



OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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October 24, 2002

Re: Our File Number LR-02-186; Point of sale for the imposition of local sales taxes

Dear

This is in response to your inquiry as to the point of sale for the purpose of the imposition of city and county sales taxes. I have set out your fact situation below, followed by your ruling request and our response:

Facts

A company (the "Company") manufactures and sells certain tangible personal property (the "Products") at a plant (the "Plant") within the corporate limits of a municipality ("Municipality C") in Oklahoma. The Company has a customer (the "Buyer") which is located in a municipality ("Municipality B") different from Municipality C. The Buyer has an established business relationship with a common carrier (the "Hauler"), which is principally located in a municipality ("Municipality H") differing from both Municipality C and Municipality B.

The Company often encounters a situation where the Buyer, from Municipality B, telephones the Hauler in Municipality H and directs the Hauler to place an order with the Company for a quantity of Products on the Buyer's behalf. From Municipality H, the Hauler then calls the Company in Municipality C and places the order of Products for the Buyer as directed. When the Products are ready for delivery to the Buyer, the Hauler picks the Products up at the Plant in Municipality C and delivers them to the Buyer's designated delivery location (the "Job Site"), which is located outside of the taxing jurisdiction of Municipality C.

The Company directly invoices the Buyer for the Products ordered by the Hauler on the Buyer's behalf. If the Products are unacceptable to the Buyer upon delivery, the Buyer has a right to return the Products to the Company, and the Buyer has exercised this right on at least one occasion. The Hauler directly bills the buyer for the cost of transporting the Products from the Plant to the Job Site.

Municipality C imposes a local sales tax of x% on all sales of tangible personal property occurring within Municipality C. Municipality B imposes a local sales tax of y% on all sales of tangible personal property occurring in Municipality B. The Job Site may or may not be located within the boundaries of a municipality imposing a local sales tax. These taxes are in addition to the state sales tax of 4.5%.

Ruling Request

We respectfully request a ruling that the sales of Products by the Company to the Buyer are subject to local sales taxes at the rate(s) imposed by the municipality and/or county in which the Job Site is located.

Our Response

The sales of the Products by the Company to the Buyer are subject to local sales taxes at the rate(s) imposed by the municipality and/or county where the Plant is located since the order is taken by telephone and the delivery is made to the Hauler, who ordered the tangible personal property, at the location of the Plant. This response is based on Oklahoma Tax Commission Rule 710:65-17-1.

This response applies only to the circumstances set out in your request of October 10, 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,
OKLAHOMA TAX COMMISSION



Michael G. Pillow
Tax Policy Analyst