OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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October 10, 2005

RE: Our File Number LR-05-165; out of state vendor responsibility

Dear

This is in response to your request for clarification regarding the tax status of your Wyoming customer. I have scanned your fact situation into this letter, followed by our response.

> "We have encountered a situation in which we request clarification by letter. This organization has a customer in WY and is registered with the Wyoming Tax Commission as a reseller. We sell used items to this company at our Tulsa facility, and therefore consider this a sale under the jurisdiction of the State of Oklahoma. According to our customer, the items purchased are sold on an occasional basis to resellers in Oklahoma or exported out of the state. It was our opinion that our customer should register with the OTC, considering they have made sales within Oklahoma. According to of your office, the customer's Wyoming resale certificate will be sufficient. Please provide a written confirmation of this opinion concerning such transactions. Will the customers Wyoming exemption certificate provide sufficient documentation for our sales to be exempt?"

Based on the information in your fact scenario and the additional information that you relayed in our recent telephone conversation, it is my understanding that your Wyoming customer picks up his purchases from your Tulsa facility which constitutes an Oklahoma sales transaction pursuant to Commission Rule 710:65-15-1 (b) (1), "if tangible personal property is sold within this State, and possession is taken by the buyer

within this State, sales tax applies, even if the property is to be transported out of this State immediately upon delivery." Therefore, since title and possession to the goods pass in Oklahoma, sales tax is due. The Wyoming customer would have sufficient connection with Oklahoma to be required to obtain an Oklahoma Sales Tax Permit in order to be eligible to purchase the items exempt from sales tax for resale. could not make an exempt sale to its Wyoming customer, and be relieved of liability from collecting sales tax, unless the Wyoming customer held a valid Oklahoma Sales Tax Permit and provided the documentation set out in Oklahoma Sales Tax Rules 71065:65-7-6 and 710:65-7-8.

This response applies only to the circumstances set out in your request of September 21, 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,

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst

cc: Tony Beaver, TPA
Enclosure