



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

April 12, 2012

Account ID: [REDACTED]
FEIN: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Re: Private Letter Ruling Request

Dear Ms. [REDACTED]

We have your letter dated January 24, 2012, in which you have inquired as to your firm's North Carolina sales and use tax liability on a particular building project located in this State.

You advise that your firm is a [REDACTED] contractor in [REDACTED]. The business buys various types of structural steel from steel mills and stocking sources to fabricate columns, beams, supports, and other items for construction projects. Your firm currently has a project at [REDACTED] North Carolina. You have been advised by the [REDACTED] Department of Revenue that when the firm withdraws raw materials from inventory for use in fulfilling construction contracts, it must pay [REDACTED] sales and use tax. You have inquired whether your firm may claim a credit against any North Carolina sales or use tax due for the amount of [REDACTED] sales or use tax it pays on the same raw materials.

N.C. Gen. Stat. § 105-164.6(a) imposes a use tax on tangible personal property and certain digital property purchased inside or outside this State for storage, use, or consumption in this State at the general State and local rate. N.C. Gen. Stat. § 105-164.6(c)(2) provides that a credit is allowed against North Carolina use tax due on an item for "[t]he amount of sales or use tax due and paid on that item to another state. If the amount of tax paid to the other state is less than the amount of tax imposed by this section, the difference is payable to North Carolina. The credit [does not apply] to tax paid to a state that does not grant a similar credit for sales or use taxes paid in North Carolina." Purchases of tangible personal property that are shipped by an out-of-state vendor to a project site in this State are subject to North Carolina sales or use tax without any credit for any other state's tax that is improperly billed by the vendor.

Currently, the general State rate of tax is 4.75%, and the local (county) rate of tax for [REDACTED] County is 2.25%. Credit is allowed for State and local sales and use tax due and paid to separately. I have visited the website of the [REDACTED] Department of Revenue, and it appears that [REDACTED]

state rate of sales tax is 4%, and [REDACTED] County's rate of sales tax is 3%. As the amount of state tax your firm pays to [REDACTED] is 0.75% less than the 4.75% State rate due to North Carolina for products used by your firm in conjunction with the project, your firm should accrue and remit the difference in State tax to this Department. As Form E-500, Sales and Use Tax Return, does not reflect a State rate of 0.75%, you should list the amount of State tax you are accruing under the "Tax" column on Line 4 of the return. Divide the amount of tax accrued by 4.75% and list that amount under the "Purchases for Use" column on Line 4. You should maintain for your records documentation to substantiate the amount of sales or use tax your firm pays to [REDACTED] or any other state.

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.

If you have any questions, you may reach me at the number listed below.

Very truly yours,

[REDACTED]
Administration Officer
Sales and Use Tax Division

[REDACTED]
cc: [REDACTED], Director of Sales and Use Tax Division