OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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July 7, 2005

Re: Our File Number LR-05-031; Sales tax on the purchase of gifts and advertising materials.

This is in response to your inquiry concerning the taxability of the purchase of gifts and advertising materials.

Since a gift is given without the person giving the gift receiving anything of value in return, there is no consideration paid for the gift. The definition of a "sale" in Oklahoma Tax Commission Rule 710:65-1-2 states that a "sale" is the transfer of either title or possession of tangible personal property for consideration. Since there is no consideration for a gift, the giving of a gift is not a sale and therefore, the gift may not be purchased, exempt from sales or use tax, by the person giving the gift, as a purchase that is to be resold.

The phrase "printed sales messages" is not defined in the Oklahoma Sales Tax Code, nor is it used therein. There is, therefore, no exemption available from either the Oklahoma Sales Tax or the Use Tax for the purchase of "printed sales messages." Instead, the sales tax is specifically levied at 68 Oklahoma Statutes, Section 1354, on printed materials of all kinds and on advertising of all kinds.

Unofficial copies of the Oklahoma Statutes may be viewed at the following website by entering the appropriate section number as the search term:

www.oscn.net/applications/oscn/search.asp?simple=true

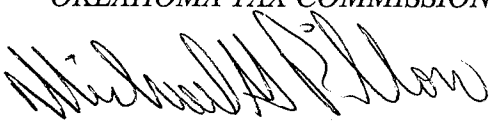
Unofficial copies of the Oklahoma Tax Commission rules may be viewed at the following website by entering the rule number as the search term:

www.oar.state.ok.us/oar/codedoc02.nsf

This response applies only to the circumstances set out in your request of February 16, 2005. 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
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