



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

Kenneth R. Lay
Secretary

September 3, 2010

FEIN: [REDACTED]

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

Dear [REDACTED]:

In your May 10, 2010 letter you stated that in August of 2009 [REDACTED] and [REDACTED] agreed on a 5 year contract for [REDACTED] to perform digital mammography services at their [REDACTED] North Carolina location. You requested a ruling concerning the application of sales tax on the purchase of the diagnostic mammography equipment. We requested in our June 28, 2010 letter that you furnish a copy of the contract that [REDACTED] executed with [REDACTED] and you provided a copy of the contract to this office on July 8, 2010.

You stated in your letter that on August 13, 2009 [REDACTED] purchased digital mammography equipment from [REDACTED] and directed the equipment to be shipped directly to [REDACTED] and permanently installed at that location. You requested a ruling on whether the equipment transaction was exempt from sales and use tax as a sale of durable medical equipment on a prescription.

G.S. 105-164.13(12) provides an exemption for:
"Sales of any of the following items:

- a. Prosthetic devices.
- b. Mobility enhancing equipment sold on a prescription.
- c. Durable medical equipment sold on prescription.
- d. Durable medical supplies sold on prescription."

G.S. 105-164.3(29) defines prescription as, "An order, formula, or recipe issued orally, in writing, electronically, or by another means of transmission by a physician, dentist, veterinarian, or another person licensed to prescribe drugs."

Sales and Use Tax Technical Bulletin 11-4A provides “[s]ales to physicians, dentists, hospitals, or similar users or consumers of medical supplies, and medical instruments, medical equipment, and laboratory equipment used to diagnose, prevent, treat or cure disease are subject to any applicable State and local sales or use tax.”

The purchase of the digital mammography equipment by [REDACTED] from [REDACTED] was not a purchase based on a prescription from a doctor to a patient. In this case [REDACTED] purchased medical equipment in order to provide a service to its customer, [REDACTED]. Therefore, the purchase of the mammography equipment is subject to sales or use tax. In addition, the purchase of any repair parts, lubricants and other tangible personal property will be subject to the applicable State and local sales or 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 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,

[REDACTED]
Administration Officer
Sales and Use Tax Division

[REDACTED]
Enclosure

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