

Ruling 90-04

Vermont Department of Taxes

Date: July 10, 1990

Written By: Elizabeth Anderson, Dpty Comm. and General Counsel

Approved By: Norris Hoyt, Commissioner of Taxes

You have requested a formal ruling on the application of Vermont's telephone gross receipts tax law to your client, [Company] (the "Company"). This ruling relies on representations contained in your letter to me dated June 18, 1990.

The Company receives revenue from both telecommunications services and telecommunications products.

Telecommunications Services. The Company provides operator-assisted long distance telephone services through a nationwide network of telephone switching equipment that is partially shared with other telephone companies. The principal item of equipment is a switching device that receives calls and, after the company's operators have recorded billing information, directs the calls to one of the long distance carriers available for transmission of the call. The Company does not own any switching equipment or other property in Vermont.

Telecommunications Products. The Company manufactures and markets certain telecommunications products that are primarily designed to permit subscribers and end users to access the Company's operator system. The Company's telecommunications products include autodialers, which automatically redirect calls to the Company's operators, and pay phone interfaces which incorporate an autodialer and connect pay phones to the system.

Ruling. If the Company does not own or operate any telephone lines or transmission facilities in Vermont, it is not subject to Vermont's telephone gross receipts tax.

Vermont's gross receipts tax on telephone companies is being phased out and replaced by the corporate income tax and the property tax. For fiscal years ending on or before June 30, 1991, telephone companies that in calendar year 1987 received at least \$50 million in annual gross operating revenues within Vermont must pay a make up gross receipts tax equal to the difference between 5 1/4% of the taxpayer's gross operating revenues from Vermont and the total amount of income and personal property tax paid by the company.

Resellers of telephone transmission capacity are exempt from both the personal property tax and the make up gross receipts tax if they do not own or operate any telephone lines or transmission facilities within the State. Businesses engaging in the resale of telephone transmission capacity are subject to the general corporate income tax, however. 32 V.S.A. § 8521(b).

In addition, the Company may be subject to Vermont's sales tax on receipts from the sale or rental of telecommunications products. This tax is imposed at the rate of 4% on receipts from the retail sale (including rental) of tangible personal property. 32 V.S.A. § 9771.

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.