



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

June 30, 2011

[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Re: Request for Clarification

Dear Ms. [REDACTED]:

We have your letter dated June 17, 2011, in which you make a formal Request for Clarification from the Department regarding the North Carolina sales and use tax liability for delivery insurance.

Your clients who are retailers sell taxable tangible personal property to their customers. These customers have the option to pay to your retailer clients (the sellers) a separately-stated fee for delivery insurance. The taxable tangible personal property that is being sold by the sellers is delivered to the customers by a third-party carrier. You advise that "...the delivery insurance is issued [by a third party insurer] to the seller. In the event that goods are damaged during delivery, the seller would file a claim with the insurer and receive payment for the claim."

N.C. Gen. Stat. § 105-164.4(a)(1) provides that sales tax is imposed on a retailer and applies to the sales price of each item of tangible personal property that is sold at retail. N.C. Gen. Stat. § 105-164.3(37) defines the term "sales price" as "[the] total amount or consideration for which tangible personal property, digital property, or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money...." The term includes, but is not limited to the following:

1. the retailer's cost of the property sold
2. the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer
3. charges by the retailer for any services necessary to complete the sale
4. delivery charges.

Based on the information provided, your retailer clients' charges for delivery insurance associated with sales of taxable tangible personal property would be considered part of the sales price of the

property or services being sold and, therefore, would be subject to this State's sales or use tax. The charge for delivery insurance would be subject to sale or use tax regardless of whether the charge equates to the seller's cost for the insurance.

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,

Administration Officer
Sales and Use Tax Division

cc: , Director of Sales and Use Tax Division