OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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November 1, 2004

Re: Our File Number LR-04-206; Sales tax exemption on sales for resale.

Dear

This is in response to your inquiry seeking guidance on whether:

(1) "A provider of taxable services (the "Provider") can accept in good faith a properly executed resale certificate from a reseller customer (the "Customer") for past sales, treating the past sales to the Customer as exempt from Oklahoma sales taxes, when the customer has always been a reseller of these services since the commencement of the services provided by the Provider, and

(2) A person registered as a seller in another state, who makes no retail sales in Oklahoma, is not required to possess a Oklahoma state tax identification number for purposes of claiming resale exemption from Oklahoma sales taxes, and may instead provide a tax identification number obtained from his/her home state on a resale certificate."

Oklahoma Tax Commission Rule 710:65-3-33 states that a vendor who is making a sale for resale who has not obtained the purchasers' resale number may "present other documentary evidence from its books and records to overcome" the presumption that the sale was a taxable sale.

Your client's receipt of documentation that the sales in question were in fact for resale to a person that is not required to hold an Oklahoma sales tax permit, would presumably qualify as "other documentation" that the sales were exempt, since under Oklahoma Tax Commission Rule 710:65-13-200, non-residents of Oklahoma are not required to hold Oklahoma Sales Tax Permits in order to make purchases for resale. The reseller is still required to be engaged in the business of reselling the services that are being purchased, exempt for resale, and may provide a copy of its home state permit to show that in fact they are engaged in the business of reselling the telecommunications services they are purchasing from your client.

If the purchaser of the services is a resident of Oklahoma, they would be required to hold an Oklahoma Sales Tax Permit in order to buy the services exempt for resale if the sale of the services are sourced to Oklahoma. However, if the services are not sourced to Oklahoma, no Oklahoma Tax would be due. The sourcing of telecommunications services are covered by Oklahoma Tax Commission Rule 710:65-18-5 pursuant to 68 O.S. Section 1354.30.

This response applies only to the circumstances set out in your request of September 30, 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