



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

February 16, 2012

Account ID: [REDACTED]
Federal ID: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]
Sales/Use and Property Tax Manager

Dear Ms. [REDACTED]

We have your letter dated October 7, 2010, in which you request a private letter ruling on [REDACTED] status as a manufacturer for North Carolina Sales and Use Tax purposes. We also have the additional information you provided March 29, 2011 in response to our request dated March 15, 2011.

You state that [REDACTED] takes [r]aw [m]aterials – [p]lastic (various grades), [o]ld [c]orrugated [c]ontainers, newspaper, glass bottles, aluminum cans, other metal cans and converts the materials into reusable bales. This material coming to [the [REDACTED]] facilities in North Carolina is what is referred to as ‘Single Stream’ meaning that it arrives all together in (1) pile or truck. Most of the material that arrives for processing is from curbside household pick up. The equipment at the plant separates this ‘Single Stream’ material into temporary storage bins which then is converted or produced into a ‘Bale’ for sale to the customer. The ‘Bale’ has strict performance criteria. The Customer stipulates, for example: [w]eight, [s]ize of the [b]ale, [w]hat type of material (plastic), [s]hrinkage ([m]oisture [c]ontent), what type of metals, etc. If we do not adhere to specifications, the load can be rejected and sent back to us for reprocessing.

“The actual process of recycling waste into usable bales is as follows:

1. Material is first processed through a rotating metering drum for better feed/volume distribution. The heavier material goes to the bottom and the lighter to the top of the drum.

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2. Next the material goes to a pre-sort stage where cardboard is pulled out manually as well as other materials that can be sent directly to the baler.
3. Next the material that is left goes to a Newscreen - Post pre-sort phase. This stage sorts the glass into a separate area. There is some manual sorting that can be done and material can also be sorted into bunkers or will continue on in the production flow.
4. The glass containers then go to a secondary Glass Breaker Screen where they are crushed, and then the other containers go to an Air Drum Separator to remove any residual fiber from the containers.
5. From there any unsorted material goes under an over-band magnet which will pull out any steel cans, etc.
6. Next the conveyor takes the remaining material and any aluminum cans are pulled out by an eddy-current separator.
7. Material that is left falls into a manual sort conveyor where PET, HDPE Natural and HDPE Colored containers can be sorted manually into different silos for bailing.
8. Sorted Material then goes on a conveyor into the Baler and a bale is made.
9. Bales are manufactured for each raw material [p]aper, [c]ardboard, [s]teel [c]ans, [p]lastics and the other containers.”

Your firm ships or exports “the baled finished goods. Once received, the Customer tests the product to ensure it meets their specifications.” You advised that your firm’s customers “use the bales of each substance - paper, plastic bottles, [and] plastic containers in their manufacturing system. [REDACTED] provides a part of their process that they do not have to perform.”

In your letter you state “we believe that [REDACTED] is a manufacturer because raw materials are converted into a new and different product suitable for use. We change the form of the commodity so that it can be used by a manufacturer for further processing . . . we believe that the process of recycling materials into a usable bale for further use by a manufacturer is also ‘within the spirit and purpose of the statute’ and that we change the form of the original commodity causing the property to become more valuable for sale and entitling [REDACTED] to the manufacturing exemption.”

In our March 15, 2011 letter, we requested a written detailed summary of the various processes performed on the various items purchased. In response, you state the Single Stream “materials are ran across a conveyor belt so non recyclables can be pulled out. Next, materials are run across several machines that remove corrugated [containers], glass and newspaper. Finally, containers are run across a conveyer belt and . . . sorted into six different grades (Aluminum, Steel, PET, HDPE natural, HPDE colored, and all other mixed plastics).” After the material has been sorted, it runs across a conveyor belt into the baler and is baled according to customer specifications.”

Although your firm receives plastics, corrugated containers, newspapers, glass, aluminum and other metal cans and sorts and bales these materials, the substance of the items received are unchanged and do not constitute new and different products. It is the Department’s opinion that your firm’s recycling operations do not constitute a “manufacturing industry and plant” as contemplated by N.C. G.S. § 105-187.51(a)(1). Therefore, your firm’s purchases of recycling

machinery and equipment discussed herein are subject to the applicable State and local rates of tax.

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 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.

Very truly yours,

Administration Officer
Sales and Use Tax Division

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