



North Carolina Department of Revenue

Roy Cooper
Governor

Ronald G. Penny
Secretary

June 9, 2022

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

Re: Private Letter Ruling Request

EIN: [REDACTED]

Dear [REDACTED]:

The Department has completed its review of your request for a private letter ruling on behalf of [REDACTED] ("Taxpayer"). In making this written determination, the Department has considered the facts presented in your November 24, 2021 request as well as any supplemental information provided to the Department.

This private letter ruling is a written determination issued under N.C. Gen. Stat. § 105-264.2 and applies the tax law to a specific set of existing facts furnished by you on behalf of Taxpayer. This written determination is applicable only to Taxpayer and as such has no precedential value except to Taxpayer.

Overview and Relevant Facts

You advise that "[Taxpayer] collects used goods ([REDACTED]) from various sources and processes into products that can be sold to its customers."

You advise further that [REDACTED] are then transported to [Taxpayer] facility, where [Taxpayer] warehouse manager assigns unloaders for unloading the truck. Unloader takes inventory of the materials and take used goods to undergo one or more operations, including but not limited to –

- 1) Sorting – use of specialized machinery to sort damaged vs undamaged [REDACTED] various different categories ([REDACTED])
- 2) Baling – the use of large equipment to crush and compact materials into highly condensed bales in specific sizes. For instance, regular bales should be around 1000 lbs. and 41 bales fit in a container/trailer while small bales are approx. 800-920 lbs and 49 small bales fit in a container/trailer. The load should not exceed 44,000 lbs in weight per the US Department of Transportation regulations specify a legal total gross weight (truck and loaded container/trailer combined) of 80,000 lbs. Because each truck and container/trailer

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are different in weight 44,000 lbs of product is a suggested maximum for loading. Further, the international Maritime Organization (IMO) prescribes a limit of 44,000 lbs. for ocean containers without and overweight permit.

- 3) Weighing – the use of certified calibrated scales inside the warehouse to determine the weight of the cargo is necessary to calculate the Verified Gross Mass (VGM) to ensure the accuracy of the products to be sent to the customers.”

You advise further that “[Taxpayer] produces finished products (such as, baled [REDACTED] [REDACTED]) that are then sold to customers specifying desired specification and required packaging (ie. Regular bales, small bales, capsacks).”

Issue

Are Taxpayer’s operations considered manufacturing as a manufacturing industry or plant whose purchases of machinery and equipment are exempt from North Carolina sales and use tax pursuant to N.C. Gen. Stat. § 105-164.13(5e).

Applicable Statutes and References

North Carolina imposes State, local, and transit rates of sales and use tax on a retailer engaged in business in the State on the retailer’s net taxable sales of, or gross receipts derived from, tangible personal property, certain digital property, and taxable services. N.C. Gen. Stat. §§ 105-164.4, 105-164.6, 105-467, 105-468, 105-483, 105-498, 105-507.2, 105-509.1, 105-537, and Chapter 1096 of the 1967 Session Laws.

N.C. Gen. Stat. § 105-164.13(5e) provides an exemption on “[s]ales of mill machinery or mill machinery parts or accessories to any of the persons listed in this subdivision. For purposes of this subdivision, the term “accessories” does not include electricity. The persons are:

- a. A manufacturing industry or plant. A manufacturing industry or plant does not include (i) a delicatessen, café, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of food prepared by it for consumption on or off its premises or (ii) a production company.
- b. A contractor or subcontractor if the purchase is for use in the performance of a contract with a manufacturing industry or plant.
- c. A subcontractor if the purchase is for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.”

Ruling

Based on the information provided to the Department, Taxpayer is not a manufacturing industry or plant. Therefore, Taxpayer’s purchases of machinery and equipment are not exempt from sales and use tax as provided in N.C. Gen. Stat. § 105-164.13(5e). Taxpayer’s purchases are subject to the general State, applicable county, applicable local and applicable transit rates of North Carolina sales and use tax.

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 Taxpayer may not rely on it. If Taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of Taxpayer is different in any material aspect


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from the facts and circumstances given in this ruling, then the ruling will not afford 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.

Issued on behalf of the Secretary of Revenue
By the Sales and Use Tax Division