



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

April 30, 2012

Account ID: [REDACTED]

FEIN: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Re: [REDACTED]
Private Letter Ruling Request

Dear Mr. [REDACTED]

We have your letter dated January 26, 2012, in which you have inquired as to your above-referenced client's North Carolina sales and use tax liability on a particular transaction

You advise that your client, [REDACTED] ("[REDACTED]" is in the process of developing a [REDACTED] [REDACTED] it plans to manufacture and sell. Its activities are conducted at the [REDACTED] [REDACTED] Airport in [REDACTED]. Your client is at the end of its preproduction phase and will begin the production phase soon. "As part of the sales process, [REDACTED] will arrange for the furnishing of certain services to its customers. One of the services to be furnished is the training of the flight and maintenance personnel for the aircraft purchased by its customers."

[REDACTED] ("[REDACTED]" is in the business of providing training for pilots and maintenance personnel, and [REDACTED] has entered into an agreement . . . with [REDACTED] to provide initial and recurrent training for the flight and maintenance personnel of [REDACTED] customers." You furnished a copy of the "Agreement Between [REDACTED] [REDACTED] and [REDACTED]" ("Agreement"), which provides that [REDACTED] at its sole cost and expense, shall furnish the supplies to perform the training services called for under the Agreement.

"This will include, without limitation, [REDACTED] providing and maintaining (including refurbishing as necessary so that it continues to be useable over the entire term of this Agreement) a flight simulator [REDACTED] [REDACTED] (the "Simulator"), a [REDACTED] flight-deck simulator ([REDACTED] [REDACTED] /Desktop Simulation devices (DTS), training manuals, courseware and other required training materials."

The Agreement also provides that [REDACTED] shall furnish to [REDACTED] at no charge and in accordance with Schedule B, all aircraft manuals, aircraft and engineering data (including without

limitation flight test, mechanical and electrical data) aircraft parts, avionics manuals, avionics data, avionics parts, and all other vendor data, parts and materials, including all related third party licenses and other agreements, reasonably required for the design, construction, use, maintenance and modification of the Simulator, any additional simulators, other training devices, equipment and all courseware.”

You have inquired whether the parts [REDACTED] provides to [REDACTED] that become an integral part of the flight simulators are exempt from North Carolina sales and use tax pursuant to N.C. Gen. Stat. § 105-164.13(45c). N.C. Gen. Stat. § 105-164.13(45c) provides an exemption from sales and use tax on sales of aircraft simulators to a company for flight crew training and maintenance training. You have further inquired as to the proper taxation of spare parts your client will provide to [REDACTED] for use in any flight simulator referenced in the Agreement.

N.C. Gen. Stat. § 105-164.6(a) imposes a use tax on tangible personal property and certain digital property purchased inside or outside this State for storage, use, or consumption in this State. N.C. Gen. Stat. § 105-164.3(49) defines the term “use” as “[t]he exercise of any right, power, or dominion whatsoever over tangible personal property, digital property, or a service by the purchaser of the property or service. The term includes withdrawal from storage, distribution, installation, affixation to real or personal property, and exhaustion or consumption of the property or service by the owner or purchaser. . . .” While the parts are to be used by [REDACTED] to construct and/or maintain a flight simulator, [REDACTED] “use” of the parts is not a sale of a flight simulator and will not qualify for the exemption from tax under N.C. Gen. Stat. § 105-164.13(45c). Additionally, as the parts are not mill machinery, mill machinery parts or accessories used by [REDACTED] to manufacture [REDACTED] they are not subject to the 1% privilege tax pursuant to N.C. Gen. Stat. § 105-187.51(a)(1). Based on the information presented, the parts, spare parts, and other tangible personal property [REDACTED] furnishes to [REDACTED] at no charge are subject to use tax under the provisions of N.C. Gen. Stat. § 105-164.6(a). Currently, the State use tax rate is 4.75%, and the local use tax rate for [REDACTED] County is 2%.

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]
Sales and Use Tax Director

[REDACTED]
cc: [REDACTED], General Counsel