Ruling 98-03

Vermont Department of Taxes

Date: August 11, 1998

Written By: Mary L. Bachman, General Counsel

Approved By: Edward W. Haase, Commissioner of Taxes

You have requested a ruling on the application of 24 V.S.A. § 138 which provides that certain municipalities may impose local option taxes (a one percent sales tax; a one percent meals and alcoholic beverages tax; and a one percent rooms tax).

Local option taxes are authorized as part of Act 60 "for the purpose of affording municipalities an alternative method of raising municipal revenues to facilitate the transition and reduce the dislocations in those municipalities that may be caused by reforms to the method of financing public education under the Equal Education Opportunity Act of 1997." 1997, No. 60, § 88. Section 138, as amended by 1998, No. 71 (Adj. Sess.), §61, limits the municipalities which may adopt local option taxes to the those in which: "(A) the education property tax rate in 1997 was less than $1.10 per $100.00 of equalized education property value; or (B) the equalized grand list value of personal property, business machinery, inventory, and equipment is at least ten percent of the equalized education grand list in fiscal year 1998; or (C) the combined education tax rate of the municipality will increase by 20 percent or more in fiscal year 1999 or in fiscal year 2000 over the rate of the combined education property tax in the previous fiscal year."

24 V.S.A. § 138(a)(3). [Town's] representative to the General Assembly was instrumental in the passage of paragraph (B) above as part of the amendments to Section 138.

Based upon data provided by the [Town] (in August 1997), the 1998 Annual Report published by the Division of Property Valuation and Review showed machinery and equipment as [#] percent of [Town's] equalized education grand list in 1997. Subsequently, the Town discovered an error in its grand list which reduced the value of machinery and equipment to an amount which is 9.7 percent of the equalized education grand list. The selectboard approved this revision to the grand list on December 3, 1997. However, neither the Division of Property Valuation and Review nor [Town's] representative to the legislature was notified of the change. As a result the annual report, which was printed in January 1998, reflected the uncorrected machinery and equipment value, and the machinery and equipment amendment to 24 V.S.A. § 138 was passed with the 10 percent requirement.

It appears, based on these facts, that the legislature may well have believed that [Town] would qualify under the machinery and equipment language when section 138 was amended. However, it also drew a bright line, in this case a quantitative line, establishing what towns would qualify on the basis of ratio of machinery and equipment to total equalized education grand list. It is a common tenant of statutory construction, where the statutory language is clear and unambiguous, the plain meaning of the statute controls and must be enforced according to its express terms. Olson v. Townsend, 148 Vt. 135 (1987). See also Swett v. Haig's Inc., 164 Vt. 1 (1995). The equalized grand list value of [Town's] machinery and equipment in fiscal year 1998 was 9.7 percent of the equalized education grand list - less than the ten percent required by section 138(a)(3)(C). Therefore, [Town] is not authorized under this section to impose the local option taxes described in section 138.

This ruling is issued solely to the [Town] and is limited to the facts presented as affected by current statutes and regulations. Other towns 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 town or in the case of any change in the relevant statute or regulations.