OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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October 18, 2000

Re: LR-00-210; Whether sales tax or use tax is due on a transaction.

Dear

This is in response to your inquiry concerning the following fact situation and hypothetical transaction which are reproduced from your letter.

Facts:

1. A11 Internet sales are shipped FOB California or from foreign manufacturing locations directly to the customers' home. They are shipped via Federal Express or some other common carrier.

2. Title and risk of loss pass to the customer at the time of shipment.

3. All Internet sales orders are processed electronically with credit cards. The orders are approved in Texas or California or electronically via an online service.

4. Sales orders are recorded in Texas or California.

5. The Internet server is located in California.

Hypothetical:

John Doe walks into XYZ's store in Bartlesville, Oklahoma to purchase a camera. The camera is not in store inventory. The store clerk recommends that John Doe use the Internet terminal in the store and order the product himself. So, John inputs his name, address, and credit card information into the computer terminal. The order is approved immediately by XYZ's Internet business in California. The camera will be shipped via Federal Express or a similar common carrier directly to John's home in Bartlesville, Oklahoma from XYZ's inventory in California. Should XYZ charge John sales tax at Bartlesville's sales tax rate or at Bartlesville's use tax rate?

Response

Based on the facts presented, Oklahoma Use Tax and any local use tax in effect at the customers address would be due on the purchase price of the goods purchased from the out of state location.

This response applies only to the circumstances set out in your request of September 29, 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