

Ruling 95-06

Vermont Department of Taxes

Date: June 6, 1995

Written By: Mary L. Bachman, General Counsel

Approved By: Betsy Anderson, Commissioner of Taxes

You have requested a formal ruling on the application of the Vermont sales and uses tax to sales of certain tangible property sold by the [Historical Society]. This ruling relies upon the information contained in your letter of March 19, 1995.

Facts: The [Historical Society] (Society) has been granted exempt status under Internal Revenue Code § 501(c)(3). The Society has received an exempt organization certificate from the Vermont Department of Taxes.

The Society operates a small museum, which was donated to the Society in [date]. It is the meeting place for the Society and houses the collections of the Society. From [Date], the Society opened the [museum] to the public each Sunday and tours were given by volunteers from the Society. Approximately 175 people visited the museum during the [date] season. During this time, the Society offered certain items for sale at the [museum]. These items were:

- (1) postcards of a painting of a panoramic view of [Town] by [name] which is part of the Society collection;
- (2) note cards (sold with envelopes in packages of 10) of drawings of various historical buildings in [Town] printed by the Society;
- (3) pamphlets on the history of the [Town] area, [names of pamphlets].

The postcards and note cards are available only from the Society. They are sold for informational purposes and as souvenirs of a visit to the museum, not for fund raising. The price charged covers the printing costs. The total sales of these items has amounted to [dollar amount].

Ruling: The sales described above are not subject to the Vermont sales tax. Current law provides that sales by organizations which qualify for exempt status under section 501(c)(3) are not subject to sales tax except: "sales in activities which are mainly commercial enterprises; provided, however, (A) that the organization first shall have obtained a certificate from the commissioner stating that it is entitled to the exemption, (B) that the sale, service, amusement or use is for the exempt purpose of such organization, and (C) that the vendor keeps a record of the sales price of each separate sale, the name of the purchaser, the date of each separate sale and the number of the certificate." 32 V.S.A. § 9743(3).

The Society's sales of postcards, notes cards and pamphlets are related to its exempt educational purpose in that the items, particularly the pamphlets but also the cards to a lesser degree, serve to educate the public about the history of the [Town] area. Also relevant to the conclusion that these sales are not part of a "mainly commercial enterprise" is the small volume of items sold, the small dollar amount of sales, and the fact that the selling activity is done by volunteers. Based on all of these factors, the Society's sales of pamphlets, post cards and note cards are exempt under 32 V.S.A. § 9743(3) as currently in effect.

Although the question was not raised in your request, if admission charges are made for museum tours, the Society would also be exempt from collecting the sales tax on such amusement charges under current law. 32 V.S.A. § 9743.

Effective July 1, 1995, 32 V.S.A. § 9743 is amended. 1995, Act No. 28. The "mainly commercial" test is replaced with a per se exemption with respect to amusement charges by, and sales to or uses by organizations which qualify for exempt status under the provisions of section 501(c)(3) of the United States Internal Revenue Code. Sales other than amusement charges by such organizations shall be exempt "if the organization's gross sales of tangible personal property and services which would be subject to tax under this chapter but for this subdivision, in the prior year, did not exceed \$5000.00." Organizations still must obtain a certificate from the commissioner stating that it is entitled to the exemption.

Since the Society's gross sales in 1994 did not exceed \$5000.00, its 1995 sales are not subject to sales tax. Admission charges to tour the museum are not subject to tax under the law as amended without regard to the gross amount of such charges.

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.