

Roy Cooper  
Governor

Ronald G. Penny  
Secretary

June 5, 2024

[REDACTED]

Re: Request for Private Letter Ruling

FEIN: [REDACTED]

Dear [REDACTED]:

The North Carolina Department of Revenue (“Department”) has completed its review of your request for a private letter ruling on behalf of your client, [REDACTED] (“Taxpayer”). In making this written determination, the Department has considered the facts presented in your June 7, 2023, request as well as supplemental information available to the Department.

This private letter ruling is a written determination issued under N.C. Gen. Stat. § 105-264.2 and applies North Carolina tax law to a specific set of 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**

The statement of facts submitted by you for consideration by the Department is summarized as follows:

[REDACTED] is a [REDACTED]. The United States federal government [REDACTED] in [REDACTED]. Most of the [REDACTED], but there is also a [REDACTED].

Taxpayer is the [REDACTED].<sup>1</sup> Taxpayer operates [REDACTED]. At the [REDACTED]. Taxpayer employs many of [REDACTED]. Some of the [REDACTED]. However, [REDACTED].

<sup>1</sup> See [REDACTED].



**Issues**

1. Whether a [REDACTED] and [REDACTED] can [REDACTED] for Taxpayer in calculating the [REDACTED] North Carolina taxable income.
2. Whether Taxpayer can [REDACTED] and [REDACTED] Taxpayer’s North Carolina withholding tax obligation.

**Legal Analysis**

N.C. Gen. Stat. § 105-153.2 provides, in pertinent part, that North Carolina imposes an income tax on every nonresident individual who derives income from business, trade, profession, or occupation carried on in North Carolina.

N.C. Gen. Stat. § 105-153.3(11) defines a “nonresident” as “[a]n individual who is not a resident of [North Carolina.]”

N.C. Gen. Stat. § 105-153.3(15) defines a “resident” as “[a]n individual who is domiciled in [North Carolina] at any time during the taxable year or who resides in [North Carolina] during the taxable year for other than a temporary or transitory purpose.”

N.C. Gen. Stat. § 105-153.3(19) defines a “taxpayer” as “[a]n individual subject to [North Carolina income tax.]”

N.C. Gen. Stat. § [REDACTED]  
[REDACTED]  
[REDACTED]

North Carolina Administrative Rule 17 NCAC [REDACTED] provides that [REDACTED]  
[REDACTED]

N.C. Gen. Stat. § 105-163.1(4), in pertinent part, defines an “employee” as “[a]n individual, whether a resident or a nonresident of [North Carolina,] who performs services in [North Carolina] for wages....”

N.C. Gen. Stat. § 105-163.1(5), in pertinent part, defines an “employer” as “[a] person for whom an individual performs services for wages.”

N.C. Gen. Stat. § 105-228.90(b)(23), in pertinent part, defines a “person” as “[a]n individual, a fiduciary, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit.”

N.C. Gen. Stat. § 105-163.2(a) requires an employer to deduct and withhold from the wages of each employee the North Carolina income taxes payable by the employee on the wages. This same statute permits the employer to take into account all North Carolina deductions the employee is entitled to take under North Carolina income tax law when calculating an employee's anticipated North Carolina income tax liability.

**Department's Ruling**

Based on the information furnished, the Taxpayer is a [REDACTED].<sup>2</sup> As such, the Department determines the following:

1. A [REDACTED] for Taxpayer [REDACTED] but who [REDACTED] can subtract wages earned from Taxpayer [REDACTED] federal adjusted gross income.
2. Taxpayer is not required to [REDACTED] in calculating Taxpayer's North Carolina withholding tax obligation.

This ruling is based solely on the facts submitted to the Department for consideration. Your statement of facts is subject to audit verification. If the facts and circumstances given are not accurate, or if there are other facts that were not disclosed that might cause the Department to reach a different conclusion, the taxpayer requesting this ruling may not rely on it.

A letter ruling is not equivalent to a Technical Advice Directive that generally affects a large number of taxpayers. 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 a precedent and that a change in statute, a regulation, or case law could void this ruling.

If you have any questions, please do not hesitate to contact me.

Sincerely,

[REDACTED]

[REDACTED]

Personal Taxes Division

[REDACTED]

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<sup>2</sup> See [REDACTED]