

July 14, 2010

<REQUESTER>

<COMPANY>

FORMAL RULING 2010-11

Dear <REQUESTER>:

You have requested a formal ruling on whether compression clothing sold by <COMPANY> at its stores located in Vermont is subject to Vermont sales tax.

Based on the information you provided, the compression clothing in question is <redacted> a body fitting first layer worn under athletic uniforms or other clothing. The compression clothing is designed by a manufacturer of athletic apparel and is advertised as <redacted> The material is intended to ensure dryness and comfort, reduce odor and trap heat to keep the wearer warm. Some items are intended for warm weather <redacted> and some for cold weather (e.g., <redacted>). You believe that the primary use of the clothing is as a layering garment in cold weather but that it is also worn independently.

Clothing is exempt from Vermont sales tax pursuant to 32 V.S.A. § 9741(45). Clothing does not include sport or recreational equipment. *Id.* “Clothing” and “sport or recreational equipment” are both terms defined in Vermont sales tax law. 32 V.S.A. §§ 9701(24), (37). Clothing is defined as “all human apparel suitable for general use.” Although the compression clothing you sell is designed and marketed as athletic clothing, there is nothing about it that is inherently unsuitable for general use. Thus, unless it is sport or recreational equipment, it is clothing.

“Sport and recreational equipment” means items designed for human use and used in conjunction with an athletic or recreational activity that is not suitable for general use. The definition includes a list of examples of sport and recreational equipment that includes items such as roller and ice skates, cleated or spiked athletic shoes, goggles, elbow guards, life preservers, waders and wetsuits. These items are designed for specific sports or activities and are not worn (or only rarely) except when engaged in the intended activity. The compression clothing you sell is suitable for wear even when not engaged in a sport and clearly more closely resembles the items listed as examples of clothing than the examples of sport or recreational equipment.

Compression clothing, as described in your letter and illustrated in the enclosures is clothing as defined in section 9701(24) and therefore is exempt from Vermont sales tax.

This ruling will be made public after deletion of the parties' names and identifying information. A copy of this ruling showing the proposed deletions is attached. Further deletions may be requested within thirty days; however, the Commissioner has final discretion as to deletions.

This ruling is issued solely to your business and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling for general guidance, but the Department is not bound by the ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.

You have the right to appeal this ruling within thirty days.

Sincerely,

Molly Bachman  
General Counsel

Approved:

Ellen Tofferi  
Acting Commissioner of Taxes