

## North Carolina Department of Revenue

Pat McCrory Governor Lyons Gray Secretary

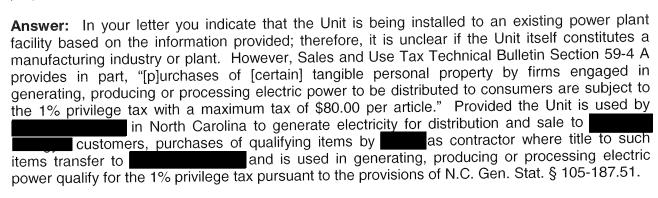
April 22, 2013	
	Account ID:FEIN:
	r Liiv.
Re:	
Dear Mr.	
We are in receipt of your letter dated November 3, 2010 requesting a pof your above referenced client regarding the application of sales and concertain machinery and equipment to purchases of items use ("""") to perform construction services (""""), at a power generation facility	use taxes and privilege tax ed by your client, ces for its client,
<u>Facts</u>	
has entered into a construction contand that is installing a nominal 600 MW combined cycle power power plant facility. The main power island of the Unit consists of capable of burning both natural gas and distillate oil, in a combinarrangement utilizing a bypass damper with two heat-recovery steam one condensing steam turbine. Each HRSG is equipped with bypass string capability.	plant ("Unit") to an existing two combustion turbines, ned cycle or simple cycle generators ("HRSG") and
additional materials and supplies as required to complete the projection installation of each piece of equipment, is responsible for the complete, including piping, foundations, housing, cabling, and wiring. include:	construction of the required

1. Pipe and related piping materials (e.g., pumps, valves, flanges). The piping and piping materials are used in the manufacturing process to: (a) provide fuel to the generator; (b) to redirect exhaust gases from the generator; (c) to supply and reroute various lubricants and coolants throughout the process; (d) to supply water

- to the turbines; (e) move steam, water, or fuel between pieces of machinery and equipment and (f) to drain or remove waste or waste water.
- 2. Concrete to build the foundations for the major equipment (e.g., combustion turbines, steam turbines, cooling towers, boilers, heat exchangers and HSRGs). Due to the size, weight, operating temperature and vibration aspects of these generators, the concrete must be of a specific strength. Specific structures also are necessary to house and support the large generators and turbines, etc. These housing structures also are built of concrete and are integral to the performance of the associated equipment. Some additional concrete structures such as "blast walls" have been installed to protect the various pieces of manufacturing equipment in the unlikely event of an accident and/or explosion.
- 3. Steel/rebar to lay the concrete foundations for the Unit. The steel/rebar is a component part of the concrete structures described above. Due to the size, weight, operating temperature and vibration aspects of these generators, the concrete used must be of a specific strength. The rebar incorporated into the concrete is necessary to enhance the tensile strength and stability of the concrete structure for the turbines. Some steel and rebar is also required in the housing structures, as described above.
- 4. Accessories and materials to use in the construction of the foundations and housing structures for the Unit.
- 5. Electrical wiring, electrical equipment, control panels, conduits, and other items to furnish power to machinery and equipment in the production process. Other electrical equipment may not be used to directly power machinery and equipment but are integrated throughout the Unit.
- 6. Instrumentation and measurement equipment for use throughout the Unit. This equipment includes flow meters, switches, gauges, transmitters, etc.

## Ruling Requested: Issues

**Issue # 1:** Confirm that the Unit will be considered a "manufacturing industry or plant" for purposes of North Carolina sales/use tax and privilege tax.



**Issue # 2:** Confirm that the machinery and equipment, specifically, generators, turbines, and electrical components necessary to generate the electricity, added and incorporated into the power plant will be considered "mill machinery and equipment."

Answer: Provided the machinery and equipment contained within the Unit is used by in North Carolina to generate electricity for distribution and sale to customers, the machinery and equipment are considered "mill machinery or mill machinery parts or accessories" as used in the provisions of N.C. Gen. Stat. § 105-187.51.

**Issue # 3:** Confirm whether pipe and piping materials used within the Unit will be a component part of "mill machinery and equipment" and thus subject to the 1% privilege tax. Further confirm that pipe and piping materials will not be classified as a single article and that no benefit will be derived from the \$80 maximum tax per single article.

Answer: Provided the pipe and piping materials purchased by are used in the electricity producing process by to: (a) provide fuel to the generator; (b) to redirect exhaust gases from the generator; (c) to supply and re-route various lubricants and coolants throughout the process; (d) to supply water to the turbines; (e) move steam, water, or fuel between pieces of machinery and equipment and (f) to drain or remove waste or waste water, the pipe and piping materials within the Unit are considered mill machinery or mill machinery parts or accessories and thus subject to the 1% privilege tax. The \$80 maximum tax per single article generally will not apply; however, in the event there is a purchase of a single piece of pipe, the price of which exceeds \$8,000, the \$80 maximum tax applies to the purchase price of the specific item.

**Issue # 4:** Confirm whether concrete used to construct foundations and housing to support machinery and equipment will be a component part of "mill machinery and equipment" and that the concrete purchased will be subject to the 1% privilege tax. Further confirm that concrete for foundations and housing will not be classified as a single article and that no benefit will be derived from the \$80 maximum tax per single article.

Answer: Provided the concrete purchased by is used to build specific foundations for the major equipment (e.g., combustion turbines, steam turbines, cooling towers, boilers, heat exchangers and HSRGs) for use by to generate electricity, and such concrete foundations are necessary or critical due to the size, weight, operating temperature, and vibration aspects of the generators, such purchases of concrete are subject to the 1% privilege tax with no maximum tax. However, concrete purchased by to form or build foundations for use by for purposes such as "blast walls," storage tanks, powerhouses, and powerhouse transformer stations is subject to the general State and applicable local rates of sales and use tax.

**Issue # 5:** Confirm whether steel and rebar used in concrete to construct foundations and housing to support machinery and equipment will be a component part of "mill machinery and equipment" and that the necessary steel and rebar purchased will be subject to the 1% privilege tax. Further confirm that steel and rebar used in concrete for foundations and housing will not be classified as a single article and that no benefit will be derived from the \$80 maximum tax per single article.

Answer: Provided the steel and rebar purchased by are used to construct foundations for the major equipment (e.g., combustion turbines, steam turbines, cooling towers, boilers, heat exchangers and HSRGs) for use by to generate electricity, and such steel and rebar are necessary or critical due to the size, weight, operating temperature, and vibration aspects of the generators, such purchases of steel and rebar are subject to the 1% privilege tax with no maximum tax. The \$80 maximum tax per single article generally is not applicable to such purchases; however, in the event there is a purchase of a single piece of steel or rebar, the purchase price of which exceeds \$8,000, the \$80 maximum tax applies to the specific item. However, steel and rebar purchased by to form or build concrete foundations for use by powerhouse transformer stations are subject to the general State and applicable local rates of sales and use tax.

**Issue # 6:** Confirm whether accessories and materials used to construct foundations and housing to support machinery and equipment will be a component part of "mill machinery and equipment"

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and that the accessories and materials will be subject to the 1% privilege tax. Further confirm that accessories and materials used to construct foundations and housing will not be classified as a single article and that no benefit will be derived from the \$80 maximum tax per single article.

Answer: Provided the accessories and materials purchased by are used to build specific foundations for the major equipment (e.g., combustion turbines, steam turbines, cooling towers, boilers, heat exchangers and HSRGs), for use by to generate electricity, and such accessories and materials constitute a component part of "mill machinery and equipment," such purchases are subject to the 1% privilege tax. The \$80 maximum tax per single article generally is not applicable to such purchases; however, in the event there is a purchase of a single accessory or material, the price of which exceeds \$8,000, the \$80 maximum tax applies to the purchase price of the specific item. Purchases of materials to construct housing to enclose machinery and equipment typically are not considered mill machinery, mill machinery parts or accessories and are subject to the general State and applicable local rates of sales and use tax.

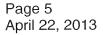
**Issue # 7:** Confirm whether electrical wiring, electrical equipment, control panels, conduits, and other items to furnish power to machinery and equipment in the production process will be a component part of "mill machinery and equipment" and will be subject to the 1% privilege tax.

Answer: Provided the electrical wiring, electrical equipment, control panels, and other related items purchased by are for use by for distribution of power to specific mill machinery and equipment (e.g., combustion turbines, steam turbines, cooling towers, boilers, heat exchangers and HSRGs), such items are subject to the 1% privilege tax. The \$80 maximum tax per single article generally is not applicable to such purchases; however, in the event there is a purchase of a single piece of electrical equipment, control panel, or other related item, the purchase price of which exceeds \$8,000, the \$80 maximum tax applies to the specific item.

**Issue # 8:** Confirm whether instrumentation materials installed throughout the Unit will be a component part of "mill machinery and equipment" and that the accessories and materials will be subject to the 1% privilege tax.

Answer: Provided the instrumentation materials purchased by are for use by in conjunction with other qualifying mill machinery and equipment to generate electricity for distribution and sale to customers, such instrumentation materials are subject to the 1% privilege tax. Instrumentation equipment that functions as a single piece of operating equipment and is purchased as such is subject to the 1% privilege tax with a maximum tax of \$80 per article. The \$80 maximum tax per single article may apply to other individual purchases of instrumentation materials provided the purchase price of a single piece of tangible personal property exceeds \$8,000.

**Issue # 9:** Confirm whether the timing and/or presentation of invoices related to an item of qualifying mill machinery affect the taxability as it relates to the application of the single article subject to the maximum of \$80. For example, if multiple quantities of an item are invoiced together such that the total tax would exceed \$80, would this invoice be subject to the \$80 maximum tax limitation? Conversely, if items are billed on multiple invoices, would these purchases be subject to the \$80 maximum tax limitation?



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applied in aggregate to various individual components, even though they may be subsequently assembled by into a single article. Furthermore, purchases of separate pieces of tangible personal property by that will be combined into a single depreciable item for use by to generate electricity for distribution and sale to customers of do not constitute a single article subject to a maximum tax of \$80. The 1% privilege tax is due at the time of purchase of each item of tangible personal property, nothwithstanding, that may combine the separate items into a single piece of equipment for use by generate electricity for distribution and sale to customers of lift, however, a single article is billed on multiple invoices, the item purchased will still be treated as a single article and subject to the maximum tax of \$80 per article.

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 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.

Sincerely

Director – Sales and Use Tax Division