



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

November 27, 2012

Account ID: [REDACTED]
FEIN: [REDACTED]

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

Re: Request for Private Letter Ruling

Dear Ms. [REDACTED]

We have completed our review of your letter dated October 21, 2011, in which you have requested a private letter ruling regarding the application of North Carolina sales and use tax on business transactions involving your company's "[REDACTED] Subscription Fee" charges.

Per your correspondence, it is our understanding that the [REDACTED] Subscription Fee covers: (1) the right to use the software; (2) maintenance of the software, including support via phone or internet as well as updates to the software; and (3) hosting of the software at [REDACTED] data center, located outside the state of North Carolina. It is further our understanding that the "[REDACTED] Subscription Fee" that you are inquiring about is a web-hosted solution, whereby customers access your integrated internet portal "from any PC or cell phone with internet connectivity." You assert in your correspondence that the software is "electronically delivered to a server not located in North Carolina" and that "[t]he customer logs on via the internet."

N.C. Gen. Stat. §105-164.4(a)(1) provides that sales tax is a privilege tax imposed on a retailer engaged in business in this State who makes retail sales of taxable tangible personal property to customers located in this State. N.C. Gen. Stat. §105-164.3(46) defines tangible personal property as "[p]ersonal property that may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses. The term includes . . . prewritten computer software." Charges involving a person in North Carolina using online/web-hosted versions of prewritten computer software located on servers where prewritten software is not downloaded for use in North Carolina, but is instead accessed electronically via an internet website by using a user ID and password, are not subject to North Carolina sales and use tax.

Based on the information presented and our understanding of the facts, your firm is not liable for collecting North Carolina sales and use tax from consumers located in this State who utilize

Software, via the company's web-hosted subscription model, as these do not provide for the sale of either tangible personal property or taxable digital property.

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 factual 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 contact me at the telephone number listed below.

Very truly yours,

Administration Officer
Sales and Use Tax Division

cc: , Director - Sales and Use Tax Division