

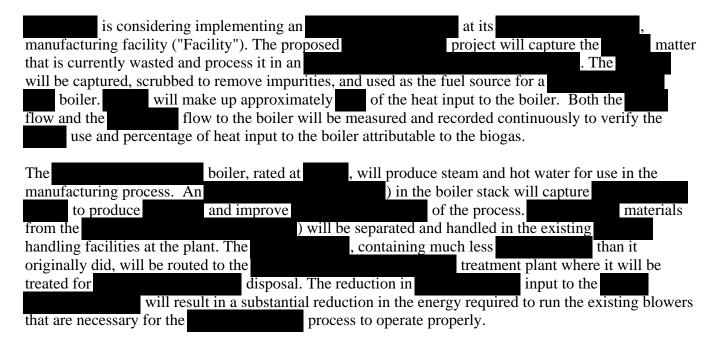
North Carolina Department of Revenue

Pat McCrory
Governor
Lyons Gray
Secretary

May 31, 2013

Attn:	
	Request for Expedited Private Letter Ruling N.C. Gen. Stat. § 105-129.16A. Credit for Investing in Renewable Energy Property
Dear	
Carolina Gen. Sta	ter is in response to your letter dated, wherein you requested that the North a Department of Revenue ("Department") provide a Private Letter Ruling confirming that is entitled to a tax credit for investing in renewable energy property as described in N.C. at.§ 105-129.16A. The statement of facts submitted for the Department's consideration is rized as follows:
their optimize	selected and is allowed to under controlled ons for a set period of time to produce the desired product. Typical materials are products such as . The is mixed with in a large tank or , and specific that produce the , are added to the mixture. , as a product of are added to
product use as a	ompletion of the process, the sare emptied and the is recovered from the contents. The residual solid biomass is separated for supplement. The residual contains a high concentration of along with some and is currently routed to an treatment plant for treatment and treatment plant for treatment and the contains approximately that is suitable for with the recovery of the resulting as an incomplete and the same is separated for a supplement. The residual solid biomass is separated for along with some treatment and disposal. On a typical day, this contains approximately that is suitable for with the recovery of the resulting as an incomplete.

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ISSUE:

Whether the costs of the equipment in a specific sproposed energy recovery project at the Facility qualify for the tax credit provided under N.C. Gen. Stat. § 105-129.16A?

RELEVANT STATUTES:

N.C. Gen. Stat. § 105-129.15 (6) reads as follows:

"Renewable biomass resources - Organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, aquatic crops, forestry and agricultural residues, spent pulping liquor, landfill wastes, and animal wastes."

N.C. Gen. Stat. § 105-129.15(7) defines "Renewable energy property" as "any of the following machinery and equipment or real property:

- a) Biomass equipment that uses renewable biomass resources for biofue1 production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.
- b) Combined heat and power system property. Defined in section 48 of the Code."

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N.C. Gen. Stat. § 105-129.16A(a) states that:

"A taxpayer that has constructed, purchased, or leased renewable energy property and places it in service in this State during the taxable year is allowed a credit equal to thirty–five percent (35%) of the cost of the property."

N.C. Gen. Stat. § 105-129.16A(c)(1) provides that:

"A ceiling of two million five hundred thousand dollars (\$2,500,000) per installation applies to renewable energy property placed in service for any purpose other than residential. [N.C. Gen. Stat. § 105-129.16A(c)(1)]

DEPARTMENT'S RESPONSE:

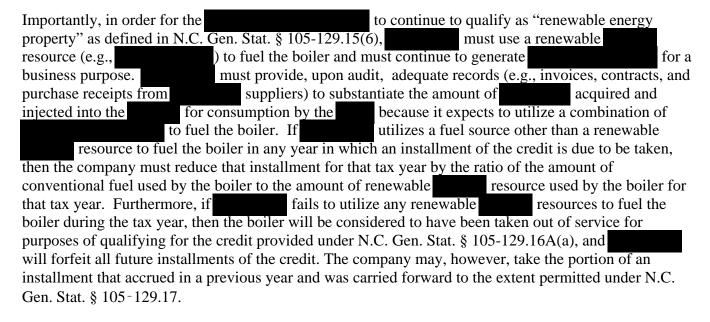
Yes. Since the	boiler uses	S	resources to produce	
for	's manufacturing process	(i.e.,), the boiler	
meets the definit	tion of renewable energy property	pursuant to N.C. Go	en. Stat. § 105-129.15(7)(b).	
Furthermore, any ancillary equipment that is deemed to be necessary and integral to collecting, storing,				
exchanging and	converting the	to energy, such as tl	ne	
	, also qualifies for the credit as a	related device. As	a result, the costs incurred to	
purchase and ins	stall the equipment in	s proposed energy r	ecovery project at the Facility will	
qualify for the ta	ax credit provided under N.C. Ger	n. Stat. § 105-129.16	A.	

Pursuant to N.C. Gen. Stat. § 105-129.15(2), the term "cost" is defined as follows:

"Cost – In the case of property owned by the taxpayer, cost 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. In the case of property the taxpayer leases from another, cost is value as determined pursuant to N.C. Gen. Stat. 105-130.4(j)(2), unless the property is renewable energy property for which the taxpayer claims either a federal energy credit under section 48 of the Code or a federal grant in lieu of that credit and makes a lease pass–through election under the Code. In this circumstance, the cost of the leased renewable energy property is the cost determined under the Code."

According to the Treasury Regulations referred to in the above statute, the cost of renewable energy property that is purchased by the taxpayer is the amount paid for the property in cash or other property. For purposes of computing the Tax Credits for renewable energy property, the Guidelines for Determining the Tax Credit for Investing in Renewable Energy Property provide that the eligible costs include the cost of the equipment 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.

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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.

Should you have any questions, please contact me.

Very truly yours,

