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September 9, 2009

FORMAL RULING 2009-04

<redacted>

You requested a formal ruling on the taxability of the <redacted>platform under the Vermont Sales Tax.

The <redacted> platform is subject to the Vermont Sales Tax. The Vermont Sales Tax contains an exemption for durable medical equipment 32 VSA §9741(2). Durable medical equipment means equipment that:

1. Can withstand repeated use; and
2. is primarily and customarily used to serve a medical purpose; and
3. generally is not useful to a person in the absence of illness or injury; and
4. is not worn on the body.

Vermont Department of Taxes Regulation §1.9741(2). To qualify, all of these requirements must be met.

The <redacted>platform satisfies the first and fourth requirement. However, the brochure describing the <redacted> platform states that: “*the platform moves and excites music in a space much in the way a live instrumental performance stimulates and envelopes a crowd.*”

This suggests the usefulness of the device to people in the absence of illness or injury. Therefore, it does not meet the definition of “durable medical equipment”. There is insufficient information from which to determine whether the second requirement is met.

This ruling is issued solely to <redacted> and is limited to the facts presented as affected by current statutes and regulations. 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. You have the right to appeal this ruling within thirty days. 3 VSA § 808

Kenneth Jones
Policy Analyst

Richard Westman,
Commissioner