



North Carolina Department of Revenue

Roy Cooper
Governor

Ronald G. Penny
Secretary

March 1, 2021

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Private Letter Ruling Request

Taxpayer: [REDACTED]

Account ID: [REDACTED]

FEIN: [REDACTED]

Dear [REDACTED]:

The Department has completed its review of your request for a written determination on behalf of [REDACTED] ("Taxpayer"). In making this written determination, the Department has considered the facts presented in your initial request as well as any supplemental information provided to the Department for consideration.

This private letter ruling is a written determination issued under N.C. Gen. Stat. § 105-264.2 and applies the tax law to a specific set of existing facts furnished by you on behalf of Taxpayer. This written determination is applicable only to Taxpayer and as such has no precedential value except to Taxpayer.

Overview and Relevant Facts

Taxpayer "manufactures spun yarns [REDACTED] [Taxpayer] purchases special fire detection and suppression systems from . . . [REDACTED] ("Systems"). [Systems] are designed and used for protection against many hazards created by [Taxpayer's] production process. This special fire detection and suppression system is used in and serves an essential and indispensable component part of the manufacturing process. . . ."

[REDACTED] [Systems] are directly associated with a piece of mill machinery and professionally installed on each individually." In the yarn production industry, there is "a very high risk of spark and the flammable hazards present from production beginning to end." Taxpayer considers "fire detection and suppression systems to be a necessary and essential part of production."

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“[W]hen the equipment detects a hazard, production is immediately shut down. . . .the main functions of the [Systems] detection and protection systems are to enable the manufacturing process and to halt the manufacturing process if a hazard is created during manufacture”

In response to the Department’s questions, you stated that “[Systems] are located throughout the manufacturing area of the plant only as they are specially designed to protect against the hazards caused by the manufacture of yarn. . . . [Taxpayer] has not purchased any outdoor models. All the [Systems] [Taxpayer has] purchased are only inside within the plant manufacturing area.”

Issue

Are the Systems purchased by Taxpayer classified as mill machinery and not subject to the general State and applicable local and transit rates of sales and use tax?

Applicable Statutes and References

Under 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, and Chapter 1096 of the 1967 Session Laws, State, applicable local, and applicable transit rates of sales and use taxes are imposed on a retailer’s net taxable sales or gross receipts, as applicable, of tangible personal property, certain digital property, and certain services at the percentage rates listed in N.C. Gen. Stat. § 105-164.4(a). N.C. Gen. Stat. §§ 105-164.4, 105-164.8, 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) imposes a privilege tax on a retailer engaged in business in this State on the sales price of each article of tangible personal property.

N.C. Gen. Stat. § 105-164.3(261) defines the term “tangible personal property,” in part, as “[p]ersonal property that may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses.”

N.C. Gen. Stat. § 105-164.13(5e) provides an exemption from sales and use tax for “[s]ales of mill machinery or mill machinery parts or accessories to . . . [a] manufacturing industry or plant.”

Published for the purpose of presenting the administrative interpretation and application of sales and use tax, the Department’s Sales and Use Tax Bulletins are considered “prima facie correct.”

Sales and Use Tax Bulletin 57-1 provides, in part, “[p]roduction as a phase of industrial or manufacturing operations shall mean all steps performed in processing and refining rooms, and in other quarters and departments of a plant, where conditioning, treating, or other operations are done on ingredient materials as an actual routine on the assembly or processing line turning out a finished product of manufacture. . . .”

Ruling

Based on the information provided, Taxpayer is a yarn manufacturer and purchases Systems to attach to mill machinery located in the building where the yarn is manufactured. Although the

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.

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Systems are attached to the production equipment, they are not used directly in the production process as described in Sales and Use Tax Technical Bulletin 57-1 and are not considered mill machinery, or mill machinery parts or accessories in Taxpayer's yarn manufacturing process. The Systems are tangible personal property pursuant to N.C. Gen. Stat. § 105-164.3(261). Therefore, Taxpayer's purchases of the Systems are subject to the general State and applicable local and transit rates of sales and use tax.

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, if they change, or if there are facts that were not disclosed which might cause the Department to reach a different conclusion, Taxpayer may not rely on this ruling. If Taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of Taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford Taxpayer any protection. This document is not to be cited as precedent and 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