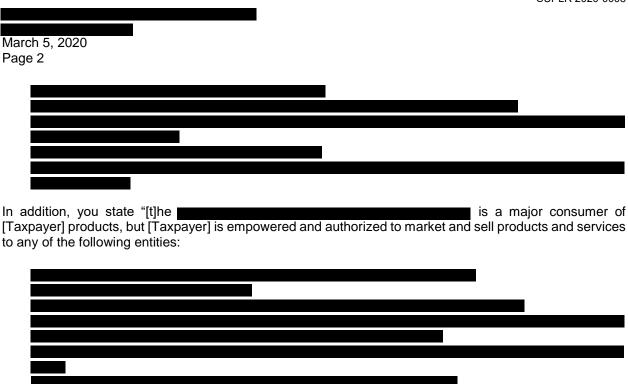


North Carolina Department of Revenue

Governor Governor	March 5, 2020	Ronald G. Penny Secretary
Re: Private Letter Ruling Request FEIN:		
Dear :		
	as considered the facts presented in your ir	(payer"). In making this
the tax law to a specific set of existing	termination issued under N.C. Gen. Stat. § ng facts furnished by you on behalf of Taxxpayer addressed herein and as such has bermination is issued.	axpayer. This written
Ov	verview and Relevant Facts	
	opinion that our ("Taxpayer") consists out the [S]tate, plus administrative offices in the mission of [Taxpayer] is 'to provide quant'."	and a central
You further state that "[t]he [Taxpayer] o	operation [employs] approximately	
		I



Your letter also states "[Taxpayer] Customer Sales for 2010 were distributed as follows:



<u>Issue</u>

Does Taxpayer fall within the scope of a manufacturer that would benefit from the exemption provided in N.C. Gen. Stat. § 105-164.13(57)?

Applicable Statutes and References

Under Chapter 105 of the North Carolina General Statutes, Article 5 ("Article") of the North Carolina Revenue Act ("Act")¹, N.C. Gen. Stat. § 105-164.1 *et. seq.*; Subchapter VIII, Local Government Sales and Use Tax, N.C. Gen. Stat. § 105-463 *et. seq.*; and Chapter 1096 of the 1967 Session Laws; a retail sales tax is imposed on a retailer's net taxable sales or gross receipts, as applicable, from sales of tangible personal property, certain digital property, and certain services at the applicable State, applicable local, and applicable transit rates of tax. N.C. Gen. Stat. §§ 105-164.4, 105-467, 105-468, 105-483, 105-498, 105-507.2, 105-509.1, and 105-537.

N.C. Gen. Stat. § 105-164.4(a)(9) provides, in part, that "[t]he combined general rate applies to the gross receipts derived from sales of electricity and piped natural gas."

¹ References to the Act and North Carolina General Statutes are based on the laws in effect as of the date of issuance of this private letter ruling except as otherwise noted herein.

March 5, 2020 Page 3

N.C. Gen. Stat. § 105-164.13(5e) provides, in part, an exemption from sales and use tax on "[s]ales of mill machinery or mill machinery parts or accessories to any of the persons listed in this subdivision. For purposes of this subdivision, the term "accessories" does not include electricity. The persons are:

a. A manufacturing industry or plant. A manufacturing industry or plant does not include (i) a delicatessen, cafe, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises or (ii) a production company."

N.C. Gen. Stat. § 105-164.13(57) provides, in part, an exemption for "[f]uel, electricity, and piped natural gas sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to the following:

_	Cloatricity	, used s	at a facilit	v ot which	the primar	, a ativity, ia	not monufacturi	"
а.		/ useu a	at a raciiii	y at which	the primary	/ activity is	not manufacturi	HQ.

"
-

Ruling

Based	on t	he	documentation	n provided,	with	the	exception	of the				
							,	Taxpay	er qualifies	for the e	exemption	from
sales a	nd us	se ta	ax available to	a manufactı	rer or	า pur	chases of e	electricity	pursuant t	o N.C. G	en. Stat. §	105-
164.13	(57)	pro۱	vided such fac	cilities are n	netere	ed ar	nd billed se	parately	by the pro	ovider of	the elect	ricity.
Pursua	nt to	N.C	C. Gen. Stat. §	105-164.4	(a)(9),	the	combined	general	rate of tax	applies to	o purchas	es of
electric	ity fo	r us	e by Taxpayer	in the	,		, the	-	,	the	-	,
and the			, unle	ss spe <mark>cifica</mark>	lly exe	empt	ed by statu	te.		•		

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.

Issued on behalf of the Secretary of Revenue By the Sales and Use Tax Division