OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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June 23, 2003

[redacted]

Re: LR 03-91; Income Tax - Nexus Determination

Dear [redacted]

This is in response to your inquiry of April 4, 2003 wherein you requested a determination if your client has sufficient nexus for Oklahoma income and franchise tax purposes. Following is a brief description of the activities of Company L0001 as outlined in your letter and our nexus determination.

Description of Activities:

[redacted] is headquartered in the state of Illinois. [redacted] provides product delivery services to customers through the use of independent drivers who provide their own delivery equipment. The independent drivers are not exclusive to [redacted] and are not paid as employees. The independent drivers are subcontractors that run certain routes as delivery services are needed. The independent drivers invoice [redacted] who in turn invoices customers in your state.

Conclusion:

For Oklahoma income tax purposes, Oklahoma Tax Commission Rule 710:50-17-3 provides guidance as to some activities that constitute income tax nexus. Based on the facts outlined in your letter, [redacted] does not have sufficient nexus for Oklahoma income tax purposes.

For Oklahoma franchise tax purposes, the nexus standard is different than the income tax nexus standard. 68 O.S. § 1201 et. seq. provides for the imposition of Oklahoma franchise tax for any corporation doing business in this state. Based on the information in

your letter, it appears that [redacted] is required to file a franchise tax return. Please find enclosed a copy of 68 O.S. § 1201 et. seq. for your review.

You also posed the following two specific questions.

Question 1:

Do you offer voluntary disclosure program for any prior period liabilities?

Response to Question 1:

Yes. Voluntary disclosure is administered through the Oklahoma Tax Commission's Audit Division. Their telephone number is (405) 521-4327.

Question 2:

For filing purposes, is our client treated as a "transportation" company or a "non-transportation" company? What method of income allocation should they utilize?

Response to Question 2:

Based on the information provided in your letter, it is the ruling of this office that your client is a transportation company. I have enclosed a copy of 68 O.S. § 2358, which explains the income allocation method.

This response applies only to the circumstances set out in your request of April 4, 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 call me at (405) 521-3133.

Sincerely,
OKLAHOMA TAX COMMISSION

Michael C. Kaufmann
Tax Policy Analyst