OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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December 14, 2006

RE: Our File Number LR-06-124; Tax status of out-of-state business

Dear

This is response to your request for a letter ruling based on your fact situation and questions. I have scanned your fact situation and questions into this letter, followed by our response.

Facts

"XYZ Company makes sales to customers in Oklahoma via the Internet and mail. Online catalogs are made available to customers through its website and catalogs are occasionally sent to certain customers by mail. All orders are received and accepted in Ohio. XYZ Company does not utilize any banking, financing or debt collection operations or conduct any marketing activities within the state. Also, it does not have any employees or representatives making sales within the state nor does it maintain or own any property within the state or benefit from having any authorized installation, servicing, or repair facilities within the state. All shipments to its customers are made by mail or common carrier.

XYZ Company is considering forming a subsidiary that will only sell to government agencies to service that segment of the market that has specific needs. The subsidiary will operate in the same manner as XYZ. All sales will be made using the same online catalog or mailed catalogs."

Questions

Is XYZ Company obligated to register and collect the state's sales tax on sales made to Oklahoma customers?

Our Reponse: Based on the facts presented, your client does not have sufficient physical connection with Oklahoma to require it to register for sales or use tax purposes. Please see Oklahoma Tax Commission rules 710:65-1-8 and 710:65-21-6 which are enclosed.

If it is determined that XYZ Company is not obligated to register and collect the tax, would nexus be created for XYZ if its subsidiary decided to voluntarily register for sales tax purposes with the state?

Our Response: No. Oklahoma Tax Commission rule 710:65-21-5 provides for Voluntary registration by certain out-of-state retailers or vendors.

You may reference the above rules at our website: www.oktax.state.ok.us.

This response applies only to the circumstances set out in your request of July 31, 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,

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst