

Under these circumstances, is the sale from COMPANY to Company A a sale for resale? Is the sale from Company A to Customer B a sale for resale?

Verifications you requested:

Since Company A is not registered and appears not to have nexus with Oklahoma in its business relationships, Oklahoma is not able to require it to collect and remit sales and use tax.

Response: If Company A holds title to goods in Oklahoma, according to your first fact situation, it has sufficient physical connection with Oklahoma to be required to register and obtain an Oklahoma sales tax permit and collect sales tax on any taxable sales it may make. Furthermore, if Company A sales goods to Company B and either the goods are located in Oklahoma at the time of sale, the goods are delivered in Company A's vehicle or are installed by Company A's employees, then Company A is required to obtain an Oklahoma sales tax permit. If Company A is required to hold an Oklahoma sales tax permit and does not do so, it may not make purchases, for resale, exempt from sales tax. Please note that if Company A holds title to goods in Oklahoma, tax responsibilities other than for sales tax will exist.

Under these circumstances neither COMPANY nor Company A would be required to collect and remit Oklahoma sales tax on this transaction.

Response: If COMPANY sales to Company A, which holds a sales tax permit, or if both the sales to and by Company A are made in such a manner that Company A is not required to hold a sales tax permit, the sales, which are sales for resale, would be ones on which an exemption from Oklahoma sales tax could be claimed by both COMPANY and Company A.

To document an exempt sale to Company A, the state requires that COMPANY obtain a resale certificate from Company A indicating that its purchases from COMPANY are for resale. Since Company A is a foreign corporation, this should be included on the certificate and any additional information regarding the location of Company A should be attached. COMPANY should retain this document in its records as evidence of the exempt sale. However, as an alternative, COMPANY may keep on record a letter from Company A stating that Company A has no nexus with Oklahoma for sales tax purposes and that items purchased by Company A from COMPANY are intended for resale. In addition to the exemption certificate a copy of the sales invoice showing the name and identity of Company A should be retained.

Accordingly, as long as COMPANY follows the above-mentioned requirements, COMPANY is not required to collect and remit sales for the sales of tangible personal property to Company A.

Response: If Company A does not hold title to goods in Oklahoma, does not sell goods that are located in Oklahoma at the time of sale, does not deliver goods in its own vehicles or does not install goods in Oklahoma, it may make purchases exempt from tax for resale in Oklahoma by giving a resale certificate to COMPANY and stating it is making the purchases for resale. Please refer to Oklahoma Tax Commission Rule 710:65-13-200. A copy is attached to this email.

This response applies only to the circumstances set out in your request of September 18, 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.