North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

May 2, 2012

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

[redacted]

Attention: [redacted]

Re: [redacted]

Dear Mr. [redacted]

We are in receipt of your letter dated October 20, 2010 requesting a Private Letter Ruling for your above referenced client (hereinafter "Taxpayer"). Taxpayer's question is, "[a]re the software lines provided by the Taxpayer to its customers in North Carolina exempt from sales and use tax under N.C. Gen. Stat. Sec. 105-164.13(43a) as revised effective January 1, 2010?"

In your letter you state, "Taxpayer . . . markets and licenses software which is intended for use by the Information Technology ('IT') departments of organizations to improve their services to the end users. The Taxpayer's [redacted] software platforms enable organizations to [redacted]. The Taxpayer's software is used predominantly in assisting companies with making their operations more efficient [redacted].

[redacted]
Its software product lines consist of the following:

Phone (919) 733-2151 Fax (919) 733-1821
501 North Wilmington Street, Raleigh, North Carolina 27640
P.O. Box 871 Raleigh North Carolina 27602-0871
Website: www.dornc.com
An Equal Opportunity Employer

- [redacted] – Is a software program that helps the Taxpayer's customers manage all aspects of [redacted] functions. [redacted].

- [redacted] – Is a software solution that has the versatility to adapt to a customer's organization requirements. [redacted].

- [redacted]
  - [redacted] – provides complete visibility into a customer's entire hardware and software asset inventory.
  - [redacted] – gives a customer the ability to reliably control [redacted].
  - [redacted] – allows a customer to address issues timely and cost-efficiently [redacted].
  - [redacted] – allows a customer to deploy and maintain a secure environment, [redacted].
  - [redacted] – facilitates the adoption of green IT [redacted].
  - [redacted] – helps a customer execute IT [redacted].
  - [redacted] – enables a customer to ensure IT asset [redacted].
  - [redacted] – prevents leakage [redacted].

"The Taxpayer's customers consist of small organizations, mid-sized organizations, and IT departments of various sized enterprises. The Taxpayer's customers download its software electronically through the internet via the Taxpayer's server or by utilizing it on their own servers. The Taxpayer does not provide its customers software in a tangible format (i.e., disk, CD, etc.). In addition to offering the full licensing of its products to customers, the Taxpayer also offers its customers the opportunity to rent the license of the software under [redacted] ([redacted] agreements.

"The Taxpayer's software is canned software in that it is not custom designed for any particular user. Its software is customizable to the extent that it offers its customers certain options to choose from when purchasing the license to use any of its lines of software. Additionally, the

Taxpayer offers its customers [redacted] services, [redacted] upgrades, and support [redacted]

"The software is licensed by the Taxpayer to its customers, and is designed to run on servers which are accessed and utilized by more than one individual at a time. The software by its nature is designed to run on enterprise servers because it is intended to be utilized by more than one user at any given time. The software lines are intended to be used by various sized businesses to manage certain divisions, and are capable of providing high volume simultaneous use on multiple computers at the same time."

Effective January 1, 2010, G.S. 105-164.13(43a) provides an exemption from North Carolina sales and use tax for "[c]omputer software . . . "designed to run on an enterprise server operating system." The Department issued Important Notice: Computer Software in February 2010 which states in part, "[a] sale of computer software that is designed to run on an enterprise server operating system is exempt from sales and use tax. The exemption includes a purchase or license of computer software for high-volume, simultaneous use on multiple computers, that is housed or maintained on an enterprise server or end users' computers. The exemption includes software designed to run a computer system, an operating program, or application software. The delivery method of the computer software is irrelevant."

It is the Department's opinion that the software lines sold by Taxpayer to its customers in North Carolina are exempt from sales and use tax under G.S. 105-164.13(43a) based on the information provided for our review and the exemption is applicable to Taxpayer's software licensing to customers in North Carolina.

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,

[redacted]
Sales and Use Tax Division

[redacted]

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