# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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May 11, 2007

Re: Our File Number LR-06-204; Sales Tax Questions

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This is in response to your inquiry concerning the sales tax implications of operations in Oklahoma. I have set out your statement of Facts below followed by your questions. Our responses follow each question.

**YOUR FACTS**

is a Delaware company that is physically located in We wanted to clarify information that we have obtained from the Oklahoma Tax Commission website as well as the information obtained from tax representatives at the Tax Commission.

Our company leases a small space from various shopping centers in Oklahoma and we install structures (display units), which are either double-sided or tripled sided. On one side of the display unit is the mall directory; the other sides are available for advertising space. We lease the advertising space to our clients. We are not an advertising agency nor do we design advertisement. Our clients provide the advertising materials to be placed within the display units.

Once the structure is installed, it becomes a fixture of the mall (i.e., it is affixed by cement or bolts) and would cause damage if moved. Our display units are in two shopping centers in Tulsa County.

**YOUR QUESTIONS AND OUR RESPONSES**

For sales and use tax purposes, we have the following questions:

1. Once the structure is installed, would it be considered real property (a "fixture") or tangible personal property?

**Response:** Since the display unit is occupying a "leased" space, it will retain its identity as tangible personal property.

2. Is the leased space for advertising purposes considered an advertising service? If so, is that revenue exempt from sales tax?

**Response:** The leasing of space for the display of advertising materials is considered an advertising service. However, it is now a service that is exempt. The exemption may be found at 68 O.S., Section 1357, subsection (5).

3. We will have materials shipped from out-of-state for use in the shopping centers within Oklahoma. If the shipping charges are separately stated on the vendor invoices, then the charges are not subject to use tax, is this correct?

**Response:** If charges for shipping or handling are separately stated from the charges for the sale of the tangible personal property, the charges for shipping and handling are not subject to either sales tax or to use tax.

4. Our installations of the display units, repair work for the display units, and replacements of one advertisement for another are performed by independent contractors. Are those contractors responsible for collecting sales tax for their services? If the contractor does not separately indicate sales tax on the invoice, is
responsible for the sales tax?

**Response:** Labor charges for the servicing of advertising devices is not subject to sales tax in Oklahoma.

5. Will we need to submit sales and use tax forms for each county in which we have property, or may we submit one consolidated form?

**Response:** Your account will be set up as a consolidated account and you will submit one form for all use taxable purchases in the state. The form has blocks to allow you to show the taxes due the various cities and counties.

For income tax purposes, we have the following questions:

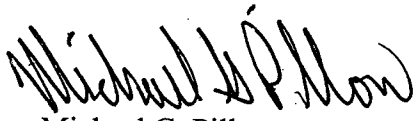
6. is a single member limited liability company. Our single member is a corporation. We are considered a disregarded entity for federal income tax purposes. Will we need to file an franchise tax form for the LLC or only for the corporation?

**Response:** A limited liability company is not required to file a franchise tax return in Oklahoma.

This response applies only to the circumstances set out in your request of November 2, 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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