



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

Kenneth R. Lay
Secretary

April 1, 2010

Social Security ID: [REDACTED]
Sales Tax Account ID: [REDACTED]

[REDACTED]

Attention: [REDACTED]

Dear [REDACTED]:

We have received your letter dated February 8, 2010, requesting a ruling regarding the application of tax on the purchase of a 2009 [REDACTED] wheel loader with forks. You have requested that we review your purchase of the wheel loader with forks to determine if it qualifies for the 1% privilege tax.

It is our understanding [REDACTED] (" [REDACTED] ") purchased a 2009 [REDACTED] wheel loader with forks. In your letter you stated that [REDACTED] takes automobiles, trucks, motor homes, school buses and farm trucks and drains and separates all fluids. The rims are removed and separated according to metals, tires are removed, gas tanks are removed and drained (plastic gas tanks are separated from other tanks), various aluminum parts are removed and cleaned of other materials, and mercury switches are removed. All of these items are removed and recycled in some way to become a new or more valuable product.

In order to remove these items, the wheel loader with the forks attached is used in the lifting of the vehicles, ripping open and prying out some of the parts, loading and unloading the vehicles, as well as loading and unloading parts into trucks or onto trailers. As the vehicles are processed, they are sometimes stacked to conserve space in the yard area.

As the larger vehicles are cut up into manageable portions, the wheel loader moves and separates materials. Truck chassis are trimmed out to make new farm trailers. Motor homes and campers are ripped apart using the wheel loader forks, to separate the aluminum outer metal panels from the wood and plastic interior. The remaining shell is sold to a shredder operation for metal recycling.

It is your belief that the wheel loader is essential in changing the form of your beginning commodity to a more "green" recyclable product for reuse. You contend that this is a definition of manufacturing and you should therefore have the status of "manufacturer."

Sales and Use Tax Technical Bulletin 56-1 A states in part: "A 1% privilege tax with a maximum tax of \$80.00 per article is imposed on a manufacturing industry or plant that purchases mill machinery or mill machinery parts or accessories for storage use, or consumption in North Carolina..."

In order to be classified as a manufacturer for sales and use tax purposes, a firm must be engaged in the business of manufacturing, processing or producing items of tangible personal property for resale in the regular course of business. Although your firm is in the recycling business, based upon our understanding of your business operations, it is the Department's opinion that your firm does not qualify as a manufacturer. The purchase of the 2009 wheel loader with forks would be taxable at the general rate of State tax and any applicable local sales or use tax.

This ruling is based solely on our understanding of 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 they change, then the taxpayer requesting this ruling may not rely on it. 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.

Very truly yours,

Administration Officer
Sales and Use Tax Division

cc: , Director of Sales and Use Tax Division
, Assistant Director