

Ruling 92-03

Vermont Department of Taxes

Date: June 3, 1992

Written By: Gloria Hobson, Director, Business Taxes Division

Approved By: Joyce H. Errecart, Commissioner of Taxes

You have requested a ruling on the application of Vermont's sales and use tax to the licensing of mailing lists contained on magnetic tape. This ruling relies on the factual representations made on behalf of your client in your letter of October 7, 1991 and our telephone conversation of April 7, 1992.

Your client, in addition to its wholesale and retail activities, licenses the right to use its customer mailing list. orders for the use of the mailing list are received from list brokers who use the mailing list to circulate advertising materials. Your client enters into a license-to-use agreement with a mailing house and the list is sent by your client to the mailing house on magnetic tape. The list broker separately contracts with the mailing house to process the list. Generally the mailing house acts as a direct mailing contractor for the list broker and produces labels and mails the advertising material. Your client is not located in Vermont; however, one of the mailing houses receiving licenses to use your client's list is located in Vermont.

The focus of the transaction between your client and its customer is to sell the right to use a tape of names. The tape is akin to reference materials, and not considered a service. Therefore, the transaction is deemed a transfer of tangible personal property. Vermont sales and use tax law defines a sale as the transfer of title or possession or both, exchange or barter, rental, lease or license to use tangible property. 32 V.S.A. Section 9701(6). The charge for the license to use your client's mailing list is subject to Vermont's 5% sales tax when used by a Vermont mailing house.

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 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.