

## *Ruling 94-05*

Vermont Department of Taxes

Date: June 9, 1994

Written By: Danforth Cardozo, III, Attorney for the Department

Approved By: Emily B. Tartter, Dpty Comm. and General Counsel

The [Municipality] Housing Authority was a participant in the Department of Taxes set-off program, created under the authority of the Vermont Setoff Debt Collection Act, 32 V.S.A. §§ 5931 et. seq. By letter dated November 9, 1992, Earle E. Fennessey, Director of Compliance for the Department of Taxes, informed you of his determination that it did not appear that the [Municipality] Housing Authority is a qualifying unit of state government as defined in the Act, 32 V.S.A. § 5932, and should not have been granted set off status. Mr. Fennessey's letter further informed you that the Department would continue to set off on your behalf against refunds until December 31, 1992. By letter dated November 19, 1992, you requested any appeal process available to the [Municipality] Housing Authority relative to Mr. Fennessey's decision. The Department has treated your letter as a request for a formal ruling. This ruling relies on the above mentioned correspondence and the applicable statutes.

The Housing Authorities Act, 24 V.S.A. Chapter 113, defines "municipality" to "...mean a town, a village or a city. 'The municipality' means the particular municipality or municipalities for which a particular housing authority is created." 24 V.S.A. § 4002(2). The Act further defines "State public body" to "...mean any city, town, county, municipality, commission, district, authority, or other subdivision or other public body of the state." 24 V.S.A. § 4002(3).

The Housing Authorities Act creates "a public body corporate and politic" in each municipality in the state to be known as the housing authority. Such authorities may not transact any business until proper declarations and resolutions are adopted by a municipality. 24 V.S.A. § 4003(a). Commissioners are appointed to exercise the powers of each authority. 24 V.S.A. § 4004. The Housing Authority Act also creates a state housing authority, which is also "a public body corporate and politic." 24 V.S.A. § 4005(a). It is an entity separate and distinct from municipal housing authorities. The state housing authority performs functions different than municipal housing authorities. Compare municipalities are not specifically mentioned in the definition of claimant agency found at 32 V.S.A. § 5932(1). The [Municipality] Housing Authority is a unit of municipal government which derives its power to transact business and exercise its power by authority of the City of [City], his ruling will have the same status as an agency decision or order in a contested case.

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 statute or regulations.