



North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

August 30, 2013

[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Re: [REDACTED]
Account ID: [REDACTED]
FEIN#: [REDACTED]

Dear Mr. [REDACTED]

We have [REDACTED]'s letter dated August 17, 2011 which was received by facsimile on October 12, 2011 requesting a private letter ruling regarding the application of North Carolina sales and use tax on your client's business transactions. In response to our request for information, we received copies of invoices representing the various services offered by your client on December 21, 2012. A telephone conference was held on May 22, 2013 to discuss the various aspects of your client's business operations. In addition to you and me, Ms. [REDACTED] Assistant Director of the Sales and Use Tax Division; Mr. [REDACTED] Chief Financial Officer; Ms. [REDACTED] Controller; and Mr. [REDACTED] Vice President of Operations in North Carolina, also participated in the conference.

Following are the facts and questions provided in your letter followed by the Department's response.

Web Hosting

"The Taxpayer provides web hosting services (hereinafter referred to as 'Service #1') to various companies (hereinafter referred to as 'Customers') who desire to have a website hosted on someone else's server. In some cases, the Taxpayer would provide the website development and creation which is then hosted on computer servers that are either owned by the Taxpayer or are owned by a third-party. However, Service #1 is also provided independently of website development and creation. Customers have the ability to contract with the Taxpayer for a defined or indefinite period of time to have the Customer's website hosted on one of the Taxpayer's computer servers or third-party servers. The Taxpayer-owned servers are located in North Carolina. The servers owned by third-parties are located outside of North Carolina. The Customer understands that a third-party may or may not be utilized in the web-hosting service. However, the Customer always contracts directly with the Taxpayer and pays all fees related to

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the service directly to the Taxpayer. The third-party is not part of the Customer's web-hosting contract and is simply [acting] as a contractor on behalf of the Taxpayer."

You state in your letter that "Service #1 is not . . . one of the services specified by . . . G.S. §105-164.4; therefore, [you] have not deemed Service #1 to be taxable."

Question 1:

"What is the taxability in regard to your state's sales and use tax for [Service #1] described above?"

Response:

N.C. Gen. Stat. §§ 105-164.1 et. seq. does not impose a sales tax on a retailer's net taxable sales or gross receipts derived from providing web hosting as of the date of this letter.

Question 2:

"If construed to be taxable by the North Carolina Department of Revenue, how would the service described above be sourced in relation to the Customer location and to the server location? "

Response:

See response to Question 1.

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 letter ruling and the Department discovers, upon examination, that the factual situation of the taxpayer is different in any material aspect from the facts and circumstances given in this letter ruling, the letter ruling will not afford the taxpayer any protection. It should be noted that this letter ruling 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 contact me at the telephone number listed below.

Very truly yours,

Administration Officer
Sales and Use Tax Division

cc: [REDACTED], Director – Sales and Use Tax Division
[REDACTED], Assistant Director – Sales and Use Tax Division
[REDACTED] Chief Financial Officer [REDACTED]