North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

December 8, 2010

[redacted]

Re: [redacted] - Private Letter Ruling Regarding the Availability of Article 3J Tax Credits

Dear [redacted]:

This letter is in response to your letter dated [redacted], wherein you requested that the North Carolina Department of Revenue ("Department") confirm your conclusion that your client, [redacted], is eligible to claim the credits provided under G.S. §§ 105-129.87 and 105-129.88.

The statement of facts submitted for the Department's consideration is as follows:

[redacted] currently owns and operates a manufacturing facility located at [redacted], [redacted] (the [redacted] Facility"). [redacted] is considering expanding its operations in North Carolina by leasing from [redacted] ("LLC") certain parcels of real property located in [redacted], North Carolina which may be purchased by [redacted] (such properties to the extent purchased by [redacted] and leased to [redacted] are collectively referred to herein as the [redacted] Facility"). In connection with leasing the [redacted] Facility, [redacted] would expand its operations in North Carolina by hiring additional workers and investing in certain business property necessary to operate the [redacted] Facility. If [redacted] leases and operates the [redacted] Facility, both the [redacted] Facility and the [redacted] Facility would be operated by [redacted], and all income generated at both the [redacted] Facility and the [redacted] Facility would be included in North Carolina income tax returns filed by [redacted].

RULING REQUESTED:

Can the tax credits available under G.S. §§105-129.87 and 105-129.88 be used by [redacted] to offset its North Carolina franchise tax liability and income tax liability arising from its activities in the State of North Carolina, including activities at both the [redacted] Facility and the [redacted] Facility?

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[redacted]*'s Interpretation:*

Based on the facts set forth above and assuming that (i) the statutory requirements for eligibility set forth in G.S. §§ 105-129.83(a), (c)-(g) and (ii) the threshold requirements set forth in G.S. §§ 105-129.87 and 105-129.88 applicable to job creation and investments in business property in [redacted] County have been satisfied, the tax credits available under G.S. §§ 105-129.87 and 105-129.88 may be used to offset up to 50% of [redacted]'s North Carolina franchise tax liability and income tax liability (reduced by the sum of other tax credits as provided in G.S. § 105-129.84(b) arising from all activities conducted by [redacted] in the State of North Carolina, including activities both the [redacted] Facility and the [redacted] Facility.

Department's Response:

We agree. If [redacted] meets all of the qualifications listed in G.S. § 105-129.83(a), (c)-(g), and the threshold requirements set forth in G.S. §§ 105-129.87 and 105-129.88 applicable to job creation and investments in business property, the company may use the credits provided under G.S. §§ 105-129.87 and 105-129.88 (Article 3J - Tax Credits for Growing Businesses) to offset up to 50% of its North Carolina franchise tax liability and income tax liability (reduced by the sum of other tax credits as provided in G.S. § 105-129.84(b)) arising from all its activities conducted in the State of 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 there are other facts that were not disclosed that might cause the Department to reach a different conclusion, then the taxpayer requesting this ruling may not rely on it. A letter ruling is not equivalent to a Technical Advice Directive that generally affects a large number of taxpayers. 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.

Sincerely,

[redacted]