October 4, 2004

Re: Our File Number LR-04-154; Sales and use tax due on material purchased and stored temporarily at a warehouse

Dear

This is in response to your inquiry concerning the subject referenced above. I have copied into this letter, the fact situations and the questions that you posed in your email of June 18, 2004. Our responses follow each question.

Your Fact Situation:

We are looking at having items shipped to a warehouse in your state, temporarily storing them there while we build a store, and then moving the items to be installed in the store we are building which will also be located in your state. Although both the temporary storage warehouse and the final destination of the taxable items we are purchasing will be in your state, they may be in different city/counties.

Your Questions:

1. Use Tax: Our system currently automatically accrues use tax based on the final destination city/county location. Is it okay to pay use tax based only on the final destination of the taxable items?

Our Response: For use tax transactions, the correct tax to pay is the tax that is due at the final destination of the taxable items. Please see 68 O.S. Section 1411, a copy of which is attached to this email.

2. Sales Tax: Vendors who charge us sales tax are going to want to charge us based on where they ship to. Will paying vendors the sales tax rate based on where the temporary

warehouse is located be sufficient? Do you require that we go back and look at every transaction to see if the final destination is a higher rate then the warehouse location? If yes, is there an exemption certificate that we can give to our vendors stating that we will remit use tax based on the final destination rather than sales tax to them?

Our response: For transactions which are subject to sales tax, according to the statutes and rules regarding sourcing, if the tangible personal property being purchased is not subject to a lease or rental, the correct municipal and county tax to be paid is the rate that is in effect at the "temporary warehouse" since that is the point that your company receives the property. Please see Oklahoma Tax Commission Rules 710:65-18-2 and 710:65-18-3 which are attached to this email.

This response applies only to the circumstances set out in your request of June 18, 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 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