



## North Carolina Department of Revenue

Beverly Eaves Perdue  
Governor

Kenneth R. Lay  
Secretary

March 5, 2010

Federal ID: [REDACTED]

Account ID: [REDACTED]

[REDACTED]

Re: Request for Private Letter Ruling

Dear Mr. [REDACTED]:

This letter is in response to your letter dated February 17, 2010, wherein you requested that the North Carolina Department of Revenue ("Department") issue a private letter ruling regarding collection of sales tax on sales for which the destination of the merchandise purchased is unknown. In your letter, you stated that [REDACTED] is not under audit, review or litigation or otherwise involved in a disputed denial of deduction or claim or refund.

The statement of facts submitted for the Department's consideration is as follows:

[REDACTED] (" [REDACTED] ") is a [REDACTED] sales company located in [REDACTED], North Carolina. [REDACTED] is a Corporate Supplier to [REDACTED] (" [REDACTED] "). [REDACTED] is a nonprofit organization that uses the game of [REDACTED] to educate kids on [REDACTED] values and teach them life skills in order to prepare them for their future.

[REDACTED] has set up a program on its website which allows customers to purchase the company's products which are in turn donated to one of the local chapters of [REDACTED]. [REDACTED] is under no obligation to operate this program or collect product purchases on behalf of [REDACTED] under its agreement as a corporate supplier.

Customers purchasing products for [REDACTED] can purchase individual products, on [REDACTED], for example, or a package that would include multiple brushes that would furnish one chapter location. Customers have the option to select the chapter which they would like their purchase to go when making their online purchase. [REDACTED] states on its website that there is no guarantee that their product will go to their desired

chapter. [REDACTED] combines multiple purchases until enough product would satisfy one chapter location. This amount would be 12 to 15 brushes and an installation [REDACTED]. For example, if 10 customers select the [REDACTED] North Carolina chapter and two customers select the [REDACTED] North Carolina chapter, [REDACTED] would send the product to the [REDACTED] location. The company would not hold up product shipment and delay use for the kids until it receives two more [REDACTED] selections and eight more [REDACTED] selections. Also, some chapters may already have a supply of product while other chapters do not. [REDACTED] and/or the [REDACTED] national office decide which chapter location receives the product.

You are not sure which county to use when filing the monthly sales tax report. You stated that you are aware that the county to which the product is shipped is the appropriate county and rate to select for North Carolina sales tax. However, since your company holds products until an ample supply of brushes are purchased for delivery, you have no way of knowing the ultimate destination of the product until it is shipped.

**Issue:**

What is the proper method of collection of sales tax on sales for which destination of merchandise is unknown at the time of purchase?

**Department's Response:**

North Carolina General Statute § 105-164.4B Sourcing principles states in part:

- “(a) General Principles. – The following principles apply in determining where to source the sale of a product. These principles apply regardless of the nature of the product.
- (1) Over-the-counter. -- When a purchaser receives a product at a business location of the seller, the sale is sourced to that business location.
  - (2) Delivery to specified address. – When a purchaser receives a product at a location specified by the purchaser and the location is not a business location of the seller, the sale is sourced to the location where the purchaser receives the product.
  - (3) Delivery address unknown. – When a seller of a product does not know the address where a product is received, the sale is sourced to the first address or location listed in this subdivision that is known to the seller.
    - a. The business or home address of the purchaser.
    - b. The billing address of the purchaser or, if the product is prepaid wireless calling service, the location associated with the mobile telephone number.
    - c. The address from which tangible personal property was shipped or from which a service was provided.”

In situations where the delivery address at which the product will be received is not known, the sourcing principles G.S. 105-164.4B (a) (3) would be applicable. If [REDACTED] knows the home address of the purchaser, the home address should be used for purposes of sourcing the sales for State and local sales tax purposes. If the home address is also unknown, then the billing address should be used for purposes of sourcing the sales. If [REDACTED] does not know the home address or the billing address of the purchaser, then [REDACTED] address should be used for sourcing the sales.

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 at the bottom of the first page of this letter.

Very truly yours,

[REDACTED]  
Administration Officer  
Sales and Use Tax Division

[REDACTED]  
cc: [REDACTED], Director of Sales and Use Tax Division