OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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November 13, 2000

Re: Our File Number LR-00-224; Point of sale

Dear

This is in response to your request for a letter ruling regarding the applicable tax rate you would be required to pay on orders you place over the telephone.

The determination as to which city or county tax is due depends on the physical location of the transfer or the point of sale of the items subject to sales tax. "Point of Sale" is defined at Section 1352(13) of Title 68, which provides:

> 13. "Point of sale" means, for purposes of administration of any municipal or county sales tax levied in this state, the physical location at which a sale of tangible personal property or services taxable under the Oklahoma Sales Tax Code is made in the course of the vendor's business, to be determined by one of the following:
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> a. if the consumer identifies tangible personal property or services and pays the sale price, in cash or otherwise, at a place of business maintained by the vendor, the point of sale shall be the location of such place of business, regardless of the place of delivery,
>
> b. if a consumer, from a location outside the jurisdiction in which the vendor is engaged in business, orders or requests, by mail or telephonic or telegraphic device, to buy tangible personal property or services, the point of sale shall be the place of delivery, regardless of the manner of transportation,
>
> c. if the sale is made through solicitation at a place other than the place of business of the vendor, either

by an employee, representative, or any other agent of the vendor, the point of sale shall be the place where the solicited offer to buy was accepted or approved by the vendor if the consumer does not have a right to accept or reject delivery,

d. if the sale is made through solicitation at a place other than the place of business of the vendor, either by an employee, representative, or any other agent of the vendor, and the consumer has a right to accept or reject delivery, the point of sale shall be the place of delivery, or

e. if the sale is of motor fuel or diesel fuel by a Group Five vendor, the point of sale shall be the location in the state at which the Group Five vendor withdrew the motor fuel or diesel fuel from the primary fuel storage facility of such vendor;

Since you place your orders from a location outside the jurisdiction in which the vendor is engaged in business, the point of sale would be the place of delivery, the location of your business. Once the location of the sale has been determined, the appropriate city and/or county sales tax (if any) for the location should be added to the price and collected, reported and remitted in the same manner as the state sales tax. Therefore, the proper sales taxes to be charged are those in effect at the place of delivery.

The Oklahoma Tax Commission does not possess the information to make a determination that you are outside the city limits. You might check with the nearest city in your vicinity to obtain confirmation of your location outside its city limits.

This response applies only to the circumstances set out in your request of October 25, 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

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Sincerely,

Brenda J. Sullivan
Tax Policy Analyst