



## North Carolina Department of Revenue

Pat McCrory  
Governor

Jeffrey M. Epstein  
Secretary

October 11, 2016

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

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

Dear Mr. [REDACTED]

The Department received the Form NC-PLR, Request for Private Letter Ruling, remittance of \$500.00, and your letter on behalf of [REDACTED] ("Taxpayer") dated June 26, 2014. We apologize for the delay in responding to your request.

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 the taxpayer addressed herein and as such has no precedential value except to the taxpayer to whom the determination is issued on behalf of the Department.

### **Overview and Relevant Facts**

You advise that Taxpayer "will be operating an indoor trampoline park. The taxpayer will charge fees to guests to participate in various 'jumping' activities including free jump time, exercise classes utilizing trampolines, packages for birthday parties and other events where guests will have full access to jumping [sic] on the taxpayer's trampolines."

### **Issue**

You have inquired whether the charges by Taxpayer to customers to participate in the "jumping" activities are subject to North Carolina sales and use tax.

### **Applicable Statutes and References**

Under Article 5 (“Article”) of the North Carolina Revenue Act (“Act”)<sup>1</sup>, N.C. Gen. Stat. § 105-164.1 *et. seq.*, Subchapter VIII: Local Government Sales and Use Tax, 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 percentage rates listed in subdivision N.C. Gen. Stat. § 105-164.4(a). N.C. Gen. Stat. §§ 105-164.3(1k), 105-164.3(9), 105-164.3(14), 105-164.3(24), 105-164.3(35), 105-164.3(46), 105-164.4, 105-164.8, 105-467, 105-468, 105-483, 105-498, 105-507.2, and 105-537.

N.C. Gen. Stat. § 105-164.4G(a)(1) defines “admission charge” as “[g]ross receipts derived for the right to attend an entertainment activity. The term includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, and an annual pass; a membership fee that provides for admission; a cover charge; a surcharge; a convenience fee, a processing fee, a facility charge, a facilitation fee, or similar charge; or any other charges included in gross receipts derived from admission.”

N.C. Gen. Stat. § 105-164.4G(a)(3) defines an “entertainment activity” as “[a]n activity listed in this subdivision:

- a. A live performance or other live event of any kind, the purpose of which is for entertainment.
- b. A movie, motion picture, or film.
- c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction.
- d. A guided tour at any of the activities listed in sub-subdivision c. of this subdivision.”

N.C. Gen. Stat. § 105-164.3(1i) defines a “bundled transaction” as “[a] retail sale of two or more distinct and identifiable products, at least one of which is taxable and one of which is exempt, for one nonitemized price. Products are not sold for one nonitemized price if an invoice or another sales document made available to the purchaser separately identifies the price of each product. A bundled transaction does not include the retail sale of any of the following:

- a. A product and any packaging item that accompanies the product and is exempt under G.S. 105-164.13(23).
- b. A sale of two or more products whose combined price varies, or is negotiable, depending on the products the purchaser selects.
- c. A sale of a product accompanied by a transfer of another product with no additional consideration.
- d. A product and the delivery or installation of the product.
- e. A product and any service necessary to complete the sale.”

N.C. Gen. Stat. § 105-164.4D(a)(3) provides that “[t]ax applies to the sales price of a bundled transaction unless. . . [t]he price of the taxable products in the bundle does not exceed ten percent (10%) of the price of the bundle, and no other subdivision in this subsection applies.

N.C. Gen. Stat. § 105-164.4D(b) provides, in part, “[a] retailer of a bundled transaction subject to this section may use either the retailer’s purchase price or the retailer’s sales price to determine if the transaction meets. . . the ten percent (10%) test set out in [subdivision]. . .

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<sup>1</sup> 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.

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(a)(3) of this section. A retailer may not use a combination of purchase price and sales price to make this determination.”

### **Ruling**

Based on the information furnished, the fees charged to participate in the trampoline “jumping” activities do not meet the definition of “admission charge” or “entertainment activity” and, therefore, are not subject to the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales and use tax.

Based on the limited information available on Taxpayer’s website located at <http://www.█.com> regarding the birthday packages and other events offered by Taxpayer, it is likely that the gross receipts derived from the birthday packages and other events are “bundled transactions” as defined in N.C. Gen. Stat. § 105-164.3(1i) and should be taxed according to the provisions of N.C. Gen. Stat. § 105-164.4D. Taxpayer should determine whether the price of the taxable items such as food, paper products, invitations, etc. included in the birthday packages and other events exceed ten percent (10%) of the total sales price or total purchase price of the transaction. As noted in N.C. Gen. Stat. § 105-164.4D(b), “[a] retailer may not use a combination of purchase price and sales price to make this determination.” If the sales price or purchase price of the taxable items exceeds ten percent (10%) of the total sales price or total purchase price of the birthday package and other events, the birthday package and other events are subject to the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) 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 the taxpayer requesting this ruling may not rely on it. 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.

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