



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

November 16, 2010

Account ID: [REDACTED]
Federal ID: [REDACTED]

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

Re: [REDACTED]

Dear Mr. [REDACTED]:

We have your letter dated June 18, 2010 requesting a private letter ruling regarding "sales made to the United States government and the exemption from sales and use tax for purchases . . . to be used in the manufacture of goods sold to the United States government. This ruling request is submitted on behalf of [REDACTED] a [REDACTED] corporation (the 'Company')" We also have your letter of August 13, 2010, which included copies of contracts Nos. [REDACTED] and [REDACTED].

In your letter, you state that your firm requests ". . . that the Department issue the following rulings: (i) the proposed sales of property directly to agencies of the United States government are exempt from North Carolina sales tax, (ii) the proposed purchases of parts and equipment that will be used in the manufacture or fabrication of goods to be sold to agencies of the United States government are exempt from North Carolina sales and use tax, and (iii) that the proposed purchases of parts and equipment that will be used in the manufacture or fabrication of goods sold to private industry are exempt from North Carolina sales and use tax."

In your letter you further state that ". . . the Company is an engineering business that is in the business of providing technology products and services to the [REDACTED] and to private industry. The Company has a manufacturing facility located in North Carolina where it produces goods for sale directly to agencies of the United States government and to industry. The Company purchases parts and equipment from various suppliers that it uses . . . to manufacture the goods that it sells directly to agencies of the United States government and to industry. The pertinent facts for the purposes of this ruling request are as follows:

- a. The Company purchases parts and equipment from suppliers that it uses as components within the goods its sells directly to agencies of the United States government and to private industry.

Page 2

November 16, 2010

- b. The Company sells goods directly to agencies of the United States government, pursuant to direct contracts between such agencies of the United States government and the Company for the purchase of the goods being sold.
- c. After producing the goods in its North Carolina or other facility, the Company is responsible for delivering them to a site identified by the purchasing agencies of the United States government for installation on assets of such agencies of the United States government.
- d. The agencies of the United States government obtain title to the goods being sold by the Company before or at the time that such goods are delivered by the Company.
- e. The agencies of the United States government pay the purchase price of such goods (or use a government bankcard to directly pay the purchase price of such goods) directly to the Company through the [REDACTED], which is the [REDACTED] agency responsible for handling finance and accounting for the [REDACTED].
- f. The Company also sells goods directly to private industry. . . .”

Response

The Company's retail sales of manufactured goods directly to agencies of the United States government are exempt from North Carolina sales and use taxes pursuant to Sales and Use Tax Technical Bulletin 37-1A. Sales and Use Tax Technical Bulletin 37-1A provides that “. . . sales directly to the United States Government, or any agency or instrumentality thereof, are not subject to sales or use tax. In order for the sale to be exempt, the government, agency or instrumentality involved must make the purchase of the property, obtain title to the property before or at the time it is delivered and pay directly to the vendor the purchase price of such property or use a United States Government credit card to pay the vendor the purchase price of such property.”

N.C. Gen. Stat. § 105-164.13(8) provides an exemption from sales and use taxes for “[s]ales to a manufacturer of tangible personal property that enters into or becomes an ingredient or component part of tangible personal property that is manufactured. . . .” Pursuant to N.C. Gen. Stat. § 105-164.13(8), the Company's purchases of tangible personal property which become an ingredient or component part of a manufactured product sold directly to agencies of the United States government or to private industry are exempt from North Carolina sales and use taxes. Your client should provide its suppliers with a Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, as their authority to exempt the purchases from tax.

Machinery and equipment used by a manufacturing industry or plant in the direct manufacture or fabrication of goods that will be sold directly to agencies of the United States government or to private industry are exempt from sales and use taxes; however, such purchases of machinery and equipment by a manufacturing industry or plant are subject to the 1% manufacturer's privilege tax with a maximum tax of \$80.00 per article pursuant to N.C. Gen. Stat. § 105-187.51. The Company's purchases of machinery, equipment, parts and accessories used in the manufacture or fabrication of goods will be subject to the 1% privilege tax notwithstanding that the Company may be reimbursed by the United States government for such purchases of machinery, equipment, parts or accessories.

[REDACTED]
Page 3

November 16, 2010

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, please advise.

Very truly yours,

[REDACTED]
Assistant Director
Sales and Use Tax Division

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