

COPY



North Carolina Department of Revenue

Beverly Eaves Perdue
GovernorKenneth R. Lay
Secretary

July 7, 2010

FEIN: [REDACTED]

[REDACTED]
Attention: [REDACTED]

Re: Private Letter Ruling

Dear Mr. [REDACTED]

We wrote to you on June 9, 2010, regarding your inquiry as to whether your organization is engaged in business for sales and use tax purposes in North Carolina, and, therefore, required to register to remit this State's sales and use tax. We have received and reviewed the related documentation you faxed to my attention on June 30, 2010, in response to our letter.

It is our understanding that your organization is a non-profit, religious organization headquartered in [REDACTED]. You describe the main parts of your [REDACTED] outreach ministry as follows: "...campus ministry across the [REDACTED] and in [REDACTED] missions and missions education, preaching and minister training workshops, literature ministry ([REDACTED] magazine – no subscription fee charged), publications and bookstore ministry. The bookstore is located in [REDACTED] and we have no agents or sales persons in any other states. Materials are sold over the telephone, the Internet, and through walk-in sales. All proceeds from the bookstore operation are used to support our campus ministry work in the [REDACTED] and in [REDACTED]"

Your organization will soon hire as an employee a resident of North Carolina to work from her home to assist in the writing and translation of articles for the [REDACTED] magazine, [REDACTED]. You explain that "...the magazine is not sold and there is no subscription fee." You further specify that "[t]his new hire will not be working for the bookstore operation nor will she be an agent for the bookstore in your state. Her job duties are centered only on the [REDACTED] magazine part of our ministry." You have advised that your organization has "... not entered into any agreement with this employee or any other entity to represent [the] bookstore operation or to include a link on their webpage to [the] bookstore's website." You have asked whether the hiring of a North Carolina resident to work for your [REDACTED] magazine ministry as a writer and translator constitutes nexus for sales and use tax collection from the sales of your [REDACTED] bookstore operation.

N.C. Gen. Stat. § 105-164.3(9) defines the term “engaged in business” as “Any of the following:

- a. Maintaining, occupying, or using permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any office, place of distribution, sales or sample room, warehouse or storage place, or other place of business for selling or delivering tangible personal property, digital property, or a service for storage, use, or consumption in this State, or permanently or temporarily, directly or through a subsidiary, having any representative, agent, sales representative, or solicitor operating in this State in the selling or delivering. The fact that any corporate retailer, agent, or subsidiary engaged in business in this State may not be legally domesticated or qualified to do business in this State is immaterial.
- b. Maintaining in this State, either permanently or temporarily, directly or through a subsidiary, tangible personal property or digital property for the purpose of lease or rental.
- c. Making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.
- d. Shipping wine directly to a purchaser in this State as authorized by G.S. 18B-1001.1.”

It is our opinion, based on the information you have provided regarding your organization’s operations, that your organization is not engaged in business for sales and use tax purposes within the meaning of N.C. Gen. Stat. § 105-164.3(9), based on hiring one employee in North Carolina whose sole activity will be to work for your [REDACTED] magazine [REDACTED] as a writer and translator. If the North Carolina employee’s duties change such that she solicits sales for your organization in this State, or if your organization conducts other activities in North Carolina, your organization may be required to register with the Department for sales and use tax purposes.

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.

Very truly yours,

[REDACTED]
Administration Officer
Sales and Use Tax Division

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