



North Carolina Department of Revenue

Roy Cooper
Governor

Ronald G. Penny
Secretary

April 29, 2021

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

Re: Private Letter Ruling Request
Account ID: [REDACTED]
FEIN: [REDACTED]

Dear [REDACTED]:

The Department has completed its review of your request for a private letter ruling on behalf of [REDACTED] ("Taxpayer"). In making this written determination, the Department has considered the facts presented in your initial request as well as any supplemental information provided to the Department.

This private letter ruling is a written determination issued under N.C. Gen. Stat. § 105-264.2 and applies the tax law to a specific set of existing facts furnished by you on behalf of Taxpayer. This written determination is applicable only to Taxpayer addressed herein and as such has no precedential value except to Taxpayer.

Overview and Relevant Facts

You advise that "[Taxpayer,] located in [REDACTED] North Carolina, is a for profit business that diverts [REDACTED] waste out of the landfill and sells these to various customers, who will repurpose the products for consumer use."

You advise further "[t]o divert [REDACTED] waste, [Taxpayer] has collection bins placed in various locations in [North Carolina] and various trucks . . . [for the purposes of collecting] the [REDACTED] and . . . [delivering the [REDACTED] to customers."

You provided that "[Taxpayer] has acquired fixed assets to facilitate the operations of the business. Examples of fixed assets reported . . . [include the following]: collection bins, trucks, [a] vertical baler, [and a] trash compactor. The baler is used to compress bagged [REDACTED] for shipping. [The f]orklift is used to lift and move the baled [REDACTED] and the trash compactor compresses waste materials from the warehouse.

"Furthermore, to ensure the [REDACTED] are collected and prepared for shipped, [Taxpayer] purchases the following components: paint, locks and decals for bins, capsacks, sheets, baler strips and

related materials, seals for trucks, staples, tapes, pallets, gaylords, propane for forklifts, bags to transport ██████ part[s], component[s] and other related items for tools.”

Issue

Are purchases of fixed assets, equipment, and other tangible personal property for the purpose of collecting ██████ and delivering ██████ to customers exempt from North Carolina sales and use tax pursuant to N.C. Gen. Stat. § 105-164.13(5e) or N.C. Gen. Stat. § 105-164.13(8)?

Applicable Statutes and References

North Carolina imposes State, local, and transit rates of sales and use tax on a retailer engaged in business in the State on the retailer’s net taxable sales of, or gross receipts derived from, tangible personal property, certain digital property, and taxable services. N.C. Gen. Stat. §§ 105-164.4, 105-164.6, 105-467, 105-468, 105-483, 105-498, 105-507.2, 105-509.1, 105-537 and Chapter 1096 of the 1967 Session Laws.

N.C. Gen. Stat. § 105-164.13(5e) provides an exemption on “[s]ales of mill machinery or mill machinery parts or accessories to any of the persons listed in this subdivision. For purposes of this subdivision, the term "accessories" does not include electricity. The persons are:

- a. A manufacturing industry or plant. A manufacturing industry or plant does not include (i) a delicatessen, cafe, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of food prepared by it for consumption on or off its premises or (ii) a production company.
- b. A contractor or subcontractor if the purchase is for use in the performance of a contract with a manufacturing industry or plant.
- c. A subcontractor if the purchase is for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.”

N.C. Gen. Stat. § 105-164.13(8) provides an exemption on “[s]ales to a manufacturer of tangible personal property that enters into or becomes an ingredient or component part of tangible personal property that is manufactured. This exemption does not apply to sales of electricity.”

Ruling

Based on the information provided to the Department, Taxpayer is not a manufacturing industry or plant. Therefore, Taxpayer’s purchases of fixed assets, equipment, and other tangible personal property are not subject to the exemptions provided in N.C. Gen. Stat. § 105-164.13(5e) and N.C. Gen. Stat. § 105-164.13(8). Taxpayer’s purchases are subject to the general State, applicable county, applicable local and applicable transit rates of North Carolina sales and use tax.

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 Taxpayer may not rely on it. If Taxpayer relies on this letter ruling and the Department discovers, upon examination, that the fact situation of Taxpayer is different in any material aspect from the facts and circumstances given in this letter ruling, the letter ruling will not afford Taxpayer any protection. It should be noted that this letter ruling is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

Issued on behalf of the Secretary of Revenue
By the Sales and Use Tax Division