OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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July 1, 2006

Re: Our File Number LR-06-048A; Sales and Use Tax Permits Required to be Held and the Tax Required to be Collected on Certain Sales

This is in response to your inquiry concerning the subject referenced above which is a modification of an earlier letter ruling request which was requested by your firm and which was issued on April 18, 2006.

Your current statement of facts as of June 18, 2006 is:

"Company A anticipates that it will purchase crude oil from various vendors located in Canada;

The crude oil will enter the United States through third party common carrier pipelines, which will traverse various U.S. states;

Currently, Company A plans to transfer title and risk of loss of the crude oil to its customer, Company B, in Oklahoma through third party common carrier pipelines. Company B is in the business of manufacturing or refining crude oil into a product for further sale outside the state of Oklahoma (i.e., Kansas); and

Company B will purchase the crude oil from Company A in Oklahoma, whereby Company B will take title to the crude oil in Oklahoma. Risk of loss of the crude oil will transfer from Company A to Company B in Oklahoma; however, Company B will not take possession of the crude oil in Oklahoma. Rather, at the time the title and risk of loss transfers from Company A to Company B, the third party common carrier pipeline that held the crude oil in its pipeline will immediately ship the crude oil outside the state of Oklahoma (i.e., Kansas where processing and/or manufacturing will occur). It is important to note that the crude oil will remain within the third party common carrier pipelines at all times. Company B will take possession of the crude oil outside the state of Oklahoma (i.e., Kansas) once it extracts the crude oil from the pipeline to be used for further manufacturing or refining."

The issues about which you wish to obtain "clarification" are:

"1. Is Company A required to register for sales/use tax purposes in Oklahoma? Please provide statutory support for your response.

2. If Company A is required to register for sales/use tax purposes in Oklahoma, will its sales of crude oil to Company B be subject to Oklahoma sales/use tax? Please provide statutory support for your response."

Our Responses based on your current facts as of June 18, 2006 are:

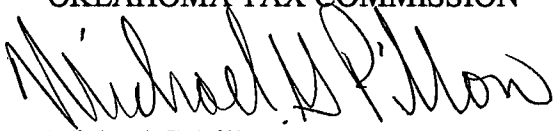
1. Since Company A does not have a physical connection with the State of Oklahoma in connection with these sales, and presuming that it does not have a physical connection with the State of Oklahoma under any other circumstances, it is not required to register for sales or use taxes. This response is based on 68 O.S. Sections 1352; 1354.27; 1357(3); 1363; 1364; 1401; 1406; and 1407. Please also see Oklahoma Tax Commission Rules 710:65-1-8; 710:65-13-200; 710:65-15-1; 710:65-18-2; 710:65-18-3; and 710:65-21-6.

2. Since Company A is not required to register with the State of Oklahoma, it has no responsibility to charge Company B any sales or use tax on its sales of crude oil. Further, since Company B does not "receive" the crude oil in Oklahoma, but instead the oil remains in the possession of a "shipping company", i.e., the "third party common carrier pipeline," the sale is not sourced to Oklahoma and it is therefore not subject to sales or use tax in Oklahoma. This response is based on 68 O.S. Section 1354.27 and Oklahoma Tax Commission Rule 710:65-18-3.

This response applies only to the circumstances set out in your request of June 18, 2006. 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



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