OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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August 29, 2000

Re: Our File Number LR-00-129; Tax responsibility of an out-of-state company.

Dear

This is in response to your inquiry requesting a letter ruling to determine the taxability of the orders that four funeral directors located in Oklahoma take for your company.

Your analysis of Oklahoma Tax Commission Rule OAC 710:65-15-1(j)(1)(A) as it pertains to your business operations in making sales in Oklahoma is correct based on that underlying portion of the rule and the assumption that your company has no connection with Oklahoma. However, there are other factors to be considered to determine if an out-of-state company would have sufficient connection with Oklahoma that would require it to register to collect, report and remit sales/use tax on its sales transactions in Oklahoma. Also, the information that was relayed in a recent telephone conversation with of your company indicated that your company makes deliveries and installs the monuments.

Based on this additional information and the establishment of the connection of your company with the that constitutes having agents or salesmen operating on behalf of the company, which satisfies "maintaining a place of business" in this state, would be required to register in Oklahoma for sales and/or use tax. A registration form needs to be completed in order to obtain a sales tax permit. (See Commission Rule 710:65-1-8, a copy of which is enclosed)

Furthermore, by virtue of the same connection established with Oklahoma, since your company is a corporation, it is required to file a franchise tax return and pay any

franchise tax due along with the $100.00 registered agents fee as required by 68 O. S. Sections 1201, 1203, and 1204 and by O.S. Section 1142.

Copies of the statutes and commission rules referenced and rule 710:50-17-3, dealing with "nexus" for income tax purposes are enclosed. A registration packet has been sent under separate cover. If I can be of further assistance, please contact me.

This response applies only to the circumstances set out in your request of June 13, 2000 and may not be relied upon by any entity other than the addressee. In the event of any change in the facts surrounding the transaction described, this letter ruling would no longer be applicable. You are further advised that subsequent statutory or administrative rule changes or judicial construction of the statutes or rules upon which this advice is based may yield a different result from that which is expressed here.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosures