OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

July 16, 2008

Re: Our File No. LR-07-216

Dear

I am writing in response to your inquiry as to whether is required to collect Oklahoma use tax on learning/educational kits sold to Oklahoma customers. I have set forth verbatim the fact presented along with the questions posed and the responses there.

> Our Company, is a headquartered in California. Our unique product, Sed de Saber, is a learning/educational kit consisting of books, cartridges and Quantum pad for Spanish speaking individuals to learn and improve their English. Sed de Saber is being purchased by schools to encourage the parents with Limited English Language Proficiency to learn the language at their own pace so as to improve the English learning environment in the school student's home. It also is being purchased by employers to provide the Hispanic employees with a tool to improve their language skills thus qualifying for better jobs.
>
> While our Company does not have nexus in Oklahoma, we are in process of contracting other companies who may have agents in your state to assist us in selling our product and receive commission in return for any sales they complete. They will use our Company's order form, and the customers will issue their purchase orders directly to
>
> Considering the facts that these agents most likely will earn 90% of their income from the sale of various products from other vendors, and they will not be on our payroll, are we obligated to collect use tax for the products sold and shipped to Oklahoma by these agents? If so, even though the product will be shipped FOB by common carrier from our warehouse in California, are we also obligated to collect local municipality taxes in your state?

An excise tax is levied on the purchase price of all tangible personal property, not otherwise exempted, which is brought into Oklahoma for storage, use or other consumption within Oklahoma. 68 O.S. 1402 . A retailer or vendor maintaining places of business both within and

without this state and making sales of tangible personal property from a place of business outside this state for use in Oklahoma must at the time of sale collect use tax from the purchaser. "Maintaining a place of business in this state" is defined at Section 1401(10) of Title 68 and includes "any person having agents operating in the state under authority of the retailer or subsidiary. . . .

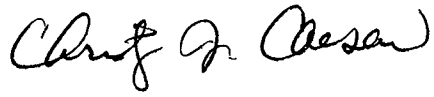
Since will have commissioned agents operating in Oklahoma it will be required to register and obtain an use tax permit and collect state and any applicable local use tax on sales of educational kits to its Oklahoma customers and remit same to the State.

A Business Registration Form is enclosed.

This response applies only to the circumstances discussed in your telephone request of October 29, 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.

Sincerely,

OKLAHOMA TAX COMMISSION



Christy J. Caesar
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