

March 5, 2020

Administration	Percentage
Current Administration	85%
Previous Administration	15%

FEIN: [REDACTED]

You further state that “[t]he [Taxpayer] operation [employs] approximately [REDACTED]

Response	Percentage
Yes, the U.S. should take action to address climate change	95%
No, the U.S. should not take action to address climate change	5%

March 5, 2020
Page 2

In addition, you state “[t]he [REDACTED] is a major consumer of [Taxpayer] products, but [Taxpayer] is empowered and authorized to market and sell products and services to any of the following entities:

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

[REDACTED] - [REDACTED]
[REDACTED] - [REDACTED]
[REDACTED] - [REDACTED]
[REDACTED] - [REDACTED]
[REDACTED] - [REDACTED]
[REDACTED] - [REDACTED]
[REDACTED] - [REDACTED]
[REDACTED] - [REDACTED]”

Issue

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:

- a. Electricity used at a facility at which the primary activity is not manufacturing.”

_____”

Ruling

Based on the documentation provided, with the exception of the _____, Taxpayer qualifies for the exemption from sales and use tax available to a manufacturer on purchases of electricity pursuant to N.C. Gen. Stat. § 105-164.13(57) provided such facilities are metered and billed separately by the provider of the electricity. Pursuant to N.C. Gen. Stat. § 105-164.4(a)(9), the combined general rate of tax applies to purchases of electricity for use by Taxpayer in the _____, the _____, the _____, and the _____, unless specifically exempted by statute.

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