

David W. Hoyle
Secretary

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Scenario [sic] #2

"On occasion [REDACTED] customers (also called members) will provide course content to [REDACTED] in digital format. [REDACTED] develops an interactive course, accessible online only by the customer. In these instances title to the course passes to the customer/member. The customer/member only has the right to reproduce the 'content' they provided to our client."

Response:

If the training courses described in Scenario #1 are not available in a tangible medium, the license fees charged for access to the web-based training courses are not subject to sales or use tax. If the training courses are available in a tangible medium, the charges associated would likely be subject to tax as digital property pursuant to N.C. Gen. Stat. § 105-164.4(a)(6b).

Receipts for development and access to the interactive courses for specific customers as described in Scenario #2 are not subject to sales or use tax provided such does not constitute computer software. Computer software is defined in N.C. Gen. Stat. § 105-164.3(4c) as "[a] set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task."

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 - Sales and Use Tax Division
[REDACTED], Assistant Director - Sales and Use Tax Division