

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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October 30, 2003

Re: Our File Number LR-03-215; Sales Tax on Internet Sales

This is in response to your inquiry concerning the taxability of sales which will be made by a constituent who is going to self-publish a book and sell it over the internet.

Where the sale is made via the internet and delivery of the goods purchased is made in Oklahoma the sale is subject to sales tax in the same manner as a sale made via the US Mail or by telephone. A copy of Oklahoma Tax Commission Rule 710:65-19-156 which deals with sales made via the internet is enclosed.

If your constituent is going to be regularly engaged in the business of buying books from the printer and selling them over the internet, he will need to hold an Oklahoma Sales Tax Permit. A Business Registration Form is used to apply for a sales tax permit. A copy of the form is included in the Business Registration Packet which can be downloaded from the following web page:

<http://www.oktax.state.ok.us/oktax/forms/busregpk.pdf>

The law passed by Congress that your constituent referenced is a law prohibiting states from taxing internet access or taxing sales made via the internet in ways that discriminate against internet sales. It is known as the "Internet Tax Freedom Act". A bill to renew the act may be voted upon by Congress within the week. The act does not prohibit states from taxing sales made via the internet in the same manner as they tax mail order or telephone sales.

Your constituent would need to collect sales tax on any sales of the book made to taxable consumers where the delivery of the book is made in Oklahoma. The "point of sale" will be the location for which local taxes are to be collected. The "point of sale" will be known as the rule for "sourcing" effective November 1, 2003 as a result of the passage and approval of Senate Bill

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708 last June. However, although the language to describe the responsibility of a seller to collect local taxes may have changed, for internet sales made to Oklahoma consumers, the taxes to be collected before and after November 1, 2003 are the taxes that are in effect at the location of the point of delivery in Oklahoma. . A listing of the taxes to be collected for the various cities and counties in Oklahoma can be downloaded from:

<http://www.oktax.state.ok.us/salesuse.html#Rate%20Charts>

For sales where the point of delivery is in another state, your constituent cannot be required to collect and remit that state's sales tax unless he has a physical connection with that state. If he has no physical connection with any other state but Oklahoma, he is not required to collect any other state's sales tax. The inability of a state to require a vendor to charge sales tax on sales where the vendor has no physical connection with the state is based on the 1992 U.S. Supreme Court Case of Quill Corp v. North Dakota, 504 US 298 (1992).

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



Michael G. Pillow
Tax Policy Analyst