



North Carolina Department of Revenue

Pat McCrory
Governor

Jeffrey M. Epstein
Secretary

December 28, 2016

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

Re: [REDACTED] - Request for Expedited Private Letter Ruling - Credit for Investing in Renewable Energy Property - N.C. Gen. Stat. § 105-129.16A

Dear [REDACTED]:

This letter is in response to your letter dated [REDACTED], wherein you requested on behalf of your client, [REDACTED], that the North Carolina Department of Revenue ("Department") provide an expedited private letter ruling regarding credits for investing in renewable energy property pursuant to N.C. Gen. Stat. § 105-129.16A.

This request for ruling addresses the same issue presented in a private letter ruling issued by the Department on [REDACTED] and, according to your email dated [REDACTED], all of the transactions included in your original statement of facts have transpired. The only change in the facts from the prior ruling is that [REDACTED] will acquire a [REDACTED] interest in [REDACTED] from a limited partner who initially holds a [REDACTED] interest on [REDACTED], instead of acquiring a [REDACTED] interest directly from [REDACTED]. Based on this change in the facts, [REDACTED] is now requesting the following rulings:

- [REDACTED] will be entitled to a full year's share (i.e., [REDACTED]) of the credits under N.C. Gen. Stat. § 105-129.16A properly allocated to [REDACTED] in [REDACTED] notwithstanding [REDACTED]'s acquiring its interest in [REDACTED] late in the year rather than on the date [REDACTED] is formed. This ruling is consistent with Q&A-13 in the Guidelines issued by the Department on October 1, 2014.
- The credits under N.C. Gen. Stat. § 105.129.16A will be allocated based on how the partnerships allocate their general profits, consistent with how federal energy credits are allocated pursuant to Reg. § 1.46-3(f)(2) and Reg. § 1.704-1(b)(4)(ii).

Based on our review of the revised facts, [REDACTED] will be entitled to a full year's share of the credit provided under N.C. Gen. Stat. § 105-129.16A, even though it acquired its [REDACTED] interest in [REDACTED] late in the year. As stated in our response to your original request for a ruling, if [REDACTED]

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██████████ acquires an interest in ██████████ at any point during the tax year and is properly classified as a "partner" of record for federal income tax purposes at the close of the tax year or any later year after the renewable energy property has been placed in service, then ██████████ is entitled to a distributive share of the tax credit provided under N.C. Gen. Stat. § 105-129.16A, unless the partnership agreement stipulates otherwise.

North Carolina Gen. Stat. § 105-269.15 provides specific guidance with regard to income tax credits of partnerships. Subsection (c) of the statute states that: "[a] partner's distributive share of an income tax credit shall be determined in accordance with sections 702 and 704 of the Code." IRC section 704 provides guidance with regard to a partner's distributive share of income, gain, loss, deduction, or credit. If a partner is not entitled to the distributive share of income, gain, loss, deduction, or credit for federal income tax purposes, then the partner would not qualify to receive that distributive share of income, gain, loss, deduction, or credit for North Carolina purposes. For federal income tax purposes, the partnership agreement's allocation of partnership items of income, loss, deduction, and credit among the partners is respected provided the allocation has substantial economic effect or is otherwise consistent with, or is deemed to be consistent with, the partners' interests in the partnership. [Code Sec. 704(a); Reg. §1.704-1(b)(1)(i)]

Provided that the credits under N.C. Gen. Stat. § 105.129.16A will be allocated based on how the partnerships allocate their general profits, which is consistent with how federal energy credits are allocated pursuant to Reg. § 1.46-3(f)(2) and Reg. § 1.704-1(b)(4)(ii), then the Department will recognize ██████████'s allocations to its partners and will treat these allocations of the North Carolina tax credit in the same manner as the federal energy credits are allocated to partners under the aforementioned Treasury Regulations.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. Your statement of facts and our findings are 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 precedent and that a change in statute, a regulation, or case law could void this ruling.

Should you have any questions, please contact me.

Very truly yours,

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