OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
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May 8, 2007

Re: Our File Number LR-06-197; Use Tax on Donations

Dear

This is in response to your inquiry concerning whether a deduction can be taken on goods that are donated if the organization to which they are donated, later ships them out of Oklahoma.

There is an exemption from use tax on goods that are intended solely for use in another state, but your company would have to know when the goods are donated that the goods would be distributed to another state, and then your company would have to be notified when the goods in fact were reshipped to that other state, in order to be able to take the credit. The credit would be based on the amount of the goods that were actually shipped to the other state.

Since the credit is available based on goods that are intended to be shipped to another state, a credit for goods shipped in the past would not be allowed unless it could be shown that prior to the time the goods were shipped to the distribution point of the organization to which the donation was being made, your company had been advised of the portion of the goods that was going to be shipped outside Oklahoma.

Pursuant to Oklahoma Tax Commission Rule 710:65-1-7, the value to be used in calculating the value of merchandise donated in Oklahoma is the "sales value" as defined in Oklahoma Tax Commission Rule 710:65-1-2. In the case of a manufacturer it is the "manufacturer's cost of raw materials and the proportionate share of both the cost of machinery and equipment used and the cost of items consumed in the direct process of the manufacturing of the product..." A copy of this later rule is enclosed.

This response applies only to the circumstances set out in your request of November 5, 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

Michael G. Pillow
Tax Policy Analyst