



North Carolina Department of Revenue

Pat McCrory
GovernorLyons Gray
Secretary

August 4, 2014

FEIN: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Re: [REDACTED]
Request for Private Letter Ruling

Dear Mr. [REDACTED]

We received, via facsimile on April 29, 2014, a copy of your letter dated January 3, 2012, on behalf of your client, [REDACTED] requesting a ruling of the company's online wellness information service as it relates to North Carolina sales and use tax.

You advise that [REDACTED] . . . The service consists of two components. It will be provided online through a web-portal and annually in person through a representative of [REDACTED]. The software application utilized by [REDACTED] in providing this service will be hosted on a server outside the state of North Carolina. The web portal will provide the participant delivery of [REDACTED] information. A primary benefit to the customer is the employees' interaction and tracking of their personal information. The participant has the ability to establish an individual personal portal to record various items, [REDACTED]. [REDACTED] will also provide an annual [REDACTED] assessment which consists of a questionnaire and general blood/lipid panel provided by licensed medical personnel. The personal results collected are reported back to the individual through the web portal . . . [and] are personal and individual in nature."

In a letter dated May 28, 2014, Mr. [REDACTED] clarified that "[t]he [REDACTED] representatives [REDACTED] are employed by medical facilities. The medical facility is hired by [REDACTED] to perform these services. The individuals are not employees of [REDACTED]."

You further stated in your letter dated January 3, 2012 that "[s]ales tax has been paid on all applicable services utilized in the development of this service. At this time, no sales of merchandise are contemplated by [REDACTED]."

You indicated that "[n]one of the services listed in NC Rev. Stat. Ann. § 105-164 match the services provided by [REDACTED]. [REDACTED] provides wellness services and is not a software company and does not provide telecommunication services. NC. Rev. Stat. Ann. § 105-164.3(48)(a) specifically states that telecommunications service does not include '[a]n information service.' NC Rev. Stat. Ann. § 105-164.3(14a) defines an information service as '[a]

Page 2
August 4, 2014

service that generates, acquires, stores, processes, or retrieves data and information and delivers it electronically to or allows electronic access by a consumer whose primary purpose for using the service is to obtain the processed data or information.’ ”

Based solely on the facts presented in your letter and subsequent letter from Mr. [REDACTED] it is determined that gross receipts derived from receipts the company's online wellness information service are for an “information service” as is defined in N.C. Gen. Stat. § 105-164.3(14a). Pursuant to the provisions of N.C. Gen Stat. § 105-164(a)(6b) in reference to digital property, “[t]he [sales] tax does not apply . . . to an information service.” Therefore, the receipts derived from the online wellness information service are not subject to the State and local 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.

If you have any questions, you may contact me at the telephone number listed at the bottom of the first page of this letter.

Very truly yours,

[REDACTED]
Administration Officer
Sales and Use Tax Division

[REDACTED]
cc: [REDACTED], Director of Sales and Use Tax Division