



## North Carolina Department of Revenue

Beverly Eaves Perdue  
Governor

David W. Hoyle  
Secretary

April 20, 2011

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Re: FEIN: [REDACTED]

Dear Ms. [REDACTED]:

We have your letter dated March 28, 2011, in which you have requested a private letter ruling regarding the North Carolina sales and use tax liability on sales of used books in this State by the [REDACTED].

You have advised that [REDACTED] is "...a volunteer organization to support the [REDACTED] Library, a branch of the [REDACTED] County Library." The purpose of the organization, as stated in its Articles of Incorporation, is "[t]o establish closer relations between the [REDACTED] Library and its constituents, to promote knowledge of and inform interest in the functions, resources, services and need of the library, and to assist in the development of a program for the extension and improvement of our public library services and resources." The organization has recently initiated a year-round sale of used, donated books. All income from the sale will be used in accordance with the organization's purpose, solely for the benefit of the [REDACTED] Library.

N.C. Gen. Stat. § 105-164.13(34) provides for an exemption from sales and use tax on sales of items by a nonprofit civic, charitable, educational, scientific or literary organization when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities. N.C. Gen. Stat. § 105-164.3(43) defines "State agency" as "[a] unit of the executive, legislative, or judicial branch of State government, such as a department, a commission, a board, a council, or The University of North Carolina. The term does not include a local board of education."

N. C. Gen. Stat. § 105-164.13(35) provides that sales by a nonprofit civic, charitable, educational, scientific, literary, or fraternal organization are exempt from sales or use tax when all of the following conditions are met:

- a. The sales are conducted on an annual basis for the purpose of raising funds for the organization's activities.
- b. The proceeds of the sale are actually used for the organization's activities.
- c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during the organization's annual sales period.

A unit of a county is not a State agency or instrumentality, as required in N.C. Gen. Stat. § 105-164.13(34), and the [REDACTED] year-round sales of books do not meet all of the conditions set out in N.C. Gen. Stat. § 105-164.13(35). Therefore, the [REDACTED] sales of used books are not exempt from sales or use tax under the provisions of N.C. Gen. Stat. §§ 105-164.13(34) or 105-164.13(35). The [REDACTED] should collect sales tax on those sales and remit the tax to the Department.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. If the facts and circumstances given are not accurate, or if they change, then the taxpayer requesting this ruling may not rely on it. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that this document is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

If you have any questions, you may reach me at the number listed below.

Very truly yours,

Administration Officer  
Sales and Use Tax Division

cc: , Director – Sales and Use Tax Division