

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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July 29, 2002

Re: Our File Number LR - 02-123; Taxability of nutritional, vitamins and dietary supplements products

Dear

The Oklahoma Sales Tax code contains no exemption of food or nutritional supplements, etc. from the levy of sales tax unless the food or food product is purchased with foods stamps. Therefore, the products represented by the photocopies of labels that were submitted with your correspondence are subject to Oklahoma sales or use tax pursuant to Section 1354 (1)(A) and Section 1402 of Title 68.

Since you are a multilevel company, which ships its merchandise from out-of-state, directly to independent 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 Tax Rules 710:65-19-70(b). Also see Oklahoma Tax Rules 710: 65-19-214 and 710:65-21-1 through 710:65-21-5 and Sections 1401 and 1402 of Title 68.

Oklahoma sales tax is a combination of the state rate of four and one-half percent (4 ½%) 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.)

Copies of the statutes and rules referenced herein, and city and county tax rates are enclosed. If I can be of further assistance, please contact me at (405) 521-3133.

This response applies only to the circumstances set out in your request of July 11, 2002. 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.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst
Oklahoma Tax Commission

Enclosures