OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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September 20, 2000

Re: Our file Number LR-00-198; Taxes applicable to the sale of Manufactured Housing and Modular Housing.

Dear

This is in response to your inquiry concerning the subject referenced above. I have set out below the three scenarios about which you have inquired. Our response follows each set. In each case, it is assumed that is the seller of the home. It is my understanding from our conversations that has purchased the homes from either a manufacturer in Kansas or one in Missouri. I have also set out your question concerning the applicability of the laws of Missouri and Kansas to the sales and have provided a response.

Manufactured Housing

1. Home is sold directly to an Individual or Development Company including setup on land owned by the Individual or Development Company.
2. Home is sold to an Individual or Development Company including setup with land owned by
3. Also in all cases how does this affect items such as refrigerators, ovens, dishwashers, etc.

Our Response

In both cases, since is acting as a dealer of manufactured housing, responsibility for registering and paying the excise tax on the manufactured home is the responsibility of the owner of the home. As a dealer with a sales tax permit, may make purchases of items such as appliances exempt from sales tax for resale as a part of the sales price of the manufactured home. The cost of the

appliances, once it is added to the cost of the manufactured home it is then subject to the excise tax.

Modular Homes

1. Home is sold directly to an Individual or Development Company including setup on land owned by the individual or Development Company.
2. Home is sold to an Individual or Development Company including setup with land owned by
3. Also in all cases how does this affect items such as refrigerators, ovens, dishwashers, etc.

Our Response

Since in both cases, the modular homes are "setup" by and since a modular home is not built on a chassis, but instead is built from modules which are assembled into a building which becomes an improvement to real property, it would appear that is a contractor. Contractors are classified under the Oklahoma Sales Tax Code as consumers of all items used in constructing improvements to real property. Therefore, vendors selling to must charge sales tax on all sales to If, as you indicated would be the case, the modular units are brought into Oklahoma by the manufacturer in their own vehicles and are erected by the manufacturer on site, the manufacturer has sufficient connection with Oklahoma to be required to register as either a vendor or as a sub contractor or both. As a sub-contractor, it would be required to accrue the appropriate state and local use tax on the value of the modules and other items used to build the home and remit the tax directly. Since it would not be selling tangible personal property to it would not charge sales tax to them.

As a contractor, with the sales agreement calling for the installation of certain items of tangible personal property which are to be installed in the real property being sold, is required to pay sales tax on the dishwasher, refrigerators, stoves etc. that are built in and sold with the property.

If you have additional questions or have questions concerning areas that are out side the scope of this inquiry, please provide example copies of the sales agreements and financing disclosure statements, that will be used in the transactions.

Interstate Commerce Considerations

In all cases of above the homes are manufactured in Kansas or Missouri. Does each state present a different situation.

Our Response

The law in each state may vary, just as the terms of the sale may vary. Additionally, the law regarding the sales will be governed by the law applicable to sales in interstate commerce which is set by the U.S. Congress as interpreted by the US Supreme Court. It is not clear from the information you have provided to date which state may collect sales or use tax on sales of the modular housing units.

This response applies only to the circumstances set out in your request of September 11, 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