OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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October 10, 2005

RE: Our File Number LR-05-167; Out-of State Vendor Responsibility

Dear

This is in response to your inquiry for clarification as to whether your company is required to register to file Oklahoma sales/use tax reports. I have scanned your fact situation into this letter, followed by our response.

"I HAVE JUST ENDED A PHONE CONVERSATION WITH A TAX REPRESENTATIVE AT THE OKLAHOMA TAX COMMISSION AND HE ADVISED ME TO WRITE TO YOU IN AN ATTEMPT TO CLARIFY MY QUESTIONS.

"I HAVE RECENTLY INHERITED THE ACCOUNTS PAYABLE POSITION IN OUR COMPANY AND ALTHOUGH I HAVE BEEN AROUND FOR 20 YEARS, I AM STILL IN THE LEARNING PROCESS.

OUR COMPANY IS A WHOLESALE MANUFACTURER WITH ONLY ONE LOCATION IN TEXAS. ALL ORDERS ARE SHIPPED VIA COMMON CARRIER FOB TEXAS. WE SHIP TO EVERY STATE IN THE U.S., BUT WE ARE NOT SHIPPING TO END USERS. THE MERCHANDISE IS FOR RE-SALE.

FOR AS LONG AS I HAVE BEEN AROUND, WE HAVE BEEN REPORTING A VERDORS USE TAX REPORT TO THE STATE OF OKLAHOMA AND I BELIEVE THERE IS LITTLE OR NO TAX EVER DUE. IF A CUSTOMER OF OURS IS LOCATED IN THE STATE OF OKLAHOMA, WE REQUEST A RE-SALE TAX ID PRIOR TO SHIPPING.

THE GENTLEMAN TOLD ME THAT IF NO TAX IS COLLECTED WE DO NOT HAVE TO FILE THE REPORT, BUT I WANT TO BE SURE ABOUT THIS AS I HAVE TWO REPORTS IN FRONT OF ME (JUL-AUG) AND (AUG-SEPT) AND I DON'T WANT TO GET FURTHER BEHIND.

PLEASE ADVISE AS SOON AS POSSIBLE WHAT STEPS NEED TO BE TAKEN. IF YOU NEED TO REACH ME BY PHONE, PLEASE CALL ME AT THE ABOVE NUMBER."

Based on the information in your fact scenario and Commission Rules 710:65-1-8 and 710:65-21-6, your company does not appear to meet the definition of "maintaining a place of business" within Oklahoma and is not required to register to collect Oklahoma sales/use taxes. However, if you choose to remain registered, Commission Rule 710:65-21-5 provides for the " voluntary registration by certain out-of-state retailers or vendors. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect use tax upon all tangible personal property sold to his knowledge for use within this State, in the same manner and subject to the same requirements, as a retailer maintaining a place of business within this State." See 68 O. S. § 1407, a copy of which is enclosed.

This response applies only to the circumstances set out in your request. 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

Enclosure