OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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September 19, 2000

Re: Our file Number LR-00-099; Questions relating to the Oklahoma Sales Tax.

Dear

This is in response to your inquiry in which you ask the following questions, which I have scanned into this document. Our responses follow each.

Ist Situation - We are a building materials supplier in Tulsa, OK. We supplied building materials for a new store being built here in Tulsa and charged sales tax. Our customer, that purchased the materials for the job, is a company located in Texas. They paid for the material on this job but did not pay the sales tax that we charged. Along with their payment they submitted a Texas Resale Certificate. I am to assume that they will be purchasing from us as a reseller and then collecting tax on the materials from directly. If this is the case, are we free from liability to collect the sales tax?

Response: As a contractor doing business in Oklahoma, your customer is the taxable consumer/user of all the materials purchased for the job. The fact that the contractor may have an exemption for certain types of jobs in Texas does not mean that a similar exemption is available in Oklahoma, and it is not. Please see Oklahoma Tax Commission Rule 710:65-1-7 that I have enclosed.

2"d Situaton- Our company has opened a building materials center located in Texas- We will be periodically delivering materials into southeastern Oklahoma on our company-owned trucks. Should we be collecting Texas state sales tax on the goods delivered since the point of sale originates in Texas or should we be collecting Oklahoma use tax based on the destination the goods are delivered to in Oklahoma?

Response: Although Texas attributes sales made within Texas to the point of origin for the purpose of the application of local Texas sales taxes, it cannot tax in Texas, those goods that are sold in interstate commerce. For example, if you receive an order by telephone, by mail or by fax from an Oklahoma purchaser and the goods are delivered in your vehicles to the job site in Oklahoma, the sale is a sale in interstate commerce and Oklahoma state and applicable local sales taxes apply.

This response applies only to the circumstances set out in your request of May 16, 2000. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

If I can be of further assistance, please feel free to contact me.

Sincerely,
OKLAHOMA TAX COMMISSION

Michael G. Pillow
Tax Policy Analyst