OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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January 3, 2006

Re: Our File Number LR-05-197; Sales tax on the sale of natural gas

Dear

This is in response to your inquiry concerning the sale of natural gas. I have set out your questions below and each is followed by our response.

1. The third party sells (delivers into the pipeline) an amount of Natural Gas but when the gas reaches the end user there is a loss factor in the transportation of gas. When the OTC assesses sales and/or use tax, do they (sic) assess on the delivery of the gas or the end receipt of the gas?

Response: Sales tax is due on the total gross receipts of the sale of the natural gas from the third party seller to the taxable consumer/user. Please see Oklahoma Tax Commission Rules 710:65-1-9 and 710:65-1-3.

2. Who is responsible for the applicable sales and/or use tax on the gas consumed in the pipeline during transportation?

Response: If the gas is lost as a result of the process of being transported via the pipeline, no sales tax is due on the gas that is lost. Even if the gas is withdrawn from the stream of gas being transported for use in fueling the compressors that are being used to transport the gas, no sales tax is due as a result of the Legislative disapproval in HJR 1038 effective May 27, 1993, of two proposed Oklahoma Tax Commission Rules (710:65-19-223 and 710:65-19-224) which would have made such usage taxable.

3. Who is responsible to pay for the delivery of the natural gas?

Response: The person who is responsible to pay for the delivery of the natural gas would be determined by the terms of the sale.

4. We are unsure if we are receiving sales and/or use taxes from the third party suppliers of natural gas. I know on metered sales of natural gas from to residential and commercial customers the meter is the point of sale, i.e. usage of the natural gas at the personal residence or place of business. We want to make sure we are receiving the sales and/or use taxes from the third parties or applicable parties.

Response: If the sale is subject to sales tax, as it would be if the location of the gas when it was sold was inside Oklahoma, the seller of the gas is responsible for charging and remitting the state and any local sales taxes due based on the location where the sale is sourced, i.e., the meter, pursuant to Oklahoma Tax Commission Rule 710:65-19-341. If the gas is located outside Oklahoma at the time it is sold and it is shipped into Oklahoma via a pipeline, the seller is responsible for charging the applicable state and any local use taxes due at the location the purchaser receives possession of the gas, i.e. the meter, provided the seller has a physical connection with Oklahoma. If the seller does not have a physical connection with Oklahoma, the responsibility of remitting the state and local use taxes due becomes that of the purchaser. Please see Oklahoma Tax Commission Rules 710:65-7-2; 710:65-1-8; 710:65-21-6 and 710:65-21-4.

If you have information that you receive as a result of your administration of the franchise tax that the city collects, which indicates that a seller of natural gas has not charged sales or use tax which the seller is responsible for charging and remitting, please provide that information to the Audit Division of the Oklahoma Tax Commission. In the same manner if you have information that indicates that a consumer/user of natural gas, who is responsible for accruing and remitting use tax on gas purchased from an out of state vendor which had no physical connection with Oklahoma, has failed to remit the use taxes due on the purchase of the natural gas, that information should also be provided to the Audit Division.

This response applies only to the circumstances set out in your request of November 3, 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