

## North Carolina Department of Revenue

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Beverly Eaves Perdue Governor	David W. Hoyle Secretary
June 30, 2011	
Re: Corporate Income Tax Credit for Investing in Renewable Ene Private Letter Ruling Request for	ergy Property:
Dear :	
This letter is in response to your letter dated , wherein Carolina Department of Revenue ("Department") issue a ruling confin renewable energy property that is placed in service in North Carolagainst the corporate income and/or franchise tax for investments in pursuant to N.C. Gen. Stat. § 105-129 .16A (the "Energy Credit").	irming that your client's investment lina qualifies for the tax credit
The statement of facts submitted for the Department's consideration	is as follows:
Carolina. is entering into an agreement with limited liability company and wholly-owned subside corporation with its principal headquarters in construction as new of a biomass-fueled combined heat and power cogeneration facility) which will be used in North Carolina to ge and industrial heat for business purposes ("Energy Property").	, for the purchase and er boiler system (i.e., a biomass

The Energy Property is a newly constructed biomass cogeneration facility, consisting of solid fuel fired HP boilers burning biomass fuel, and each generating approximately P.O. Box 871, Raleigh, North Carolina 27602-0871

provide steam for sale to industrial users. will install and operate the Energy Property at

. The Energy User will commit to purchase a fixed monthly quantity of industrial steam

is engaged in the business of owning and operating boiler facilities which

, in

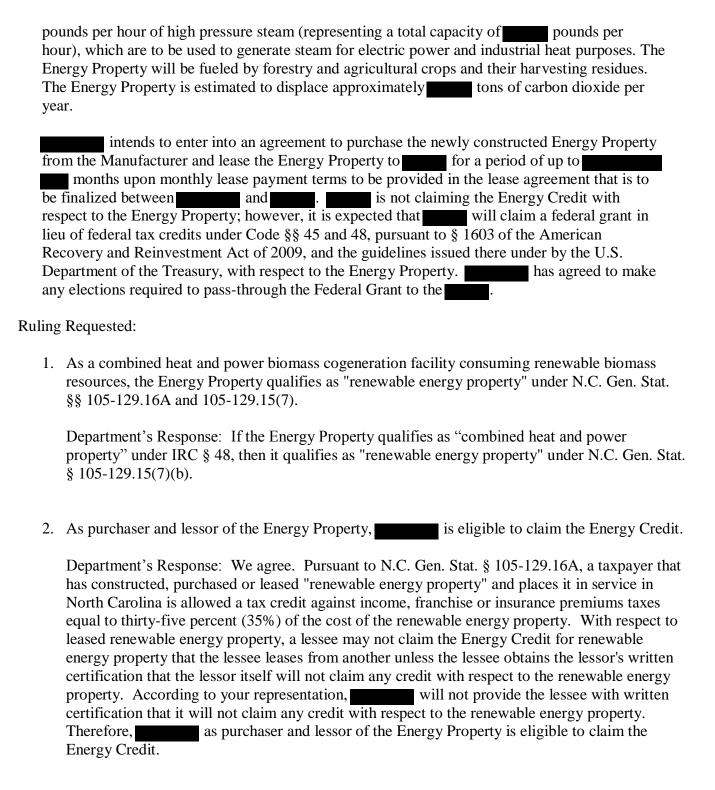
's purchase and lease of the Energy

processing facilities of

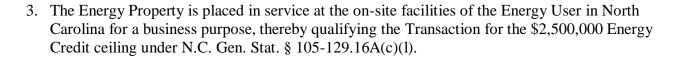
from over an initial year term.

Property are collectively referred to as the "Transaction."

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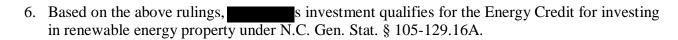
Department's Response: We agree. If the qualifying Energy Property is placed in service for a purpose other than providing energy to a residence, a ceiling of two million five hundred thousand dollars (\$2,500,000) per installation applies to the renewable energy property. N.C. Gen. Stat. \$105 - 129.16A(c)(1).

4. Under N.C. Gen. Stat. § 105-129.15(2), the cost of the Energy Property is determined by reference to the Internal Revenue Code of 1986, as amended (the "Code") because the Energy Property qualifies as renewable energy property eligible for the federal energy credit under §§ 45 and 48 of the Code, or a federal grant in lieu of that federal credit, and will make a lease pass-through election under the Code with respect to such federal credits or grants, even though the will not pass through the Energy Credit allowed under N.C. Gen. Stat. § 105-129.16A.

Department's Response: We agree. \_\_\_\_\_, as the owner, may claim the Energy Credit. For these reasons, the cost of the Energy Property is determined pursuant to regulations adopted under section 1012 of the Code, subject to the limitation on cost provided in section 179 of the Code. N.C. Gen. Stat. § 105-129.15(2)

5. The costs to purchase the Energy Property and associated design, construction costs and installation costs in the approximate aggregate amount of purposes of calculating the Energy Credit.

Department's Response: Eligible costs include the cost to purchase the Energy Property and associated design, construction costs, and installation costs less any discounts, rebates, advertising, installation assistance credits, name referral allowances, costs provided by public funds, or other similar reductions paid to the owner of the system as an inducement to purchase the renewable energy system. Public funds include federal, State, and local government funds, but does not include grants made under section 1603 of the American Recovery and Reinvestment Tax Act of 2009.



Department's Response: Based on the above rulings, since is investment qualifies for the Energy Credit for investing in renewable energy property under N.C. Gen. Stat. § 105-129.16A.

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Please note, as stated below, these rulings are based upon the factual representation provided in your written request for a ruling and are subject to audit verification.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. Your statement of facts and our findings are subject to audit verification. 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.

