

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133  
FACSIMILE (405) 522-0063

July 10, 2001

Re: Our file Number LR-01-096; Sales tax on the sale of floral items sold via WATS lines and the internet.

Dear

This is in response to your inquiry concerning the correctness of charging sales tax on an "origin basis" when the items sold are floral items that are sold via WATS lines or through the internet.

In your letter, you set out the issue, give an overview of the corporate structure used by your client, provide a fact scenario, and give your legal analysis and a discussion of the facts and the statutes as they appear to you to relate to the facts as you have presented them.

We have reviewed your entire letter, and have scanned into this letter and have set out below, your section titled "ISSUE". It is followed by our response.

ISSUE:

Whether \_\_\_\_\_ and \_\_\_\_\_ should collect sales tax from its customers using the traditional "destination" basis (i.e., the point of delivery or point at which possession is transferred to the purchaser) as provided under 68 Okl. St. Section 1352(13), or on an "origin basis" (i.e., where the order is taken) as specified in 68 Okl. St. Section 1352(18) and Okl. Rule 710:65-19108(1).

## Response

The Oklahoma Sales Tax Code, 68 O. S. Section 1354, levies the tax on sales of floral items sold by persons engaged in the florist or nursery business **in this state** (emphasis added). While the words florist or nursery business are not defined in the sales tax code,

the word nursery is defined in the Oklahoma Agricultural Code at 2 O. S. Section 3-11, as a place where nursery or floral stock is "grown, propagated or sold". The word "florist" in Merriam Webster's Collegiate Dictionary is defined as "one who sells or grows for sale, flowers and ornamental plants". Based on the information you have presented, none of the entities listed appear to be florists in Oklahoma. Therefore, the "origin basis" for the application of tax as set out in the rule and statute does not apply to the sales by \_\_\_\_\_ and \_\_\_\_\_ Inc. Instead, sales or use tax is due at the Oklahoma delivery point of the goods which have been sold for delivery in Oklahoma.

This response applies only to the circumstances set out in your request of July 2, 2001. 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