



## North Carolina Department of Revenue

Roy Cooper  
Governor

Ronald G. Penny  
Secretary

November 8, 2021

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

Re: Private Letter Ruling  
Account ID: [REDACTED]

Dear [REDACTED]:

The Department has completed its review of your request for a private letter ruling on behalf of [REDACTED] ("Taxpayer"). In making this written determination, the Department has considered the facts presented in your initial request as well as any supplemental information provided to the Department.

This private letter ruling is a written determination issued under N.C. Gen. Stat. § 105-264.2 and applies the tax law to a specific set of existing facts furnished by you on behalf of Taxpayer. This written determination is applicable only to Taxpayer and as such has no precedential value except to Taxpayer.

### **Overview and Relevant Facts**

[REDACTED]  
[REDACTED] Taxpayer is purchasing equipment in order to also provide aluminum anodizing services to commercial and individual customers.

Further, you provide that "[Taxpayer's] sales [to] non-manufacturing individuals is [REDACTED] of our sales for the past year."

[REDACTED] "[a]nodizing is an electrochemical process that converts the metal surface into a decorative, durable, corrosion-resistant, anodic oxide finish. . . .

"The anodic oxide structure originates from the aluminum substrate and is composed entirely of aluminum oxide. This aluminum oxide is not applied to the surface like paint or plating, but is fully integrated with the underlying aluminum substrate, so it cannot chip or peel. It has a highly ordered, porous structure that allows for secondary processes such as coloring and sealing.

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“Anodizing is accomplished by immersing the aluminum into an acid electrolyte bath and passing an electric current through the medium. A cathode is mounted to the inside of the anodizing tank; the aluminum acts as an anode, so that oxygen ions are released from the electrolyte to combine with the aluminum atoms at the surface of the part being anodized. Anodizing is, therefore, a matter of highly controlled oxidation the enhancement of a naturally occurring phenomenon.”

### Issue

Is Taxpayer a manufacturer for North Carolina sales and use tax purposes and as such does Taxpayer's purchase of anodizing equipment qualify as mill machinery or mill machinery parts and accessories for purposes of the sales tax exemption set forth in N.C. Gen. Stat. § 105-164.13(5e)?

### Applicable Statutes and References

North Carolina imposes State, local, and transit rates of sales and use tax on a retailer engaged in business in the State based on the retailer's net taxable sales of, or gross receipts derived from, tangible personal property, certain digital property, and taxable services. N.C. Gen. Stat. §§ 105-164.4, 105-164.6, 105-467, 105-468, 105-483, 105-498, 105-507.2, 105-509.1, 105-537 and Chapter 1096 of the 1967 Session Laws.

N.C. Gen. Stat. § 105-164.13(5e) provides an exemption from sales and use tax for “[s]ales of mill machinery or mill machinery parts or accessories to any of the persons listed in this subdivision. For purposes of this subdivision, the term ‘accessories’ does not include electricity. The persons are:

- a. A manufacturing industry or plant. A manufacturing industry or plant does not include (i) a delicatessen, cafe, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of food prepared by it for consumption on or off its premises or (ii) a production company.
- b. A contractor or subcontractor if the purchase is for use in the performance of a contract with a manufacturing industry or plant.
- c. A subcontractor if the purchase is for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.”

Sales and Use Tax Bulletin 57-1 provides, “[t]he following classifications are based on the three principal activities of a manufacturing industry or plant and shall be followed by manufacturers purchasing tangible personal property that is used or consumed during the different phases of the operation of an industrial plant:

1. Production as a phase of industrial or manufacturing operations shall mean all steps performed in processing and refining rooms, and in other quarters and departments of a plant, where conditioning, treating, or other operations are done on ingredient materials as an actual routine on the assembly or processing line turning out a finished product of manufacture for sale. It also includes:
  - a. The movement of raw materials or ingredients from an inventory or a stockpile located on the premises of the manufacturing facility to the assembly or processing line.
  - b. The movement of goods in process along the assembly or processing line.

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- c. The movement of manufactured products from the assembly or processing line into shipping or storage areas and yards located on the premises of the manufacturing facility.
- d. The work of experimentation and research performed on the manufactured products.

Purchases by a manufacturing industry or plant of machinery or parts or accessories for the machinery for use in 'production,' as defined above, are classified as mill machinery or mill machinery parts or accessories. Purchases by a manufacturing industry or plant of research and development equipment and supplies for quality control or the improvement of its manufactured products or for development of products which it will manufacture are classified as mill machinery or mill machinery parts or accessories. Items that are not classified as mill machinery or mill machinery parts or accessories when purchased by manufacturing industries and plants for use in their research and development areas include such items as desks, calculators, computers used for administrative purposes, and chairs which are subject to the general State, applicable local, and applicable transit rates of sales and use tax.

Production does not include any activity connected with the movement of raw materials or ingredients into inventory nor does it include 'distribution' or 'administration' as defined in the subsections below. Sales to manufacturing industries and plants of machinery, parts, or accessories for such machinery, and other tangible personal property used in the movement of raw materials or ingredients into inventory or in 'distribution' activities, as defined in the subsection below, or which are used for similar purposes are subject to the general State, applicable local, and applicable transit rates of sales and use tax.

2. Distribution with reference to manufacturing industries and plants shall mean any activity connected with the movement of manufactured products within storage warehouses, shipping rooms, and other such finished product storage areas and the removal of such products therefrom for sale or shipment. Sales of distribution equipment to manufacturing industries and plants are subject to the general State, applicable local, and applicable transit rates of sales and use tax.
3. Administration with reference to manufacturing industries and plants shall mean and include the administrative work of offices, promotion of sales, and collection of accounts. Sales of administrative equipment and supplies, such as office equipment, paper, pens, pencils, stamps, paper cutters, printer form, file cabinets, scissors, staplers, desk trays, and other miscellaneous tangible personal property generally sold for office use, furniture, and fixtures are subject to the general State, applicable local, and applicable transit rates of sales and use tax."

### **Ruling**

Based on information provided, Taxpayer is acting as a contract manufacturer for sales and use tax purposes. Taxpayer is purchasing the anodizing equipment at issue for use in performing aluminum anodizing services to fulfill contracts with manufacturing industries or plants. While the process of anodizing tangible personal property alone is not manufacturing, the process of performing anodizing can be a part of the production phase of manufacturing when it is a part of a broader transformation of the product. Therefore, Taxpayer's purchase of anodizing equipment qualifies as mill machinery or mill machinery parts and accessories for purposes of the sales and use tax exemption set forth in N.C. Gen. Stat. § 105-164.13(5e) because they are being used to

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fulfill contracts with manufacturers. Such mill machinery or mill machinery parts or accessories must be for use in the “production” phase of manufacturing operations as defined in Sales and Use Tax Bulletin 57-1. Any equipment used prior to or subsequent to the “production” phase is subject to the general State, applicable local, and applicable transit rates of sales and use tax.

This ruling is based solely on the facts submitted or available 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 Taxpayer may not rely on it. If 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, the ruling will not afford 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.

Issued on behalf of the Secretary of Revenue  
By the Sales and Use Tax Division