

## *Ruling 96-14*

Vermont Department of Taxes

Date: October 14, 1996

Written By: George H. Phillips, Tax Policy Analyst

Approved By: Edward W. Haase, Commissioner of Taxes

Thank you for your letter of September 9, 1996 requesting a ruling on the facts you stated. This ruling is based on the facts and description of information in the September 9, 1996 letter signed by [Name].

Facts: [Name] is a California Company engaged in the support, maintenance, and administration of an electronic "mall" accessible through the Internet and World Wide Web. [Name] is maintained on a server located in California. All design, implementation, support, maintenance, and administrative services rendered by [Name] are performed in California. Except as noted below, [Name] has no nexus in Vermont.

Issues:

1. Is [Name] responsible, as agent for its client retailers located in Vermont, for the assessment and collection of sales taxes due on sales transacted with its retailer's customers in Vermont? Yes, [Name] is responsible for collecting sales tax pursuant to 32 V.S.A. §9704.
2. Is [Name] responsible for remittance directly to Vermont of sales taxes collected on behalf of its client retailers located in Vermont? If remittances and accountings are made to [Name] client retailers, is [Name] liability to Vermont extinguished? As an agent who collects tax, [Name] is responsible for remitting tax directly to the Department. 32 V.S.A. §9704 provides that the Commissioner may hold the vendor and agent jointly responsible. The Commissioner can look to the party making the actual collection unless other arrangements are made.
3. Is [Name] responsible for filing sales tax returns, either in its own behalf, or on behalf of its client retailer located in Vermont? Yes, the return should be filed in [Name] own behalf.
4. Does [Name] itself, solely by virtue of its agency relationship with client retailers located in Vermont, acquire nexus in Vermont sufficient to subject its own sales of tangible personal property to sales tax? No, that alone would not subject [Name] to taxation.

This ruling is issued solely to you and is limited to the facts presented as affected by current statutes and regulation. 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 case of any change in the relevant statues and regulations.