



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

November 30, 2012

Account ID: [REDACTED]
FEIN: [REDACTED]

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

Re: Request for Private Letter Ruling

Dear Ms. [REDACTED]

We have completed our review of your letter dated December 1, 2010, in which you requested a private letter ruling regarding the application of North Carolina sales and use tax on business transactions of [REDACTED] Inc. ("[REDACTED]").

Per your correspondence, you state that [REDACTED] is "a direct sales company that markets items exclusively through independent distributors. Distributors recruit hostesses to hold home parties. A hostess holds a sales party for her friends and relatives in her home where the company's products are demonstrated and sold. The hostess earns 'hostess dollars' depending on sales made at the party. These dollars become worthless if the hostess does not use them on the order form she submits for that sales demonstration. The hostess is not permitted to assign the 'hostess dollars' discount to another person, nor may she use it to pay applicable sales taxes or shipping charges due on her purchase of products." It is our further understanding that the "hostess dollars" granted to the hostess are dependent upon the sales volume that occurs at the sales party, [REDACTED]." Therefore, a higher sales volume or "[REDACTED]" at a party leads to a greater volume of "hostess dollars" granted to the hostess of the home party.

N.C. Gen. Stat. §105-164.3(37) provides that sales price is defined as "[t]he total amount or consideration for which tangible personal property, digital property, or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. . . ." Pursuant to N.C. Gen. Stat. §105-164.3(37)(b)(1), the term sales price does not include "[d]iscounts that are not reimbursable by a third party, are allowed by the retailer, and are taken by a consumer on a sale." North Carolina is a member of the Streamlined Sales and Use Tax Governing Board. Streamlined Governing Board Rule 327.7, Sales Price – Employee Incentive Program Points, provides that "employee incentive program credit is not an employee discount."

Therefore, such credits have been determined not to be a discount that reduces the sales price before application of sales and use taxes.

We have not received information that speaks to how [REDACTED] accounts for "hostess dollars" in the books and records for book or tax purposes. However, the "hostess dollars" received by the hostess are dependent upon the sales volume at the hostess party; therefore, [REDACTED] is effectively granting points or credits to hostesses, which are then redeemed toward tangible personal property in like manner as the adopted interpretative rule referenced above. Based on the information presented and our understanding of the facts, [REDACTED] should collect North Carolina sales and use tax on the gross (non-discounted) sales price of products prior to any adjustments or credits related to the "hostess dollars" earned based on overall sales achieved at the party given by the hostess.

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 factual 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 contact me at the telephone number listed below.

Very truly yours,

[REDACTED]
Administration Officer
Sales and Use Tax Division

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