North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

December 19, 2014

[redacted]

RE: [redacted]
Request to file combined return
[redacted]

Dear [redacted]:

This letter is in response to your letter dated [redacted], wherein you requested that the North Carolina Department of Revenue (the "Department") authorize [redacted] to file a combined return with [redacted] beginning with the 2013 tax year.

Pursuant to N.C. Gen. Stat. §105-130.14, "[a]ny corporation electing or required to file a consolidated income tax return with the Internal Revenue Service must determine its State net income as if the corporation had filed a separate federal return and shall not file a consolidated or combined return with the Secretary unless one of the following applies:

(1) The corporation is specifically directed in writing by the Secretary under G.S. 105-130.5A to file a consolidated or combined return…
(2) Repealed
(3) Pursuant to a written request from the corporation under G.S. 105-130.5A, the Secretary has provided written advice to the corporation stating that the Secretary will allow a consolidated or combined return under the facts and circumstances set out in the request and the corporation files a consolidated or combined return in accordance with that written advice."

Under N.C. Gen. Stat. 105-130.5A(c), the Secretary and a corporation may jointly determine and agree to an alternative filing methodology that accurately reports State net income if the Secretary has reason to believe that the corporation's State net income properly attributable to its business carried on in this State is not accurately reported on a separate return because of intercompany transactions. The fact that a business enterprise operates as a unitary business is not, in and of itself, sufficient reason to compel the Secretary to agree to allow the filing of a combined return. Therefore, after careful review of the information provided with your letter, it is the finding of the

Secretary that a combined filing of the group as requested is not warranted. Thus, [redacted] and [redacted] must file its own North Carolina franchise and corporate income tax return on a separate entity basis in accordance with the provisions of Article 3 and Article 4 of Chapter 105 of the North Carolina General Statutes.

If you have any additional questions feel free to contact the undersigned.

Sincerely,

[redacted]