



## North Carolina Department of Revenue

Beverly Eaves Perdue  
Governor

Kenneth R. Lay  
Secretary

July 7, 2010

Federal ID: [REDACTED]  
Account ID: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

Attention: [REDACTED]

Re: Private Letter Ruling

Dear Mr. [REDACTED]:

We have your letter dated May 3, 2010 and your original letter dated January 2010 in which you have requested a private letter ruling as to the applicability of North Carolina sales and use tax to receipts from digital photo retouching. It is our understanding that your clients provide you with images from photo-shoots that they have arranged or provide you with images that have been purchased from stock photography companies. Sometimes you are asked to take a better-looking background or piece from one image and put it on another image.

After a review of the examples you provided our understanding is your company corrects imperfections within images, changes colors, alters images and merges multiple images. As a result of the activities by your company, a new digital image (photograph) is created for your clients. The new digital images are delivered to the client electronically.

N.C. G.S. 105-164.4(a) (6b), imposes a tax at the general State and applicable local rates on the net taxable sales or gross receipts derived from certain digital property. The statute levies tax on the following items: (1) an audio work; (2) an audiovisual work; (3) a book, a magazine, a newspaper, a newsletter, a report, or another publication; (4) a photograph or a greeting card. The general sales and use tax rate applies to digital property that is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under Article 5, Sales and Use Tax, if sold in a tangible medium. The tax applies regardless of whether the purchaser has the right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service.

Pursuant to N.C. G.S. 105-164.4(a) (6b) receipts from new digital images created as a result of the work performed by your company and subsequently delivered to or accessed electronically by your clients are subject to North Carolina sales and use tax, in the same manner as if such items were sold in a tangible medium.

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.

Very truly yours,

Administration Officer III  
Sales and Use Tax Division

Enclosure

cc: , Director of Sales and Use Tax Division  
, Assistant Director of Sales and Use Tax Division