OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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January 5, 2001

Re: Our file Number LR – 00 –235; Taxable basis of merchandise of multi-level marketing company drop shipments from Holland.

Dea

The sales tax treatment of Multi-Level sales is governed by Oklahoma Tax Commission Rule 710:65-19-214 which provides:

Multi-level sales
(a) Vendors operating a multi-level distribution system will collect tax on the gross receipts of the products retail value. This tax is to be passed through the non-permit holder multi-level distributors to consumers/users.
(b)For example, a vendor who sells to distributors who in turn sells to consumers/users at a home party is required to collect, report and remit sales tax on the total amount of gross receipts received by the vendor's distributors for sales of tangible personal property or taxable services. The distributor will collect the tax from the consumer.
(c) Shipping and handling charges that result from the shipment of multi-level sales merchandise to the distributor or the distributor's customers are not subject to sales tax, if separately stated.

Therefore, if the shipping and handling charges are separately stated from the cost of the merchandise, the charges are not subject to sales tax. However, the VAT/import duties are considered an element of cost to the seller, i.e. overhead cost and is sales taxable as "gross receipts" or "gross proceeds" and should be included in the selling price of the tangible personal property which is sold. Gross receipts or gross proceeds is defined as "the total amount of consideration for the sale of any tangible personal property or service taxable under this article, whether the consideration is in money or otherwise. There shall not be any deduction from the gross receipts or gross proceeds on account of cost of the property sold, labor service performed, interest paid, or losses, or any expenses

whatsoever, whether or not the tangible personal property sold was produced, constructed, fabricated, processed, or otherwise assembled for or at the request of the consumer as part of the sale". See Section 1352(7) of Title 68.

Please note that Oklahoma sales tax is a combination of the state rate of four and one-half percent (41/2%) and any applicable city and county sales tax. The actual point of sale is the determining factor in computing the sales tax rate in Oklahoma. (See Oklahoma Tax Commission Rule 710:65-17-1 and the list of city and county tax rates for sales and use tax).

Enclosed find a copy of the Statute and Commission Rules in addition to Commission Rule 710:65-19-70 for your information. If I can be of further assistance, please contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure

cc: Taxpayer Assistance Division