

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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March 18, 2002

Re: Our File Number LR-02-022; Tax status of tangible property transfer
between a parent subsidiary organizational structure

Dear

This is in response to your inquiry for a written response regarding the tax status of the transfer of tangible property between a parent subsidiary organizational structure where the parent makes contributions of capital to the subsidiary utilizing tangible property, for which sales tax has been paid, and the subsidiary makes dividend payments to the parent utilizing tangible property.

Commission Rule 710:65-13-201, subsections b and c state in part:

(b) Each transfer of tangible personal property and taxable services between separate legal entities for use or consumption, and not for resale, shall be taxable, unless otherwise exempt by statute pursuant to a reorganization, winding up, dissolution, liquidation, or formation of a corporation, even though the entities:

- (1) Share common principals or ownerships and operations.
- (2) Share the same business location.
- (3) File consolidated income tax returns for federal and state income purposes.
- (4) Do not enjoy a profit or expense as a result of the transaction.

(c) When a transaction would be subject to sales tax if the transaction were between two separately owned and operated legal entities, the commonality of the two entities is irrelevant, and sales tax is imposed on the transaction between the two related entities.

Therefore, the above described transaction is subject to sales tax.

Please find enclosed for your information Commission Rule 710:65-13-201 in its entirety. If I can be of further assistance please feel free to contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure