

March 16, 2011

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Formal Ruling 2011-05

Dear <Redacted>:

This is a formal ruling for <redacted>, regarding the applicability of sales tax to the <product> and similar barn lighting products. This ruling is based upon representations in your letter of <date>, and the materials you enclosed with your letter.

RULING REQUEST

You have requested a ruling that energy efficient light fixtures specifically engineered and designed for dairy barn application, used to increase daylight-equivalent and thereby increase milk production, are exempt from sales tax because they are used in the production for sale of tangible personal property.

RULING

The barn light fixtures you describe are not exempt from sales tax.

FACTS

The lighting fixtures you describe are <redacted>designed for dairy barn application". They may be used on a timer to provide the equivalent of 16 to 18 hours of daylight for dairy cows, followed by 6 to 8 hours of dim lighting, simulating long days. You cite a study from the <redacted> that shows a possible increase in milk production of 5 to 15% with the proper use of these lights. You mention that dairy operators also benefit from the enhanced lighting in "day mode", but may be disadvantaged during "night mode" when the lighting is dimmer.

The materials which describe the equipment refer not only to enhanced milk production, but also to improved working conditions for the dairy operators, in phrases such as the following: "Farmers should take advantage of this opportunity to improve profitability and working conditions...Benefits include: Increased milk production; Improved heifer growth; More enjoyable and safer working conditions... [A]ccidents...do happen during barn chores. Good lighting helps workers spot obstructions and slippery areas...most people appreciate a well-lit work place and, consequently may become more productive."

DISCUSSION

Vermont sales tax law exempts "agricultural machinery and equipment for use and consumption directly and exclusively, except for isolated or occasional uses, in the production for sale of tangible personal property on farms." 32 V.S.A. Section 9741(25). Under this exemption, other uses are "not isolated or occasional if they total more than four percent of the time the equipment is operated." Id.

While you have cited some evidence that these lights may be used to increase milk production, the lights are also used generally to light the barn so that dairy operators and others in the barn may see. At all times when the lights are on, they are also providing general barn lighting. As a result, the lights you describe are not used directly and exclusively for milk production, and are not exempt from sales tax.

This result is similar to the rule under the analogous exemption for use of equipment directly and exclusively in the manufacture of tangible personal property for sale, under 32 V.S.A. 9741(14). The regulation under that section provides that “lighting [equipment] for general illumination...is subject to the tax.” Reg. § 1.9741(14)-6.

GENERAL PROVISIONS

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 30 days that the Commissioner delete any further information that might identify the parties. The final discretion as to deletions rests with the Commissioner.

This ruling is issued solely to your firm and is limited to the facts presented, as affected by current statutes and regulations. Other taxpayers may refer to this ruling, when redacted to protect confidentiality, 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 the case of any change in the relevant statutes or regulations.

Emily Bergquist
Hearing Officer

Date

Approved:

Mary Peterson
Commissioner

Date