



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

Kenneth R. Lay
Secretary

July 13, 2010

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Re: [REDACTED]
FEIN: [REDACTED]
Request for Private Letter Ruling

Dear Mr. [REDACTED]:

We have your letter dated February 19, 2010, in which you have requested a private letter ruling regarding the the application of North Carolina sales and use tax on advertising services provided by your client, [REDACTED] ("[REDACTED]" in this State.

You advised that [REDACTED] "provides an advertising service to [REDACTED] (hereafter 'Retailers'), whereby [REDACTED] collects and analyzes certain information regarding prospective customers, measures ad performance, and evaluates employee call-handling skills (herein referred to as 'Call Tracking')... [REDACTED] has Retailers located within the state of North Carolina that purchase the various Call Tracking services....Even though [REDACTED] is the party legally providing the Call Tracking service, it has engaged a third-party call measurement, monitoring, and tracking service provider (herein referred to as 'Company B') as a sub-contractor to provide the Call Tracking services on its behalf." Company B is headquartered in [REDACTED] but has a call center in [REDACTED]

You described the Call Tracking service (advertising service) [REDACTED] provides as follows: "[REDACTED] charges a flat subscriber fee for the Call Tracking service to the Retailer. The flat fee ranges from [REDACTED] per month for the basic service which includes [REDACTED] to [REDACTED] per month for the premium service which includes [REDACTED]"

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] also receives a report summarizing the Retailer's phone referral reports and usage data for each [REDACTED] number.

You have asked whether the Call Tracking services sold by [REDACTED] to retailers in this State are subject to North Carolina sales and use tax. It is our understanding that [REDACTED] does not sell or otherwise transfer any tangible personal property to its retailer customers in this State, nor does it provide "telecommunications service," as that term is defined in N.C. Gen. Stat. § 105-164.3(48), to these retailers. [REDACTED] provides Call Tracking services to its retailer customers via the Internet, a service which allows the retailers to monitor, record, and view real-time information about prospective customers, measure the results of advertising initiatives, and collect prospective customer data relative to the referrals. The information provided is individual and exclusive to each Retailer. [REDACTED] cannot resell the information to any other Retailer. N.C. Gen. Stat §105-164.3(14) defines an information service as "[a] service that generates, acquires, stores, processes, or retrieves data and information and delivers it electronically to or allows electronic access by a consumer whose primary purpose for using the service is to obtain the processed data or information." N.C. Gen.

Stat. §105-164.4(a)(6d) specifically excludes an information service from tax. Therefore, [REDACTED] charges to its retailer customers in this State for the Call Tracking services it provides are not subject to North Carolina sales or use tax.

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