North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

March 19, 2014

[redacted]

Re: Request for a Private Letter Ruling Regarding the Determination of Credit Utilization for North Carolina Renewable Energy Credits Under G.S. 105-129.16A

Dear [redacted]:

This letter is in response to your letter dated [redacted], wherein you requested a written determination for [redacted] by the North Carolina Department of Revenue ("Department") regarding the utilization of renewable energy property credits for solar electric equipment against the franchise tax. These credits are available to North Carolina taxpayers pursuant to N.C.G.S. §105-129.16A.

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

[redacted] is [redacted] electric power company in the United States with [redacted] customers in the Southeast and Midwest. [redacted] operates in the [redacted] primarily through its direct and indirect wholly owned subsidiaries. [redacted], as a separate entity, has both regulated and non-regulated utility operations. As part of its long-term environmental sustainability initiative, [redacted] owns and maintains [redacted] solar photovoltaic (PV) equipment. All electricity generated by the solar renewable energy property owned by [redacted] is transferred to the grid and sold to customers.

[redacted] files the Franchise Tax Return for Electric Companies, Form CD-310. Since the amount paid with the utility franchise tax ("UFT") is greater than what would be paid under the general franchise tax, there is no general franchise tax due. [redacted] has generated North Carolina renewable energy credits which have been claimed against the UFT. [redacted] files UFT returns on a quarterly basis. The most recent renewable energy credits were generated by [redacted] in 2013.

ISSUE:

Can unused installments of the renewable energy credit that are currently being utilized against the UFT be utilized against the general franchise tax following the repeal of the UFT on July 1, 2014?

Department's Response:

Yes. We agree with your conclusion as stated in your letter. Since both the UFT and the general franchise tax are found under Article 3 of Chapter 105, both are considered "franchise taxes." Therefore, the Department will treat the taxes as the same tax for purposes of utilizing the renewable energy credits under N.C.G.S. §105-129.17(a), and all remaining installments of the renewable energy credit previously used against the UFT may be used against the general franchise tax once the UFT is repealed effective July 1, 2014.

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.

Sincerely,

[redacted]