

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
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June 27, 2003

Re: Our File Number LR-03-066; Sales tax on the sale of cabinets

Dear

This is in response to your inquiry concerning the sales tax implications of the production and sale of cabinets. I have set out your questions below and they are followed by our responses.

1. "If a company manufactures cabinets and pays sales tax on the purchases of material used to manufacture cabinets and the cabinets have two labor components (shop labor and installation labor), is the company required to collect sales tax from the building contractor or other end user?"

Response: If the company is manufacturing and selling cabinets, it should purchase the materials exempt from sales tax and charge sales tax on the finished goods. The taxable gross proceeds of the sale would include the labor and overhead charges for the manufacture of the cabinets. If the company is producing standard sized units for the market, it may be a manufacturer. If so, it may be recognized as a manufacturer and receive a Manufacturer/Sales Exemption Permit by filing a Business Registration Form which is available from our website:

www.oktax.state.ok.us/oktax/forms/busregpk.pdf

An auditor will be assigned to make an appointment to review the operation and based on that visit a determination will be made as to whether your client is a manufacturer. The Oklahoma Tax Commission Rule dealing with the exemptions available to manufacturers is 710:65-13-150.1.

If your client is a manufacturer that also does contracting work, it would owe sales tax on the sales value of the cabinets it has manufactured for resale that are withdrawn from its inventory of completed manufactured cabinets, for use in completing its contracts.

Sales value is defined in Oklahoma Tax Commission Rule 710:65-1-2.

If your client is not a manufacturer, but is instead a vendor of custom made cabinets, they should have a sales tax permit and buy the materials used to build the cabinets, exempt from sales tax and charge sales tax on the total gross proceeds of the sale of the cabinets to the end user. If your client is a vendor, but also, for some jobs, acts as a contractor or sub-contractor, your client should remit sales tax on the "sales value" of the cabinets which are withdrawn from its inventory of the cabinets made and held for resale. The total of the contract price is not subject to sales tax.

Another possibility is that your client is a contractor and instead of making and selling cabinets they are responsible for the building and installation of cabinets in real property. As a contractor, your client is the taxable consumer/user of the materials that are used to complete the contract and they should pay sales tax on the materials when they are purchased.

Of course, your client may be a manufacturer or vendor that also does contracting work.. In which case, while sales of the cabinets to third party contractors would be taxable to those purchasers, your client would owe sales tax on the sales value of the cabinets it bought exempt from sales tax, for resale or which it manufactured, that it uses to complete the contracts.

2. "Should the client not pay sales tax on the purchased material and then collect sales tax on the cost of the finished product (material, overhead and shop labor), but not installation labor? (Note, installation labor is a significant cost in the total sale.)"

Response: As noted in the response above, if your client is a manufacturer, but in some instances doesn't sell the cabinets to another party for resale and /or installation, but instead acts as a sub-contractor and installs the cabinets, the client is required to accrue and remit sales tax on the "sales value" of the cabinets since contractors are the consumer/user of items used to complete the contract Please see Rule 710:65-19-55.

3. "Or, if the company pays sales tax on materials purchased and builds cabinets that are unfinished, partially assembled and sold to a home builder or client, who in turn assembles, finishes and sells the cabinets as a part of the finished home, is the company required to collect sales tax?"

Response: Yes, the company is required to collect sales tax. The company may make the purchase of the materials exempt from sales tax as an exempt purchase for resale if it is engaged in the sale of cabinets and holds an Oklahoma Sales Tax Permit or if it is a manufacturer and it holds a Manufacturer/Sales Exemption Permit.

4. "What is the industry standard my client should follow in order to be in compliance with the Oklahoma sale tax regulations?"

Response: As noted in the answers above, the responsibilities that your client has regarding the collection and remitting or the payment of sales tax depends upon whether your client is a manufacturer, a vendor or a contractor. If your client makes sales of cabinets and does not simply install cabinets it has fabricated, it may be either a manufacturer and/or a vendor. Your

client should make an application as stated in the response to question number one above to obtain the correct registration.

Copies of the rules cited are enclosed. A complete copy of the sales tax rules and a business registration packet have been mailed to you.

This response applies only to the circumstances set out in your request of March 11, 2003. 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

A handwritten signature in black ink, appearing to read "Michael G. Pillow", written in a cursive style.

Michael G. Pillow
Tax Policy Analyst