North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

December 5, 2013

[redacted]

Attn: [redacted]

Re: Request for an Expedited Private Letter Ruling
[redacted]

Dear [redacted]:

This letter is in response to your letter dated [redacted], wherein you requested that the North Carolina Department of Revenue ("Department") issue an expedited private letter ruling on behalf of [redacted] (the "Taxpayer") that interest on a Promissory Note ("Note") from the [redacted], will not be included in State Net Income Under N.C. Gen. Stat. § 105-130.2(15) for purposes of the North Carolina Corporate Income Tax imposed by N.C. Gen. Stat. § 105-130.3.

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

[redacted] intends to obtain a loan from the Taxpayer evidenced by the Note. [redacted] will use proceeds of the Note to pay all or a portion of the costs of construction of a new health clinic and hospital (the "Project"), to be located in [redacted], to presently serve [redacted]. The Project and the Hospital will employ many people who are not [redacted]. The replacement facility is being constructed to improve the health of the population. For purposes of this Ruling Request, you requested that the Department assume that the interest on the Note will be excluded from federal gross income and federal taxable income pursuant to Sections 7871(c)(1), 7871(a)(4), and 103(a) of the Internal Revenue Code of 1986 (the "Code"). Because the financed Project will be used in connection with an essential [redacted] function of [redacted], within the meaning of Section 7871(e) of the Code, Section 7871(a)(4) of the Code provides that [redacted] will be treated as a "state" for purposes of Section 103(a) of the Code, and Section 103(a) of the Code will exclude the interest on the Note from the federal gross income of the holder thereof, the taxpayer.

ISSUE:

Will [redacted] be treated as an "other state" for purposes of the interest income add-back of N.C. Gen. Stat. §105-130.5(a)(4), and will that interest on the Note be included in State Net Income for North Carolina corporate income tax purposes of the Taxpayer?

Department's Response:

No. Based on our review of the Internal Revenue Code, N.C. Gen. Stat. § 105-130.5, and relevant case law, the Department will not treat [redacted] as an "other state" for purposes of the interest income add-back of N.C. Gen. Stat. §105-130.5(a)(4), and will not require the interest on the Note to be included in State Net Income for North Carolina corporate income tax purposes of the Taxpayer.

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,

[redacted]