

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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April 4, 2001

Re: Our file Number LR -01-28; Taxability of transportation and delivery charges
(handling)

Dear

Please let this letter serve as written confirmation of your understanding of the sales/use tax treatment of transportation and delivery charges. Since November 1, 1998, the cost of transportation, i.e. shipping and handling charges, from a point outside Oklahoma to a point inside this State has not been subject to **use tax**. However, this type of charge depends not only upon what the charge consists of, and how it is invoiced, but also whether the underlying charge was agreed to separately from the purchase price arrived at between the buyer and seller.

The tax treatment of transportation and delivery charges is governed by Oklahoma Tax Commission rule 710:65-19-70 and Title 68 Oklahoma Statutes Section 1354(A)(3). Charges that result from shipping merchandise to vendor's customers i.e. the cost of transportation from the vendor's inventory to the customer is not subject to **sales or use tax, if it is separately stated**. This exemption applies to all sales, taxable and non taxable.

However, handling charges associated with the sale of tangible personal property, if they represent an element of cost to a seller, should be included in gross receipts or "gross proceeds", the total amount of consideration for the sale of any tangible personal property or service. See Title 68 Section 1352(7).

If _____ is a multilevel company, which ships its merchandise from out-of-state, directly to consultants or distributors, who distribute the products to their customers, the sales are subject to Sales Tax and the shipping and handling charge if separately stated on the invoice, would not be subject to tax. See Oklahoma Commission Rule 710:65-19-214.

Copies of the statutory references and commission rules are enclosed for your information. If I can be of further assistance, please contact me.

This response applies only to the circumstances set out in your request of March 20, 2001. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be

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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,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure