STATE OF NORTH CAROLINA

BEFORE THE SECRETARY OF REVENUE

COUNTY OF WAKE

IN THE MATTER OF:

The Petition of [redacted] for an alternative method of apportionment formula for corporate income and franchise tax purposes for the tax year ending December 31, 2022, December 31, 2023 and December 31, 2024.	**ADMINISTRATIVE DECISION NUMBER 2024-02**

This matter was heard before Assistant Secretary of Revenue, Anthony Edwards, on July 24, 2024 in a virtual conference via Microsoft Teams upon a petition filed on September 20, 2023 by [redacted] ("Company") concerning the apportionment of Company's corporate income and franchise tax reported on returns for tax years 2022, 2023 and 2024 pursuant to N.C. Gen. Stat. §§ 105-122(c1)(2) and 105-130.4(t1).

The Assistant Secretary of Revenue presided over the conference with Brian Puckett, Director of the Corporate Income Tax Division, and Bobby Weaver, Administrative Officer, Corporate Tax Division, participating. [redacted] and [redacted] of [redacted] attended the conference on behalf of Company. In addition, [redacted] and [redacted] of Company participated in the conference.

Company, which is a limited liability company taxed as a corporation for federal income tax purposes, is headquartered in the United States in [redacted]. Company is focused on [redacted] and currently has [redacted], [redacted], approved for use in the United States. The [redacted] is designed for the [redacted]. Company entered into an agreement to make [redacted]., a national third-party specialty [redacted] based in [redacted]. Under the distribution agreement, inventory of [redacted] is sold to [redacted], at which time [redacted] becomes responsible for quality control and proper storage and handling of the inventory. [redacted] sells and delivers [redacted] from North Carolina to [redacted] located across the country, including [redacted] located in North Carolina. [redacted] then provides Company with information indicating the number of state-by-state shipments of [redacted] to [redacted].

Company asserts that application of the statutory formula, which would source 100% of the sales made and shipped to [redacted] in North Carolina, attributes a greater portion of its income and net worth to tax in this State than is reasonably attributable to its business in North Carolina.

After review of the petition and consideration of testimony and supporting documentation provided by Company during and after the conference, the Secretary of Revenue rendered his decision and entered the following order:

IT IS HEREBY ORDERED BY THE SECRETARY OF REVENUE that Company shall be authorized to apportion its net worth to North Carolina for franchise tax purposes reported on returns filed for the years ended December 31, 2022, December 31, 2023, and December 31, 2024, in accordance with the following procedure:

1. Company's apportionment factor will be weighted according to the statutory apportionment formula in effect for years beginning before January 1, 2016: property, payroll, and double-weighted sales.
2. The numerator of the sales factor will include any sales made by Company to customers or third-party distributors in North Carolina. The denominator shall include sales by Company everywhere.
3. The numerator of the payroll will include payroll costs that are incurred by Company in North Carolina. The denominator shall include all payroll of Company everywhere.
4. The numerator of the property factor will include the cost of Company's North Carolina property owned or leased. The denominator will include all property of Company.

Company's request to apply an alternative methodology for the computation of its North Carolina income tax liability is denied. Company shall apply the statutory apportionment provisions set out in N.C. Gen. Stat. 105-130.4.

This Order shall apply for taxes reported on returns for tax years ending December 31, 2022, December 31, 2023, and December 31, 2024. The statute authorizes a corporation to use either the alternative method prescribed by the Secretary or the statutory method to apportion its income. If in any year subject to this Order Company elects to apportion its income by the statutory method, this Order is rescinded for any remaining years subject to this Order. The relief granted to Company is made subject to audit and review by the North Carolina Department of Revenue. In the event of a material change in the facts as presented in Company's petition, Company shall notify the Secretary prior to filing the return for the year in which the change occurred in order for the Secretary to determine if the order shall remain in force.

Made and entered into this the 21st day of November 2024.

Signature

[redacted]

Anthony Edwards, Assistant Secretary
Tax Administration