OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

June 1, 2006

Re: Our File Number LR-05-187; Collection of Sales versus Use Tax

Dear

This is in response to your inquiry concerning the correct method of collecting sales tax on the transactions into which your business enters. As set out in your letter and as confirmed in our recent telephone call, does not make purchases of countertops, sinks, showers, etc, for resale as sinks, countertops, tub decks etc. Instead, the items are purchased to be fabricated into bathroom or kitchen fixtures which are then installed into your company's customer's homes.

Therefore, is acting as a contractor. This means that is not a "vendor" that needs a sales tax permit to make purchases exempt from sales tax that it will then "resale" and on which it will charge sales tax when it does. Instead, as a contractor, it is the taxable consumer/user of the goods it uses to fulfill the contracts it has with its customers. It is required to pay sales tax on its purchases of goods which are made in Oklahoma and use tax on its purchases of goods made from outside Oklahoma. The tax that is due is the tax rate that is in effect at the point where Grand Lake Countertops takes possession of the materials that it buys.

The vendors from which makes purchases which have a physical connection with the State of Oklahoma are required to charge sales or use tax and should remit the sales or use tax to them. For those purchases from businesses, such as the Texas business from which it buys sinks, and the one in Kansas from which it buys cultured marble, which have no physical connection with the State of Oklahoma, since they are not required to collect Oklahoma's use tax, then instead, is required to accrue and remit Oklahoma state and any applicable local use taxes on the purchase price of the sinks and the marble that it purchases from those businesses. Monthly reporting forms for this purpose are enclosed. These blank copies of these forms are also located on our website.

In addition to remitting the use tax on the types of purchases from out of state as noted above, should also send in its sales tax permit to the Taxpayer Assistance Division, 2501 N. Lincoln Blvd., Oklahoma City, OK 73194, along with a copy of this letter and a request that a "consumer" use tax account be built for it and also request that forms for reporting under that "consumer" use tax account be sent to it.

In the rare case where does make an outright sale of an item of tangible personal property, and does not install that piece of tangible personal property into one of its' customers' bathrooms or kitchens, but instead the item is picked up by the customer at business location, while sales or use tax will have been paid on the materials that are involved in the sale to the customer, since is not acting as a contractor and installing the items into real property, sales tax is due on the selling price of the goods. No credit is allowed for the use tax that has previously been paid on the materials. The tax can be reported on a "casual" sales tax reporting form, which is a sales tax report with the word "casual" written in where the permit number usually appears. This method is used by persons who have no requirement to file regularly. A blank report is enclosed.

This response applies only to the circumstances set out in your request of October 17, 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
Tax Policy Analyst