

Ruling 98-05

Vermont Department of Taxes

Date: September 21, 1998

Written By: George H. Phillips, Tax Policy Analyst

Approved By: Edward W. Haase, Commissioner of Taxes

You have asked for a ruling as to whether sales of food and beverages by President and Friends of [Business] will be subject to the Vermont meals and rooms tax imposed by Title 32, Vermont Statutes Annotated, Chapter 225. This ruling relies on information provided in your August 20, 1998 letter.

The letter identifies two organizations with similar names. The President and Fellows of [Business] operates the [Business] and has status as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code. The President and Friends of [Business] is also an organization qualified under 501(c)(3). President and Friends was organized in 1983 for the exclusive purpose of promoting the purposes of the [Business] through cultivating, entertaining, and encouraging the support of [Business], alumni, students, parents of students, faculty and other friends of the [Business].

In furtherance of this, President and Friends will cater events for the president and his guests in the President's Dining Room and at other locations on the [Business]. The organization also holds a liquor license in order to serve alcoholic beverages at these functions.

In addition, President and Friends has been granted a license for meals and rooms tax registration for the operations known as "[Business]". The [Business] is a restaurant-type operation located on the [Business], established for the benefit of students, faculty, and staff of [Business]. The President and Friends of [Business] holds a first and third class license to sell alcoholic beverages at [Business]. The net proceeds of all sales of food or beverages sold by President and Friends are used for the purposes for which the organization was formed and for which it holds its 501(c)(3) status.

Vermont Statutes Annotated, Title 32, Chapter 225 provides exemptions in the form of exclusions from the definitions of "Taxable Meal" and "Alcoholic Beverage". "Taxable Meal" does not include meals "served on the premises of a school, as defined herein", §9202(10)(D)(ii)(II); or meals "served or furnished on the premises of a nonprofit corporation or association organized and operated exclusively for religious or charitable purposes, in furtherance of any of the purposes for which it was organized; with the net proceeds of said food or beverage to be used exclusively for the purposes of the corporation or association", §9202(10)(D)(ii)(I). By reference to these sections, sales of alcoholic beverages under the same conditions also avoid tax. 32 V.S.A. §9202(11).

The definition of "School" at §9202(9) clearly encompasses [Business]. The exclusion at (D)(ii)(II) does not require that the sale be made by the operator of the school. Thus, there is an apparent exemption for all food and beverage sold on the [Business]. The Department has held that where an operator other than the school has control of a portion of a school's premises, the exemption does not apply. Therefore, a non-school activity does not become exempt solely because the operator rents a building on campus for the activity. Here, however, the activities are clearly functions of the school. The President and Fellows have not relinquished control of a portion of their facilities. Rather, they have arranged for President and Friends to provide the food and beverage at functions which are well integrated with the college's functions. Therefore, the exclusion for sales on the premises of a school will apply.

You suggest that even if the Department concluded that [Business] and the President's Dining Room had become the premises of President and Friends, the meals and beverage would be exempt under the provisions of 32 V.S.A. § 9202(10)(D)(ii)(I). In approving status under Section 501(c)(3), the Internal Revenue Service does not distinguish among education, religious, or charitable activities. Section 9202(10)(D)(ii)(I) applies only to charitable and religious organizations. As the sales are non-taxable under other provisions, it is not necessary to determine whether the purposes for which President and Friends were organized are charitable or educational.

This ruling is issued solely to you 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.