of Title 3 provides that this ruling has the same status as an agency decision or an order in a contested case. You have the right to appeal this ruling within thirty (30) days.

Sincerely,

Molly Bachman  
General Counsel

Approved this \_\_\_\_ day of February, 2010.

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Richard Westman  
Commissioner of Taxes