North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

November 30, 2012

Account ID: [redacted]
Federal ID: [redacted]

[redacted]

Attention: [redacted], Senior Network Engineer

Re: Private Letter Ruling

Dear Mr. [redacted]

We have your letter dated August 27, 2010, in which you have requested a private letter ruling as to the applicability of North Carolina sales and use tax to the resale of Secured Socket Layer Certificates.

In your letter you state that "we are a computer consulting firm that deals with business IT solutions and hardware needs. In managing a business'[sic] network, we frequently provide the option to purchase SSL Certificates (used for transmitting private information over the internet). "SSL, which stands for Secured Socket Layer, uses a cryptographic system that uses two keys to encrypt and decrypt the data. URLs requiring the SSL connection starts with https: instead of http:. For example: The web browser request for a secure page (usually https://). Once receiving the request the web server sends its public key with the certificate. The browser checks to see if the certificate was issued by a trusted party and that it was still."

N.C. Gen. Stat. § 105-164.4(a) provides the State and applicable local rates of tax apply to the "sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section. " 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 electricity, water, gas, steam, and prewritten computer software." N.C. Gen. Stat. § 105-164.3(29a) defines prewritten computer software as [c]omputer software, including prewritten upgrades, that is not designed and developed by the author or another creator to the specifications of a specific

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purchaser. The term includes software designed and developed by the author or another creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser." N.C. Gen. Stat. § 105-164.3(4c) defines computer software as "[a] set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task."

N.C.G.S. 105-164.4(a)(6b) provides the State and applicable local rates of tax apply "to the digital property that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable . . . if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:

a. An audio work.
b. An audiovisual work.
c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.
d. A photograph or a greeting card"

Based on the information provided, the SSL Certificates issued by your firm are not considered sales of tangible personal property or certain digital property, delivered or accessed electronically. Therefore, the gross receipts from sales of SSL Certificates sourced to North Carolina are not subject to North Carolina sales and use tax.

This letter 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 letter 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 letter ruling, the letter ruling will not afford the taxpayer any protection. It should be noted that this letter ruling 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 of Sales and Use Tax Division
[redacted], Assistant Director of Sales and Use Tax Division