SUPLR 2011-0005

COPY

North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

June 9, 2011

Federal ID: [redacted]
Account ID: [redacted]

[redacted]

Attention: [redacted]

Re: [redacted]
Private Letter Ruling Request

Dear Mr. [redacted]:

We have your letter dated August 16, 2010, in which you request a ruling from the Department regarding your above-referenced client's North Carolina sales and use tax liability for a new product it is offering customers. We apologize for the delay in our response.

You advised that your client, [redacted], is "...engaged in the business of providing commercial information about the financial condition of businesses to its customers located throughout the US and abroad. This information is provided through [redacted]. This database enables customers to access select firmographic and financial information to mitigate credit and supplier risk, increase cash flow and drive increased profitability. Information gathering, analysis, formatting/explanation, and dissemination are conducted at [redacted] in either [redacted] or [redacted]"

[redacted] is providing a new product it calls [redacted] to its customers. You advised that [redacted] is an interactive, customizable web-based application that will offer users real-time access to [redacted] complete and up-to-date global database of more than [redacted] for a subscription fee. [redacted] offering will allow customers to run searches and create customizable reports containing summary trade data, basic credit scores, legal filings, and general company information. For an additional fee, customers will be able to purchase upgraded data packages and [redacted] add-ons that provide additional data beyond that included with the base core service offering. The additional fees relating to the upgraded data packages will not be separately invoiced if purchased simultaneously with the [redacted] but rather included in the total annual subscription fee as a premium package." Your client will also offer some [redacted] add-ons that will be separately invoiced to their customers.

You described the various upgraded packages, which provide customers who pay for them with access to additional data, including public filing information, financial statements, credit limit recommendations, comprehensive credit scores, and detailed payment data. The upgraded packages include the following:

1. [redacted]
2.
3.

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P.O. Box 871 Raleigh, North Carolina 27602-0871
Website: www.dornc.com
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4. [redacted]
5.
6.

You advised that in addition to upgraded data packages, users will be able to add to their [redacted] service offering by purchasing [redacted] add-ons for an additional fee. The [redacted] add-ons are customizable, web-based tools or applications that will be hosted on [redacted] servers or a third-party server. The customers purchasing the [redacted] add-ons will not be receiving software to install. [redacted] add-ons will be separately invoiced from the [redacted] core service offering and upgraded packages. The [redacted] add-ons include the following:

1. Decision making tool;
2. Account manager;
3. Collection tool;
4. Online credit application;
5. Web services.

N.C. Gen. Stat. § 105-164.4(a)(6b) provides that the general rate of sales or use tax applies to certain digital property that is delivered or accessed electronically, is not considered tangible personal property, and would be taxable if sold in a tangible medium. The sales or use tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed in N.C. Gen. Stat. § 105-164.4 or to an information service. N.C. Gen. Stat. § 105-164.3(14a) defines the term "information service" as "[a] service that generates, acquires, stores, processes, or retrieves data and information and delivers it electronically to or allows electronic access by a consumer whose primary purpose for using the service is to obtain the processed data or information."

Based on the information provided, [redacted] charges for its [redacted] upgraded data packages, and [redacted] add-ons are charges for an "information service" within the meaning of N.C. Gen. Stat. § 105-164.3(14a) and are not subject to North Carolina sales or use tax under the provisions of N.C. Gen. Stat. § 105-164.4(a)(6b).

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.

If you have any questions, you may reach me at the number listed below.

Very truly yours,

[redacted]
Administration Officer
Sales and Use Tax Division

[redacted]

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