

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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October 2, 2002

Re: Our file Number LR 02-169; Sales tax treatment on multi-level sales

Dear

This is in response to your inquiry regarding the collection of sales tax through a multi-level marketing company.

The sales tax treatment of Multi-Level, i.e. Network marketing sales is governed by Oklahoma Tax Commission Rule 710:65-19-214 which provides:

710:65-19-214. Multi-level sales

- (a) Vendors operating a multi-level distribution system will collect tax on the gross receipts of the products retail value. This tax is to be passed through the non-permit holder multi-level distributors to consumers/users.
- (b) For example, a vendor who sells to distributors who in turn sells to consumers/users at a home party is required to collect, report and remit sales tax on the total amount of gross receipts received by the vendor's distributors for sales of tangible personal property or taxable services. The distributor will collect the tax from the consumer.
- (c) Shipping and handling charges that result from the shipment of multi-level sales merchandise to the distributor or the distributor's customers are not subject to sales tax, if separately stated.

Additionally, Section 1354 (19) of Title 68 specifically levies a sales tax on the sale of tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale where there is likelihood that this will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code. (See copy enclosed of this section in its entirety).

Therefore, the multi-level marketing company should charge, collect and remit sales tax on all retail sales made by consultants in Oklahoma. This determination is

correct notwithstanding the fact that the multi-level marketing company sells to consultants at the wholesale level. Consequently, a consultant is not issued a permit, but would be responsible for collecting the sales tax for the multi-level marketing company.

Further, the actual point of sale is the determining factor in computing the sales tax rate in Oklahoma. For all three scenarios representing the processing of orders and shipment, the point of sale would be where the orders are placed and the combination of state, city and county tax at that location is what you would collect and remit. (See 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, a registration packet and a list of city and county tax rates and codes 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 September 3, 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