OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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July 7, 2004

Re: Sales to Native Americans, LR-04-083

Dear

In response to your correspondence of May 6, 2004, please be advised that it is the position of the Oklahoma Tax Commission that sales to members of federally-recognized Indian tribes in Indian Country[1] governed by the members' tribe are not subject to the levy of sales tax. Likewise, tribal members' out-of-state purchases of tangible personal property which are brought into this State for the tribal members' storage, use or consumption in Indian country governed by the members' tribe are not subject to use tax.

Under the circumstances outlined in scenario #1, the sales are sourced to your business location. Assuming that none of your business locations are situated in Indian country, then the applicable state and local sales tax in effect at that location should be collected from Native American customers. See 68 O.S. §1354.27(A)(1) and OAC 710:65-18-3(1), copies enclosed.

Under the circumstances outlined in scenario #2, any transactions meeting the requirements set forth in the first paragraph would not be subject to tax. However, to document the claimed exemption, the vendor should obtain from the purchaser at the time of the sale, sufficient information to establish that the transaction meets the above-referenced requirements. Absent this information, the applicable sales or use tax should be collected on the transaction.

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[1]"Indian Country" includes formal and informal reservations, dependent Indian communities, and Indian allotments, whether restricted or held in trust by the United States, the Indian titles to which have not been extinguished. 18 U.S.C. §1151.

This response applies only to the circumstances discussed in your correspondence of May 6, 2004. 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 there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

Christy J. Caesar

Christy J. Caesar
Tax Policy Analyst