NCDOR | NORTH CAROLINA DEPARTMENT OF REVENUE

Josh Stein
Governor

McKinley Wooten, Jr.
Secretary

June 13, 2025

[redacted]

Re: [redacted]
Private Letter Ruing
FEIN: [redacted]

Dear [redacted]

The Department has completed its review of your request for a private letter ruling on behalf of your client, [redacted] ("Taxpayer"). In making this written determination, the Department has considered the facts presented in your initial 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 advised that "[Taxpayer] designs, sells and installs [redacted]. . . . Taxpayer generally goes through the following process:

[redacted]
The journey begins when a potential customer submits a request for a [redacted]. This could be for anything from [redacted].

1. Client Consultation

   [redacted]

2. [redacted] Design

   [redacted]

3. Approval and Material Planning

Once the design is approved, it's reviewed by [redacted]. The team ensures feasibility and accuracy, and raw materials are procured [redacted]

[redacted]

With a finalized design in hand, the production team begins crafting the components [redacted]

When all the materials are available for [redacted], the following processes take place:

1. [redacted]
2. [redacted]
3. [redacted]
4. Preparation of Other Materials
   - [redacted]
   - [redacted]
5. Quality Assurance
   All components are checked against the job plans to ensure accuracy and quality. [redacted]

The final phase is [redacted] This phase "brings the design to life as the [redacted]:

1. [redacted]
   On the scheduled installation day, all materials for the specific job are carefully loaded into a van and transported to the client's home or job site.
2. Site Preparation
   The installers prepare the space, ensuring it is clean and ready for installation.
3. Installation Process
   [redacted]

The [redacted] explains the responsibilities of the customer and Taxpayer. Section 1 "Job Preparation" states that [redacted]

[redacted] The installation may need to be rescheduled due to changes.

[redacted] The customer is responsible for providing the removal of anything on the walls that would hinder Taxpayer from installation [redacted]

[redacted] Taxpayer's responsibility is to install [redacted]

If the requirements in [redacted] are not met by the customer, the installation must be rescheduled.

In your email dated April 4, 2025, you indicated [redacted] could not be moved from room to room after it is installed [redacted]

Issue

Are Taxpayer's [redacted] transactions subject to North Carolina sales and use tax as repair, maintenance, and installation services?

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 based 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. North Carolina imposes a complementary use tax, in part, on items of tangible personal property purchased for storage, use, or consumption in this State. The sales subject to the taxes include sales of repair, maintenance, and installation services for real property and generally includes any tangible personal property or certain digital property that becomes a part of or is applied to a purchaser's property. N.C. Gen. Stat. §§ 105-164.4(16).

N.C. Gen. Stat. § 105-164.3(225) defines, in part, the term "repair, maintenance, and installation services" as "the activities listed in this subdivision and applies to tangible personal property, motor vehicles, certain digital property, and real property. The term does not include a service used to fulfill a real property contract taxed in accordance with [N.C. Gen. Stat. §] 105-164.4H. The included activities are . . . [t]o install, apply, connect, adjust, or set into position tangible personal property or certain digital property. The term includes floor refinishing and the installation of carpet, flooring, floor coverings, windows, doors, cabinets, countertops, and other installations where the item being installed may replace a similar existing item. The replacement of more than one of a like-kind item, such as replacing one or more windows, is repair, maintenance, and

installation services. The term does not include an installation defined as a capital improvement under subdivision (31)d. of this section and substantiated as a capital improvement under [N.C. Gen. Stat. §] 105-164.4H(a1)."

N.C. Gen. Stat. § 105-164.3(207) defines the term, "real property contract," as "[a] contract between a real property contractor and another person to perform a capital improvement to real property."

N.C. Gen. Stat. § 105-164.3(31) defines the term "capital improvement," in part, as

a. ". . . remodeling.
. . .
k. An addition or alteration to real property that is permanently affixed or installed to real property and is not an activity listed in subdivision (225) of this section as repair, maintenance, and installation services."

N.C. Gen. Stat. § 105-164.3(219) defines the term "remodeling" as "[a] transaction comprised of multiple services performed by one or more persons to restore, improve, alter, or update real property that may otherwise be subject to tax as repair, maintenance, and installation services if separately performed. The term includes a transaction where the internal structure or design of one or more rooms or areas within a room or building are substantially changed. The term does not include a single service that is included in repair, maintenance, and installation services. The term does not include a transaction where the true purpose is repair, maintenance, and installation services no matter that another service included in repair, maintenance, and installation services is performed that is incidental to the true purpose of the transaction; examples include repair of sheetrock that includes applying paint, replacement of cabinets that includes installation of caulk or molding, and the installation of hardwood floors that includes installation of shoe molding."

The Department publishes Sales and Use Tax Bulletins ("SUTBs") for the purpose of presenting the administrative interpretation and application of sales and use tax. The Department's SUTBs are prima facie correct. N.C. Gen. Stat. § 105-264(a).

SUTB 72-21 Chart of Services to Real Property, under the "Miscellaneous" heading, "[c]ustom closets – repair, maintain, install, or replace" are listed as "taxable" repair, maintenance, and installation services.

Ruling

Based on the information furnished, Taxpayer designs and installs [redacted] based on the customers' preferences. Taxpayer installs the [redacted] into the customer's real property. Taxpayer requires the customer to have the space "installation ready" when Taxpayer arrives to install the [redacted]. As a result, the only service Taxpayer provides is the installation of the [redacted]. The definition of repair, maintenance, and installation service includes "to install, apply, connect, adjust, or set into position tangible personal property." In addition, the statute specifically states the installation of cabinets is included in the term repair, maintenance, and installation service. As a result, the Department determines taxpayer provides repair, maintenance, and installation service when it designs and installs [redacted].

The installation of [redacted] by Taxpayer, standing alone[1], is not a real property contract. Taxpayer is providing a single service by installing the [redacted]. The fact that the [redacted]

[1] This ruling only addresses the standalone installation of [redacted] by Taxpayer. In some situations, a customer's project may meet the definition of a real property contract to perform a capital improvement. For example, [redacted]. In such cases, the customer may provide an Affidavit of Capital Improvement to Taxpayer for the transaction to be taxed for sales and use tax purposes as a real property contract. See Sales and Use Tax Bulletins 72-4 and 72-5A for additional information.

are permanently affixed to the real property does not make the transaction a real property contract. Therefore, Taxpayer is not performing a capital improvement to the real property as defined in N.C. Gen. Stat. § 105-164.3(31) when installing [redacted].

Based on the facts provided, the Department determines that Taxpayer's transactions are repair, maintenance, and installation services and are subject to the general State, applicable local and applicable transit rates of 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 the Taxpayer is different in any material aspect 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