NCDOR | NORTH CAROLINA DEPARTMENT OF REVENUE

Josh Stein
Governor

McKinley Wooten, Jr.
Secretary

February 17, 2026

[redacted]

Re: [redacted]
Private Letter Ruling
FEIN: [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 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 is "a [redacted] nonprofit water utility operating a water plant" located in North Carolina. Taxpayer "made a direct purchase of a replacement generator" which was delivered to the water plant. The generator was purchased from an equipment supplier and North Carolina Sales tax was paid thereon. You further advise that the "replacement generator is critical to ensure the continuous flow of treated water during power outages" and that the generator "is able to power all equipment and operations at our water treatment facility, including raw water pumping, treatment and chemical feed equipment, building operations, and finished water pumping." You also responded that Taxpayer is not a governmental entity listed in N.C. Gen. Stat. § 105-164.14(c) and the generator will be depreciated under General Accepted Accounting Principles.

ISSUE:

Is Taxpayer eligible for a refund of the sales and use tax paid on the purchase of the generator?

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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. N.C. Gen. Stat. §§ 105-164.3, 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) allows an exemption for "[s]ales of mill machinery or mill machinery parts or accessories to any of the persons listed in [the] subdivision. For purposes of [the] 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."

N.C. Gen. Stat. § 105-164.14(b) provides in part, that "[a] nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of items for use in carrying on the work of the nonprofit entity." The statute goes on to identify the specific types of nonprofits that are allowed a refund. These include certain organizations "exempt from tax under section 501(c)(3) of the [Internal Revenue] Code." N.C. Gen. Stat. § 105-164.14(b)(2).

North Carolina Sales and Use Tax Bulletin ("SUTB") 57-1 defines the three principal activities of a manufacturing industry or plant as Production, Distribution, and Administration. SUTB 57-1 further defines the activities performed within each principal activity as:

> 1. Production as a phase of industrial or manufacturing operations shall mean all steps performed in processing and refining rooms, and in other quarters and departments of a plant, where conditioning, treating, or other operations are done on ingredient materials as an actual routine on the assembly or processing line turning out a finished product of manufacture for sale. It also includes: a. The movement of raw materials or ingredients from an inventory or a stockpile located on the premises of the manufacturing facility to the assembly or processing line. b. The movement of goods in process along the assembly or processing line including packaging prior to the good becoming a final product. c. The movement of manufactured products from the assembly or processing line into shipping or storage areas and yards located on the premises of the manufacturing facility. d. The work of experimentation and research performed on the manufactured products. Purchases by a manufacturing industry or plant of machinery or parts or accessories for the machinery for use in "production," as defined above, are classified as mill machinery or mill machinery parts or accessories. Purchases by a manufacturing industry or plant of research and development equipment and supplies for quality control or the improvement of its manufactured products or for development of products which it will manufacture are classified as mill machinery or

mill machinery parts or accessories. Items that are not classified as mill machinery or mill machinery parts or accessories when purchased by manufacturing industries and plants for use in their research and development areas include such items as desks, calculators, computers used for administrative purposes, and chairs which are subject to the general State, applicable local, and applicable transit rates of sales and use tax. Production does not include any activity connected with the movement of raw materials or ingredients into inventory nor does it include "distribution" or "administration" as defined in the subsections below. Sales to manufacturing industries and plants of machinery, parts, or accessories for such machinery, and other tangible personal property used in the movement of raw materials or ingredients into inventory or in "distribution" activities, as defined in the subsection below, or which are used for similar purposes are subject to the general State, applicable local, and applicable transit rates of sales and use tax.

2. Distribution with reference to manufacturing industries and plants shall mean any activity connected with the movement of manufactured products within storage warehouses, shipping rooms, and other such finished product storage areas and the removal of such products therefrom for sale or shipment. Machinery and equipment used to prepare property for shipment in the shipping room, warehouse, or other distribution locations separate and apart from the production process, as the term "production" is defined in the subsection above, is subject to the general State, applicable local, and applicable transit rates of sales and use tax.

3. Administration with reference to manufacturing industries and plants shall mean and include the administrative work of offices, promotion of sales, and collection of accounts. Sales of administrative equipment and supplies, such as office equipment, paper, pens, pencils, stamps, paper cutters, printer form, file cabinets, scissors, staplers, desk trays, and other miscellaneous tangible personal property generally sold for office use, furniture, and fixtures are subject to the general State, applicable local, and applicable transit rates of sales and use tax.

Ruling

Based on the information provided, Taxpayer is a [redacted] nonprofit water utility that operates a water plant. Taxpayer paid the appropriate North Carolina Sales Tax due on the purchase of the generator. The Department determines that based on the information provided, Taxpayer is not entitled to a refund of the sales and use tax paid on the generator.

First, Taxpayer is not a qualifying entity listed in N.C. Gen. Stat. § 105-164.14 eligible to claim a refund of the sales tax paid. N.C. Gen. Stat. § 105-164.14 limits the refund to specific types of entities listed in the statute. While Taxpayer states it is a nonprofit under [redacted] of the Internal Revenue Code, N.C. Gen. Stat. § 105-164.14 does not allow refunds for entities exempt from tax under [redacted] of the Internal Revenue Code.

Second, N.C. Gen. Stat. § 105-164.13(5e), provides an exemption for the sale of mill machinery to a manufacturing industry or plant. SUTB 57-1 clarifies that the exemption is applicable to purchases of machinery used in the "production" phase of manufacturing and specifically excludes machinery used in distribution or administration activities. As described by Taxpayer, the generator provides general backup power to the facility. The generator supports general building operations including administration, distribution, and manufacturing activities. As a result, Taxpayer's purchase and installation of the generator, which provides power across all phases of the manufacturing process, is

subject to North Carolina sales and use tax. Accordingly, the purchase is not exempt under N.C. Gen. Stat. § 105-164.13(5e).

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