

July 3, 2007

<name>  
<company>  
<address>  
<city, state zip>

Formal Ruling 2007-07

Dear <name>:

You have requested a ruling on behalf of your employer, <corporation> and its <company> division (“the Company”) regarding whether the Vermont sales and use tax applies to the sale of over-the-counter and prescription drugs to be administered to domesticated animals kept as pets.

Vermont imposes a sales tax upon the receipts from the sale of tangible personal property sold at retail in the state. 32 V.S.A. § 9771(1). Section 9741(3) of Title 32, however, specifically exempts

[a]griculture feeds, seed, plants, baler twine, silage bags, agricultural wrap, sheets of plastic for bunker covers, liming materials, breeding and other livestock, semen breeding fees, baby chicks, turkey poults, agriculture chemicals other than pesticides, veterinary supplies, and bedding; and fertilizers and pesticides for use and consumption directly in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit and truck farms, orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale.

32 V.S.A. § 9741(3). In addition, the legislature has enacted an exemption for drugs intended for human use. 32 V.S.A. § 9741(2).

When construing statutory language, the goal is to effectuate the intent of the legislature. *Ran-Mar, Inc. v. Town of Berlin*, 2006 VT 117, ¶ 5; *In re Hinsdale Farm*, 2004 VT 72, ¶ 5. When a statute is plain on its face, it should be interpreted without resort to statutory construction. *Id.* Single phrases or words within a statute should not be read in isolation, however, but “in the context and structure of the statute as a whole.” *In re Vermont Verde Antique Intern., Inc.*, 174 Vt. 208, 211-12 (2002).

First, the plain language of the medical exemption, 32 V.S.A. § 9741(2), does not exempt drugs intended for use on for domestic animals. The exemption specifically pertains only to “[d]rugs intended for human use.” Because the regulation is product-, rather than use-based, however, medications intended for human use that may be incidentally used for treating domestic pets are exempt. *See Vermont Department of Taxes Regulation (“Reg.”) § 1.9741-1.*

Second, although the agricultural supplies exemption, 32 V.S.A. § 9741(3), includes the term “veterinary supplies” within the items enumerated as exempt, review of the statute in its entirety and in tandem with the corresponding sales and use tax regulation clarifies that only those veterinary supplies used in agriculture escape the tax. Indeed, Reg. § 1.9741(3)-1 expressly provides that “veterinary supplies . . . are exempt if they are of the type of product that is *typically used in agriculture.*” (Emphasis provided). Further, the regulation specifically defines agriculture as “the science or act of producing agronomic and horticultural crops, farm products, and raising livestock,” and the definition of “livestock” does not include domesticated animals kept as pets.\* *Id.* Note, however, that the agricultural supplies exemption, like the medical exemption, is product- rather than use-based, so that if any of the medications to which you refer are not packaged and marketed for domestic animal use but are instead intended to be used for livestock, the products are exempt.

In sum, based on the facts you have provided, the Company, operating locations within the state, is required to collect and remit sales tax on its sales of drugs intended for use on domesticated animals kept as pets.

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 deletion is attached, and you may request that within thirty (30) days the Commissioner delete any further information that might identify the interested parties. The final discretion as to deletions rests with the Commissioner.

This ruling is issued solely to your business 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.

Section 808 of Title 3 provides that this ruling will have the same status as an agency decision or an order in a contested case. You have the right to appeal this ruling within thirty days.

Sincerely,

Judith Henkin  
Attorney for the Department

Approved this \_\_\_\_ day of \_\_\_\_\_, 2007.

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Tom Pelham  
Commissioner of Taxes

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\* Pursuant to regulation, livestock includes “cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry (including pheasant, chukar partridge, and coturnix quail), camelids and ratites, rabbits when raised for meat, cultured fish propagated by commercial fish farms and bees.” Reg. § 1.9741(3)-1 A.