North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

May 20, 2013

[redacted]

Attn: [redacted]

Re: Tax Credit for Investing in Renewable Energy Property
N.C. Gen. Stat. § 105-129.16A

Dear [redacted]:

This letter is in response to your letter dated [redacted], wherein you requested that the North Carolina Department of Revenue ("Department") provide guidance in the form of a private letter ruling confirming that under the following fact pattern [redacted] satisfies the business purpose requirements for the credit for investing in renewable energy property.

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

There are two parties involved, the parent corporation [redacted] and its subsidiary, [redacted]. [redacted] desires to invest in renewable energy property. To do so, [redacted] would enter into a lease with [redacted] to lease the roof top of the [redacted] buildings located at [redacted]. [redacted] would then purchase and install solar panels on the roof tops of the [redacted] North Carolina buildings leased from [redacted], the owner of the buildings. [redacted] would sell the energy produced by the solar panels to [redacted]. In order to make this transaction financially attractive for [redacted], [redacted] will sell the energy produced by the solar panels at a slightly lower cost when compared to existing energy sources but in an arm's-length transaction. The transaction will provide [redacted] an added environmental benefit of reducing its carbon footprint by using the solar energy for the operational needs of the facilities. In addition, the renewable energy property will be sold by [redacted] to [redacted] in [redacted] years at fair market value.

Issue:

Do the transactions between [redacted] and [redacted], which are described in the statement of facts, meet the "business purpose" requirements of N.C. Gen. Stat. § 105-129.16A?

Department's Response:

Yes, we agree with your analysis. N.C. Gen. Stat. § 105-129.16A states that "Renewable energy property is placed in service for a business purpose if the useful energy generated by the property is offered for sale or is used on-site for a purpose other than providing energy to a residence." In this case, [redacted]'s purchase and placement of the solar panels into service on the leased roof tops of [redacted] would satisfy the "business purpose" requirement of the statute if [redacted] purchases the usable energy at arm's length and uses the solar energy for the operational needs of its facilities. As a result, if [redacted] and [redacted] engage in the transaction as described in the statement of facts, [redacted] will be entitled to the tax credit provided under N.C. Gen. Stat. § 105-129.16A. Please note that upon audit [redacted] must furnish records for inspection to prove that transactions between the two parties were conducted at arm's length.

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]