# North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

December 15, 2015

[redacted]

Attention: [redacted] CPA

Re: Private Letter Ruling Request
[redacted]

Dear Mr. [redacted]

We have Form NC-PLR, Request for Private Letter Ruling dated February 10, 2015 and your letter and accompanying remittance of $500.00, submitted on behalf of your above referenced client regarding the application of North Carolina sales and use tax on services provided by your client. Specifically, you have inquired whether audio teleconferencing services provided by [redacted] are subject to North Carolina sales and use tax.

You advise that [redacted] '"provides audio teleconferencing services, (a.k.a. conference bridging services), to customers throughout the United States. . . . The process is initiated by the customer calling a . . . phone number, provided by the taxpayer, with which they reach the conference bridging equipment to have their call connected to . . . other callers who have reached the bridging equipment in the same fashion." "Each call is routed to the [redacted] conference bridging equipment where all incoming conference participants are connected to one conference call."

You request the application of sales and use tax "when [redacted] does not maintain a business location, own equipment, or employ workers in the State of North Carolina and 100% of the audio conferencing service is performed at the [redacted] physical location outside the State of North Carolina." You contend [redacted] does "not provide any telecommunication service by which the consumer reaches the conference bridge" and "does not separately assess a per minute charge . . . when the customer uses a toll free line to access the bridging equipment." In addition, [redacted] "customer, or user of the service, pays any sales and use tax due to their [own] telecommunications [service] provider for the call and all long distance charges used to access the [redacted] equipment, if applicable."

In your correspondence, you state "the [conference bridging] equipment is the medium that provides the conference bridge. . . . " and "[t]here is no underlying Telecommunications Service provided . . . the audio conference originates and terminates at the conference bridging equipment which is located 100% outside of North Carolina." Therefore, it is your "contention that the customer's usage of this service occurs 100% outside the State of North Carolina and should therefore not be subject to NC Sales Tax."

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N.C. Gen. Stat. § 105-164.4C provides that "[t]he gross receipts derived from providing telecommunications service or ancillary service in this State are taxed at the rate set in [N.C. Gen. Stat. §] 105-164.4(a)(4c). Telecommunications service is provided in this State *if* the service is sourced to this State. . . . Ancillary service is provided in this State if the telecommunications service to which it is ancillary is provided in this State."

N.C. Gen. Stat. § 105-164.3(48) defines telecommunications service in part as, "[t]he electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. . . . The term does not include . . . [a]ncillary service." N. C. Gen. Stat. § 105-164.3(1b) defines ancillary service in part as, "[a] service associated with or incidental to the provision of a telecommunications service."

The gross receipts [redacted] derives from providing conference bridging services to customers are not subject to sales or use tax as sales of tangible personal property or taxable digital property, and do not constitute numerated taxable services per N.C. Gen. Stat. § 105-164.4(a). Further, any telecommunications services provided in conjunction with the conference bridging service are used by [redacted] in providing the conference bridging service and do not constitute the sale of telecommunications service or ancillary services to customers.

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 on the bottom of the first page of this letter.

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