North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

April 11, 2012

[redacted]

RE: Private Letter Ruling Request Pursuant to N.C. Gen. Stat. § 105-264(b)
[redacted] (FEIN: [redacted])

Dear [redacted]:

This letter is in response to your letter dated [redacted], wherein you requested that the North Carolina Department of Revenue ("Department") provide a private letter ruling pursuant to N.C. Gen. Stat. § 105-264(b) as to the proper methodology for calculating the tax credit under N.C. Gen. Stat. § 105-129.87.

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

[redacted] is a [redacted] with a [redacted] establishment located in [redacted]. The Taxpayer filed a 2009 North Carolina C Corporation tax return for the tax year ending September 30, 2010.

On [redacted], the Taxpayer was acquired by an unrelated third party. The change in ownership that resulted from the acquisition triggered a short period filing requirement for the taxable year beginning on [redacted] and ending on [redacted]. Subsequently, the Taxpayer changed its year end to December 31st in order to coincide with the tax year end of its new owner. As a result, the Taxpayer had a short year filing requirement for the taxable year that began on [redacted] and ended on [redacted].

Accordingly, Taxpayer filed North Carolina income/franchise tax returns for the following periods: [redacted]; [redacted]; and [redacted].

Ruling Requested:

The Taxpayer requests a letter ruling as to the proper methodology for calculating the tax credit under N.C. Gen. Stat. § 105-129.87 for creating new jobs during the taxable years ending [redacted].

Department's Response:

We agree with your interpretation of N.C. Gen. Stat. § 105-129.87(c) and supporting authority. Provided that Taxpayer meets the eligibility requirements of N.C. Gen. Stat. § 105-129.83, the company should utilize the following methodology in determining the number of new full-time jobs it created during the taxable year beginning [redacted]:

- The Taxpayer should calculate the average number of full-time employees in North Carolina from [redacted] on a monthly basis;
- The Taxpayer should calculate the average number of full-time employees in North Carolina on a monthly basis for the 12-month period preceding the beginning of the taxable year (the applicable 12-month period would be [redacted]);
- The Taxpayer should then subtract the average number of full-time employees from [redacted] from the average number of full-time employees calculated from [redacted] to determine the number of full-time jobs created during the taxable year for purposes of N.C. Gen. Stat. § 105-129.87.

Likewise, Taxpayer should follow the same methodology in determining the number of new full-time jobs created by Taxpayer during the taxable year beginning on [redacted] and ending on [redacted]:

- Taxpayer should calculate the average number of full-time employees in North Carolina from [redacted] on a monthly basis;
- The Taxpayer should calculate the monthly average number of full-time employees in North Carolina for the 12-month period preceding the beginning of the taxable year (the applicable 12-month period would be [redacted]).
- The Taxpayer should then subtract the average number of full-time employees from [redacted] from the average number of full-time employees calculated from [redacted] to determine the number of full-time jobs created during the taxable year for purposes of N.C. Gen. Stat. § 105-129.87.

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.

Should you have any questions, please contact me at the number below.

Very truly yours,

[redacted]