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NORTH  
CAROLINA  
DEPARTMENT  
OF REVENUE

STATE OF NORTH CAROLINA

BEFORE THE  
SECRETARY OF REVENUE

COUNTY OF WAKE

IN THE MATTER OF:

The Petition of [REDACTED] for an	)	
alternative method of apportionment formula for	)	<b>ADMINISTRATIVE DECISION</b>
corporate income tax purposes for the tax year	)	<b>NUMBER 2018-02</b>
ending December 31, 2017, December 31, 2018,	)	
and December 31, 2019.	)	

This matter was heard before Anthony Edwards, Assistant Secretary for Tax Administration, on February 22, 2018 in the Revenue Building in the City of Raleigh, North Carolina upon a petition filed on November 30, 2017 by [REDACTED] ("Company") concerning the apportionment of Company's corporate income for tax years 2017, 2018, and 2019 pursuant to G.S. 105-130.4(t1).

The Assistant Secretary for Tax Administration presided over the conference with Lennie Collins, Director of the Corporate Tax Division, participating. [REDACTED]

[REDACTED] attended the conference on behalf of Company.

Company, an S Corporation headquartered in [REDACTED], is the parent of a number of corporations and has interests in several limited liability companies. Each of Company's operating subsidiaries is treated as a Qualified Subchapter S Subsidiary ("Q Sub"). Company and affiliates engage in various business activities in North Carolina and elsewhere, one of which is classified as [REDACTED], a sub sector of [REDACTED] of the North American Industrial Classification System ("NAICS"). Company asserts in its petition that because of the disregarded status of its Q Subs, it is effectively required to combine all of its operations for North Carolina income tax purposes, resulting in both [REDACTED] activities and [REDACTED] activities being subject to apportionment as an excluded corporation. Company asserts that application of the statutory formula attributes a greater portion of its income to this State than is reasonably attributable to its business in North Carolina.

After review of the petition and consideration of testimony and supporting documentation provided by Company during the conference and in subsequent correspondence dated April 11, 2018, the Secretary of Revenue rendered his decision and entered the following order:

IT IS HEREBY ORDERED BY THE SECRETARY OF REVENUE that Company is authorized to determine its net income taxable to North Carolina for income tax purposes for the income year ended December 31, 2017 in accordance with the following procedure:

1. Company's business operations will be grouped in one of two categories:
  - a. [REDACTED] – This category will include all of Company's business operations categorized in industry [REDACTED] of NAICS, including but not limited to, [REDACTED].
  - b. [REDACTED] – This category will include all of Company's business operations categorized by any NAICS industry sector other than [REDACTED] including but not limited to, [REDACTED].
2. Company's apportionable income derived from its [REDACTED] category will be apportioned to North Carolina by multiplying the income by the sales factor in accordance with G.S. 105-130.4(l). Only sales from the [REDACTED] category will be used to compute the factor.
3. Company's apportionable income derived from its [REDACTED] category will be apportioned to North Carolina by multiplying the income by the three factor formula as prescribed in G.S. 105-130.4(i). Only property, payroll and sales of the [REDACTED] category will be used to compute the factors.
4. Any non-apportionable income derived by either of Company's categories will be allocated to North Carolina in accordance with subsections (c) – (h) of G.S. 105-130.4.
5. The sum of the amounts determined in 2 through 4 above will represent the portion of the net income of Company's North Carolina operations that is attributable to North Carolina.

For tax years ending December 31, 2018 and December 31, 2019, Company is authorized to determine its net income taxable to North Carolina for income tax purposes in accordance with the following procedure:

1. Company, consisting of all divisions and qualified subchapter S Subsidiaries except the [REDACTED] will compute its North Carolina taxable income in accordance with Article 4 of Chapter 105. Its sales factor will be computed in accordance with N.C. Gen. Stat. 105-130.4(l) in effect for tax years beginning on or after January 1, 2018, excluding sales by the [REDACTED].
2. The [REDACTED], consisting of [REDACTED] will calculate its North Carolina taxable income and apportionment factor to North Carolina as a separate entity. Its sales factor will be computed in accordance with N.C. Gen. Stat. 105-130.4(l) in effect for tax years beginning on or after January 1, 2018, including only those sales attributable to the [REDACTED].

This Order will apply only for income tax purposes for tax years ending December 31, 2017, December 31, 2018, and December 31, 2019, and is entered without prejudice to the right of Company to file a petition pursuant to G.S. 105-130.4(t1) with respect to the apportionment and allocation of net income for income tax purposes for any subsequent

years. The statute authorizes a corporation to use either the alternative method prescribed by the Secretary or the statutory method to apportion its income. If in any year subject to this Order Company elects to apportion its income by the statutory method, this Order is rescinded for any remaining years subject to this Order. The relief granted to Company is made subject to audit and review by the North Carolina Department of Revenue.

Made and entered into this the 27<sup>th</sup> day of June, 2018.

Signature

A handwritten signature in black ink, appearing to read "Anthony Edwards", written in a cursive style.

Anthony Edwards  
Assistant Secretary for Tax Administration