

October 12, 2011

<redacted>

<redacted>

<redacted>

RE: Ruling Request # 2011-14

Dear <redacted>:

This is a formal ruling for <redacted> regarding the applicability of Vermont sales and use tax and meals and rooms tax to Internet retail sales of prepackaged flavored <nuts>. This ruling is based upon representations in your letter of <date>.

FACTS

<redacted> is a manufacturer, wholesaler and distributor of flavored <nuts>. <redacted> also directly sells their products at retail through the Internet and ships directly to the consumer.

<redacted> roasts and flavors the <nuts> and then packages them into labeled canisters ready for sale. It is our understanding that <redacted> is requesting a ruling regarding retail sales of these prepackaged canisters of nuts.

You have asked two questions. First, is <redacted> required to collect Vermont sales tax on sales of prepackaged <nuts> to retail customers? Second, is <redacted> required to obtain sale-for-resale certificates from retailers whom <redacted> supplies with its products?

RULING

<redacted> is not required to collect Vermont sales tax or meals tax on sales of its prepackaged <nuts> directly to retail customers or to its wholesale customers.

Because<redacted> sales of the prepackaged product are not subject to Vermont sales tax or meals tax, <redacted>is also not required to obtain sale-for-resale certificates from the retailers whom it supplies.

DISCUSSION

Vermont sales and use tax does not apply to food. 32 V.S.A. § 9741(13) provides that the tax does not apply to “[s]ales of food . . . or food products . . . sold for human consumption off the premises where sold.” The canisters of flavored <nuts> <redacted>sells directly to retail customers would not be subject to Vermont sales tax.

Vermont meals tax does apply to some sales of food, but this tax applies to “taxable meals,” which are generally restaurant meals. 32 V.S.A. § 9202(10)(A). The meals tax also applies to certain non-prepackaged foods, unless they are sold in bulk as grocery items or bakery items. 32 V.S.A. § 9202(10)(B), (D). The prepackaged canisters of flavored <nuts> you describe are not restaurant meals and are not non-prepackaged foods. The canisters<redacted> sells directly to retail customers would not be subject to Vermont meals tax.

If a restaurant were to sell<redacted> canisters of <nuts> at the restaurant, for example, from a snack display at the cash register, those sales would be considered subject to the meals tax. 32 V.S.A. § 9202(10)(A). <redacted>wholesale sale to the restaurant, however, would not be subject to sales tax or to meals tax, so <redacted>would not need to obtain a sale-for-resale certificate from the retailer.

GENERAL PROVISIONS

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

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, when redacted to protect confidentiality, 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 statutes or regulations.

Emily Bergquist

Date

Approved:

Mary N. Peterson
Commissioner of Taxes

Date

