

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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September 18, 2003

Re: Our File Number LR-03-167; Tax status for gift transactions

Dear

Please be advised that when a vendor makes a withdrawal from its inventory of items that are distributed as free or gift items, it is required to accrue sales or use tax on the sales values of the items withdrawn. "Sales value" is defined in Oklahoma Tax Commission Rule 710:65-1-2 which provides in part (E):

"Otherwise, "sales value" means the larger of either the vendor's cost at the time the exempt purchase of goods was made, or the price at which it would be sold to the vendor's best customer in the ordinary course of business."

Additionally, tangible personal property purchased out of state and shipped into Oklahoma for use or consumption is subject to use tax pursuant to Title 68, Section 1402 of the Oklahoma Statutes.

Therefore, the "free gift items" given to a host or hostess of a sales solicitation party are subject to Oklahoma use tax. Your company should remit use tax based on the "sales value" of the products. Oklahoma use tax is a combination of the state rate of four and one-half percent (4 ½%) and any applicable city or county tax. If I can be of further assistance, you may contact me at (405) 521-3133.

This response applies only to the circumstances set out in your request of August 19, 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.

Sincerely,

Brenda J. Sullivan
Brenda J. Sullivan
Tax Policy Analyst