



North Carolina Department of Revenue

Roy Cooper
Governor

Ronald G. Penny
Secretary

January 27, 2021

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

Re: [REDACTED]
Private Letter Ruling Request
Account ID: [REDACTED]
Taxpayer's FEIN: [REDACTED]

Dear [REDACTED]:

The Department has completed its review of your request for written determination 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 advise that "Taxpayer is a provider of cleaning services and products . . . [and Taxpayer's] classification for purposes of NAICS is 561740, and over fifty percent (50%) of its revenue is derived from sales of cleaning services for real property. For services provided at its customer's locations, Taxpayer utilizes mobile cleaning units. Additionally, all products and services are separately stated on Taxpayer's invoices to its customer."

You advise that Taxpayer offers the product "Application of Deodorizer to Carpet (Customer Location)" with the description of the service as "Taxpayer applies deodorizing chemical to wall-to-wall carpet at the customer's location."

Issue

Are Taxpayer's sales of "Application of Deodorizer to Carpet (Customer Location)" subject to North Carolina sales and use tax?

January 27, 2021

Page 2

Applicable Statutes and References¹

Under Chapter 105 of the North Carolina General Statutes, Article 5 (“Article”) of the North Carolina Revenue Act (“Act”)², N.C. Gen. Stat. § 105-164.1 *et. seq.*; Subchapter VIII, Local Government Sales and Use Tax, N.C. Gen. Stat. § 105-463 *et. seq.*; and Chapter 1096 of the 1967 Session Laws; State, local, and applicable transit sales and use taxes are imposed on a retailer engaged in business in the State on the retailer’s net taxable sales or gross receipts of tangible personal property, certain digital property, and certain services at the applicable State, applicable local, and applicable transit rates of sales and use tax. N.C. Gen. Stat. §§ 105-164.3, 105-164.4, 105-467, 105-483, 105-498, 105-507.2, 105-509.1, and 105-537.

N.C. Gen. Stat. § 105-164.4(a)(1)c. provides that the general rate of tax applies to “[t]he sales price of or gross receipts derived from repair, maintenance, and installation services to tangible personal property or certain digital property, regardless of whether the tangible personal property or certain digital property is taxed under another subdivision in this section or is subject to a maximum tax under another subdivision in this section. Repair, maintenance, and installation services generally include any tangible personal property or certain digital property that becomes a part of or is applied to a purchaser’s property. The use tax exemption in [N.C. Gen. Stat. §] 105-164.27A(a3) may apply to these services. Repair, maintenance, and installation services for real property are taxable under subdivision [N.C. Gen. Stat. § 105-164.4(a)](16). . . .”

N.C. Gen. Stat. § 105-164.3(225) provides the definition of “repair, maintenance, and installation services” “includes the activities listed . . . [below] and applies to tangible personal property, motor vehicle, 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:

- a. To keep or attempt to keep property or a motor vehicle in working order to avoid breakdown and prevent deterioration or repairs. Examples include to clean, wash, or polish property.
- b. To calibrate, refinish, restore, or attempt to calibrate, refinish, or restore property or a motor vehicle to proper working order or good condition. This activity may include replacing or putting together what is torn or broken.
- c. To troubleshoot, identify, or attempt to identify the source of a problem for the purpose of determining what is needed to restore property or a motor vehicle to proper working order or good condition. The term includes activities that may lead to the issuance of an inspection report.
- d. To 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).

¹ Session Law 2020-6 authorizes the Revisor of Statutes to renumber the subdivisions of N.C. Gen. Stat. §. 105-164.3 to ensure that the subdivisions are listed in alphabetical order and in a manner that reduces the current use of alphanumeric designations, to make conforming changes, and to reserve sufficient space to accommodate future additions to the statutory section.

² References to the Act and North Carolina General Statutes are based on the laws in effect as of the date of issuance of this private letter ruling except as otherwise noted herein.

January 27, 2021

Page 3

- e. To inspect or monitor property or install, apply, or connect tangible personal property or certain digital property on a motor vehicle or adjust a motor vehicle. .”

N.C. Gen. Stat. § 105-164.3(235) defines the term “sale or selling,” in part, as “[t]he transfer for consideration of title, license to use or consume, or possession of tangible personal property or certain digital property or the performance for consideration of a service. The transfer or performance may be conditional or in any manner or by any means.”

N.C. Gen. Stat. § 105-164.3(261) defines the term “tangible personal property” as “[p]ersonal property that may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses. The term includes electricity, water, gas, steam, and prewritten computer software.”

N.C. Gen. Stat. § 105-164.13(61a) provides “[t]he sales price of or the gross receipts derived from the repair, maintenance, and installation services and service contracts listed in this subdivision are exempt from tax. Except as otherwise provided in this subdivision, an item used to fulfill either repair, maintenance, and installation services or service contracts exempt from tax under this subdivision is taxable. The list of repair, maintenance, and installation services and service contracts exempt from tax under this subdivision is as follows:

- a. A service and a service contract for an item exempt from tax under this Article, except as otherwise provided in this subdivision. Items used to fulfill a service or service contract exempt under this sub-subdivision are exempt from tax under this Article. This exemption does not apply to water for a pool, fish tank, or similar aquatic feature or to a motor vehicle, except as provided under subdivision (62a) of this section and fees under sub-subdivision b. of this subdivision.
- b. A motor vehicle emissions and safety inspection fee imposed pursuant to [N.C. Gen. Stat. §] 20-183.7, provided the fee is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.
- c. A service performed for a person by a related member.
- d. Cleaning of real property, except where the service constitutes a part of the gross receipts derived from the rental of an accommodation subject to tax under [N.C. Gen. Stat. §]105-164.4 or for a pool, fish tank, or other similar aquatic feature. Examples of cleaning of real property include custodial services, window washing, mold remediation services, carpet cleaning, removal of debris from gutters, removal of dust and other pollutants from ductwork, and power washing other than for a pool.
- e. A service on roads, driveways, parking lots, and sidewalks.
- f. Removal of waste, trash, debris, grease, snow, and other similar tangible personal property from property, other than a motor vehicle. The exemption applies to a household or a commercial trash collection and removal service. The exemption applies to the removal of septage from property, including motor vehicles, but does not include removal of septage from portable toilets.
- g. The following inspections:
 1. An inspection performed where the results are included in a report for the sale or financing of real property.
 2. An inspection of the structural integrity of real property provided the charge for the inspection is separately stated on the invoice or other documentation given to the purchaser at the time of the sale.
 3. An inspection to a system that is a capital improvement under [N.C. Gen. Stat. §]105-164.3(31) f, provided the inspection is to fulfill a safety requirement and

January 27, 2021

Page 4

provided the charge for the inspection is separately stated on the invoice or other documentation given to the purchaser at the time of the sale.

- h. Alteration and repair of clothing, except where the service constitutes a part of the gross receipts derived from the rental of clothing subject to tax under [N.C. Gen. Stat. §] 105-164.4 or for alteration and repair of belts and shoes.
- i. Pest control service. For purposes of this exemption, the term "pest control service" means the application of pesticides to real property.
- j. Moving service. For purposes of this exemption, the term "moving service" means a service for hire to transport or relocate a person's existing belongings to or from any destination.
- k. Self-service car wash or vacuum and limited-service vehicle wash. For purposes of this sub-subdivision, the following definitions apply:
 - 1. Limited-service vehicle wash. – The cleaning of a vehicle by mechanical means where the only activities performed by an employee include one or more of the following: (i) receiving payment for the transaction, (ii) guiding the vehicle into the entrance or exit of a conveyor, (iii) applying low-pressure spray of chemicals to the vehicle prior to the cleaning of the vehicle, or (iv) placing protective tape or covers on the vehicle prior to cleaning. The term does not include any activity whereby an employee physically touches the vehicle for the [N.C. Gen. Stat. §] 105-164.13 purpose of cleaning or restoring the vehicle, enters or cleans any part of the interior of the vehicle, or performs an activity on the vehicle other than one of those listed in this sub-sub-subdivision.
 - 2. Self-service vehicle wash or vacuum. – The cleaning of a vehicle by a customer without any cleaning or restoring activity performed by an employee.
- l. Services performed on a transmission, distribution, or other network asset on land owned by a service provider or on a right-of-way or an easement in favor of a service provider. This exemption does not apply to charges billed to a customer for repair, maintenance, and installation services or a contribution in aid of construction and are included in the gross receipts derived from items subject to the combined general rate under [N.C. Gen. Stat. §] 105-164.4. The terms "service provider" and "governmental entity" have the same meaning as defined in [N.C. Gen. Stat. §]. 105-164.3(31)c.
- m. Any of the following:
 - 1. A qualified aircraft.
 - 2. A qualified jet engine.
 - 3. An aircraft with a gross take-off weight of more than 2,000 pounds.
- n. Funeral-related service, including a service for the burial of remains. This exemption does not apply to the sale of tangible personal property, such as caskets, headstones, and monuments.
- o. A service performed on an animal, such as hoof shoeing and microchipping a pet.
- p. A security or similar monitoring contract for real property. The exemption provided in this subdivision does not apply to charges for repair, maintenance, and installation services to repair security, alarm, and other similar monitoring systems for real property.
- q. A contract to provide a certified operator for a wastewater system."

Ruling

Based on the information furnished, Taxpayer is providing repair, maintenance, and installation services. The product meets the definition of repair, maintenance, and installation service because it keeps or attempts to keep wall-to-wall carpet at a customer's location in working order

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████████████████████
January 27, 2021

Page 5

which includes the actions of cleaning or washing the wall-to-wall carpet. The application of deodorizer cleans real property by removing odor from wall-to-wall carpet at a customer's location. As such, the sales price of or the gross receipts derived from Taxpayer's sales of the repair, maintenance and installation services qualify for an exemption from North Carolina sales and use tax. Taxpayer must pay sales tax or accrue use tax on any property or services used to fulfill its exempt sales of repair, maintenance, and installation services.

This ruling is based solely on the facts submitted to the Department 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 letter ruling and the Department discovers, upon examination, that the fact situation of Taxpayer is different in any material aspect from the facts and circumstances given in this letter ruling, the letter ruling will not afford 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.

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