

Ruling 98-04

Vermont Department of Taxes

Date: September 1, 1998

Written By: George H. Phillips, Tax Policy Analyst

Approved By: Edward W. Haase, Commissioner of Taxes

Your letter of August 10, 1998 asks for a ruling on the applicability of 32 V.S.A. § 9741(4) (the exemption from sales tax for casual sales) to the contemplated purchase by your client [Company] of assets of [Company] and [Company]. This ruling relies on representations made in your August 10, 1998 letter to Commissioner Haase and the accompanying Asset Purchase Agreement dated August 5, 1997. As representations are made only regarding [Company], the ruling does not apply to assets of [Company].

Your letter states that on or about August 31, 1998 [Company] will sell to [Company] assets [Company] consisting of real and personal property used for hydroelectric generation. The tangible personal property purchased includes fuels, supplies, materials and critical spares, machinery, equipment, vehicles, furniture and other personal property. The sale will take place as a single transaction. [Company] is not regularly engaged in the business of making retail sales of the general type of property being transferred. [Company] acquired the property it is now selling for its own use.

"Casual sale" is defined as "an isolated or occasional sale of an item of tangible personal property by a person who is not regularly engaged in the business of making sales of that general type of property at retail where the property was obtained by the person making the sale, through purchase or otherwise, for his or her own use." 32 V.S.A. §9701(12).

I will assume for the ruling, that [Company] occasionally makes sales of assets which it no longer needs, but that such sales have been only occasional or isolated. Based on this assumption and your representations that [Company] is not regularly engaged in the business of making retail sales of property of this type and that [Company] acquired these assets for its own use, the transaction meets the definition of "casual sale" at 32 V.S.A. § 9701(12) exactly, and is exempt from the sales tax imposed by §9771 and use tax imposed by §9773.

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.