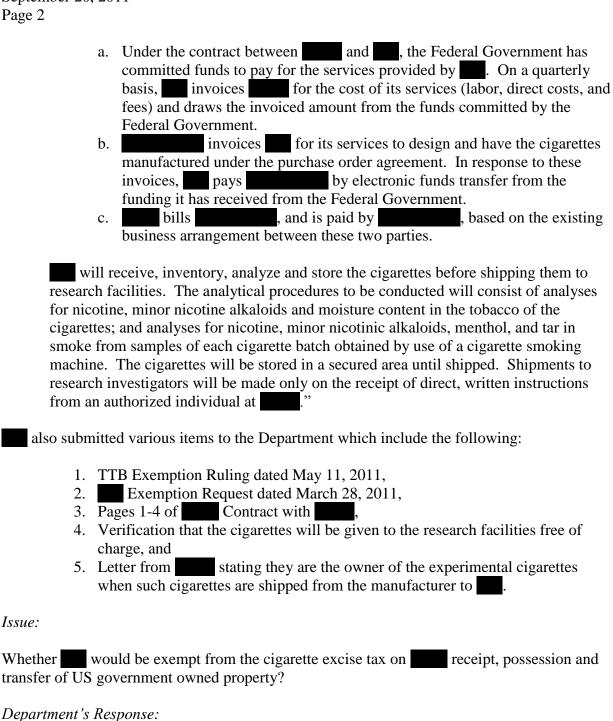


Beverly Eaves Purdue Governor

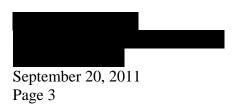
David W. Hoyle Secretary

September 20, 2011
Re: Cigarette Excise Tax
This letter is in response to your letter dated June 28, 2011, wherein you requested the North Carolina Department of Revenue ("Department") provide a private letter ruling as to whether would be exempt from the cigarette excise tax on receipt, possession and transfer of US government owned property.
The statement of facts submitted for the Department's consideration is as follows:
obtained a letter ruling from Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau ("TTB"), exempting from taxation the experimental cigarettes that will possess (but not have legal title to), in its fulfillment of a contract with the
has a contract with products." Under this contract, which is a functional part of poblains, maintains, stores and ships a variety of research materials to various research investigators that are qualified to receive these materials from has agreed, consistent with this contractual arrangement, to supply with tobacco cigarettes carefully designed to meet the needs of researchers investigating various aspects of cigarette use. In order to satisfy this contractual requirement, entered into a purchase agreement with to design and produce some 23 different types of tobacco cigarettes for research purposes of and the research community. It is utilizing an existing business arrangement with to have the required cigarettes manufactured.

Payment and invoicing for the production of the cigarettes occurs as described below:



G.S. 105-113.8 states, "Any activities which this Article may purport to tax in violation of the Constitution of the United States or any federal statute are hereby expressly exempted from



taxation under this Article." Any sale of cigarettes to the Federal Government would be exempt from the North Carolina cigarette excise tax. Since is paying for and is in possession of the experimental cigarettes, the Department does not have the statutory authority to impose an excise tax on those transactions with.

A distributor is defined as "a person wherever resident or located, who purchases non-tax paid cigarettes directly from the manufacturer of the cigarettes and stores, sells, or otherwise disposes of the cigarettes." Based on the definition of a distributor in G.S. 105-113.4(3)a, would need to be licensed in North Carolina and report the transactions on *Form B-A-5*, *Schedule B* as sales to the Federal Government. In order to be licensed with the Department, would need to provide an *Application for Cigarette License*, *Form B-A-1*.

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 there are other facts that were not disclosed that might cause the Department to reach a different conclusion, then the taxpayer requesting this ruling may not rely on it. A letter ruling is not equivalent to a Technical Advice Directive that generally affects a large number of taxpayers. 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.

Very truly yours,

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