OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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January 11, 2008

RE: LR-07-208
Sales Tax Inquiry

Dear ,

You had requested advice on the collection of sales taxes that were charged but not remitted by one of your customers and if you should refund the sales taxes collected on another sale back to the customer in order to receive a refund from the Oklahoma Tax Commission.

Our response:

Unfortunately, there is not much that can be stated on your case. You are the vendor and the primary source for the collection of sales tax. If you have sold tangible merchandise without collecting sales tax on that merchandise from your customer, then the vendor is responsible for remitting the sales tax directly to the Oklahoma Tax Commission.

(Pursuant to **710:65-7-2, Vendor responsibility for collection of sales tax; treatment of sales tax by vendor)**

(a) The primary burden for operation of the sales tax system is upon the vendor of merchandise, the performer of taxable services, and the renter or lessor of property, and requires that they collect the tax from the purchaser, user or consumer. If a vendor fails or refuses to collect the tax, he not only becomes liable for payment of the tax, but also subjects himself to the possibility of being fined or imprisoned for a period of time.

(b) The vendor is required to add the tax to the selling price or charge. A vendor is specifically prohibited from advertising or holding out to the public in any way, directly or indirectly, that he will absorb all or any part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax. The vendor who violates this

provision shall be fined or imprisoned, or both. For second or subsequent offenses, the penalty is doubled. [**See:** 68 O.S. §1361]

However, your letter did not state who your customer was or what it was for and therefore we are unable to examine what type of transaction it was. In some cases, sales tax is not applicable to contractors, manufacturers, or if the consumer is exempt for other reasons. You may want to examine rules 710:65-7-9 (vendors' responsibility- sales to a manufacturer), 710:65-7-13 (Vendors' responsibility-sales to contractors), these rules and others can be viewed on our website (www.oktax.state.ok.us) under rules & decisions, Oklahoma Tax Commission rules, sales tax.

This response applies only to the circumstances discussed in your written request of November 12, 2007. 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 there has been no change in applicable law.

If you should have any questions, please feel free to contact me.

Sincerely,

Oklahoma Tax Commission

Marc Morrison

Marc Morrison
Tax Policy & Research Division