

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

August 27, 2002

Re: Our File Number LR-02-132; Determination of point of sale

Dear

This is in response to your inquiry for a ruling regarding which local sales tax jurisdiction sales tax would be due on taxable sales transaction based on the scenario presented in your correspondence. I have restated your transactions below followed by our responses.

Please note the following comments regarding vendor's responsibilities for taxable sales transactions made in Oklahoma.

Oklahoma sales tax is levied on transactions that occur within Oklahoma. Use tax is levied on a transfer of title or possession of tangible personal property that occurs outside Oklahoma, i.e. property purchased out of state and subsequently brought into Oklahoma for storage, use or consumption pursuant to Title 68, Section 1402 of the Oklahoma Statutes.

The determination as to which city or county tax is due depends on the physical location of the transfer or the point of sale of the items subject to sales tax. "Point of Sale" is defined at Section 1352 (13) of Title 68 and Commission Rule 710:65-17-1. Note: 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 use tax is the same as the sales tax rate.

A vendor selling into Oklahoma, from an inventory of goods located outside Oklahoma, with delivery made via a common carrier, does not have nexus for either sales or use tax in Oklahoma solely as a result of such sale. Provided, however, if the vendor has a physical connection with Oklahoma as a result of other activities, the nexus created

by those activities would require, at the least, the vendor to register as a use tax vendor and charge, report and remit Oklahoma state and any local use tax in effect at the point in Oklahoma at which the goods are to be used. Please refer to Oklahoma Tax Commission rule 710:65-15-1.

Scenario A: Customer picks up cement at the Terminal without placing an order with the regional sales office. What if it is a credit customer? What if it is a COD customer?

Our Response: Based on the Commission Rule 710:65-17-1 subsection (1), sales tax would be due at the terminal for both credit and COD customers.

Scenario B: Customer places an order with Regional Sales office located in another state. The cement is pickup by the customer or the customer uses a customer designated carrier to deliver the cement to another jurisdiction. What if it is a credit customer? What if it is a COD customer?

Our Response: This would be considered an out-of-state sale. However, if the customer brings the cement into Oklahoma, Oklahoma use tax must be reported and paid by the purchaser.

Scenario C: Customer places an order with Regional Sale office located in another state. The cement is delivered by common carrier to another jurisdiction. What if it is a credit customer? What if it is a COD customer?

Our Response: If the cement is shipped into Oklahoma, use tax would be due at the place of delivery.

Please find enclosed the Statutory Sections and Commission Rules that were referenced above. If I can be of further assistance, please contact me.

This response applies only to the circumstances set out in your request of July 24, 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. If I can be of further assistance, please feel free to contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure