North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

September 22, 2011

FEIN: [redacted]

[redacted]

Attention: [redacted]

Re: Private Letter Ruling Request

Dear Ms. [redacted]

We have your letter dated July 12, 2011, in which you request a ruling from the Department regarding your firm's North Carolina sales and use tax liability on a particular transaction.

Your firm is a recruiting company [redacted] located in [redacted] North Carolina. You have furnished a partial copy of a [redacted] Master License Agreement ("Agreement") your firm has entered into with [redacted] Inc. ("[redacted] You advise that [redacted] is providing your firm with use of a software program that "cannot be downloaded and can only be accessed online using a log-in and password to their website, www[redacted]com."

The Agreement provides that you will be provided "with use of [a] Service, including a browser interface and data encryption, transmission, access and storage." The Agreement grants your firm the right to use, copy, store, transmit, and display your firm's data. [redacted] requires your firm to pay a monthly license fee to access its new and stored data about its candidates and customers and to send and receive e-mails. If [redacted] allocates more than [redacted] of disk storage space for your firm's data, [redacted] will charge you a storage fee per MB in excess of [redacted]

You have inquired whether the monthly license fees and storage fees [redacted] charges your firm in accordance with the Agreement are subject to North Carolina sales or use tax. Charges involving a person using online/web-hosted versions of prewritten computer software located on servers where the prewritten software is not downloaded, but is instead accessed electronically via the internet website by using a user ID and password, are currently exempt from North Carolina sales and use taxes. Based on the limited information provided, it is our opinion that the Agreement between your firm and [redacted] is not subject to North Carolina sales or use tax, as such charges do not constitute the sale of tangible personal property or certain digital property.

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,

[redacted]
Administration Officer
Sales and Use Tax Division

[redacted]

cc: [redacted], Director of Sales and Use Tax Division
[redacted], Chief Financial Officer, [redacted]