



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

June 20, 2011

[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Re: Private Letter Ruling Request
[REDACTED]

Dear Mr. [REDACTED]

We have your letters of December 8, 2010 and March 23, 2011 requesting a ruling from the Department concerning your above-referenced client's eligibility to receive sales and use tax refunds under the provisions of N.C. Gen. Stat. § 105-164.14(b)(2).

You advise that [REDACTED] ("[REDACTED]") is a nonprofit organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. "The primary charitable purpose of [REDACTED] is to construct low-income and subsidized rental housing." [REDACTED] is a wholly owned subsidiary of the [REDACTED] [REDACTED] [REDACTED] which is the sole member of [REDACTED]

You advise that [REDACTED] has formed a limited liability company known as [REDACTED] [REDACTED] [REDACTED] ([REDACTED] [REDACTED] [REDACTED] for the purpose of constructing affordable apartment units for low-income persons and shielding [REDACTED] charitable assets from potential liabilities associated with this construction activity. [REDACTED] owns one hundred percent (100%) of [REDACTED] [REDACTED]. The [REDACTED] has entered into a contract with a builder to construct an apartment complex to provide low-income and subsidized rental housing units in furtherance of [REDACTED] charitable purposes." The [REDACTED] is a disregarded entity for federal income tax purposes.

N.C. Gen. Stat. § 105-164.14(b)(2) provides that certain nonprofit organizations exempt from income tax under Section 501(c)(3) of the Internal Revenue Code are entitled to semiannual refunds of sales and use taxes paid by them on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on their nonprofit work. To be eligible for the refunds, a 501(c)(3) exempt entity must be properly classified in a major group area of the National Taxonomy of Exempt Entities other than one of the following areas: Community Improvement and Capacity Building, Public and Societal Benefit, or Mutual and

Membership Benefit. Sales and use tax liability indirectly incurred by a qualifying nonprofit entity on building materials, supplies, fixtures, and equipment that become part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity.

The [REDACTED] parent, [REDACTED], is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and, under the National Taxonomy of Exempt Entities system, is properly classified with a code of L21 (Low-Income & Subsidized Rental Housing). The [REDACTED] a disregarded entity for federal income tax purposes, is also engaged in low-income and subsidized rental housing activities. Based on the information available, [REDACTED] is eligible to receive sales and use tax refunds under the provisions of N.C. Gen. Stat. § 105-164.14(b), including refunds of sales or use tax indirectly incurred by [REDACTED] on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure The [REDACTED] owns or leases and that is being erected, altered, or repaired for use by The [REDACTED] for carrying on its nonprofit work of providing low-income and subsidized rental housing.

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