

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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



April 18, 2008

RE: LR-08-017 (Revision Requested)
Sales Tax Inquiry

Dear

We are in receipt of your e-mail and invoices that describe your business transaction with _____ who originally requested a ruling regarding the amount of sales tax to be charged on a discounted item. You have asked us to re-consider our previous ruling that we gave on April 04, 2008 and presented additional information for us to consider. This information indicates that you purchase Yellow Pages advertising from AT & T: they in turn charge you Oklahoma sales tax for the purchases, and then you sell the same advertising to a Texas client with sales tax included. You also give a discount to the client, for whom AT & T does not offer nor do they reimburse the client, and the amount of sales tax you collect is based upon the selling price of the advertisement without the amount of discount given to the client.

Based upon our phone conversation you have stated that your company does not have an Oklahoma sales tax or use tax permit.

Our Response:

Since these were separate transactions based on your invoices as well as showing that Oklahoma sales tax was charged to your customer, you can not pass on the sales tax that you were charged by AT & T to your customer and not remit the sales tax to the Oklahoma Tax Commission that you charged and collected. Instead you should apply for an Oklahoma sales tax permit or an Oklahoma vendor's use tax permit. Our website (OKTAX.STATE.OK.US) has an application that you can download and you may contact our Taxpayer Assistance Division for any questions that you may have and determine which permit you may need.

By receiving a permit, you will be allowed to make your purchases for resale exempt from sales tax, but you will also be required to remit the taxes that you collect to the Oklahoma Tax Commission. You may also take a discount on the taxes that you have collected so long as the taxes have been reported & remitted in a timely manor.

Also, since the discount that you offer is not affiliated with _____ nor do they reimburse your client for the discount, it is not considered a 3rd party discount. Therefore the amount of sales tax that should be collected should be based on the selling price of the advertising minus your discount even though the amount of sales tax that charged you is greater than the amount you will be charging your client (**pursuant to 710:65-19-74, Discounts and 710:65-1-9, Gross receipts, gross proceeds, and sales price**). Discounts, whether cash, term, or coupons which are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale are excluded from the calculation of sales price for basing sales tax computation. [See: 68 O.S.Supp 2003, § 1352(11)(b)(1)]. "Term Discount" for purposes of this Chapter means a predetermined discount offered by a seller to customers conditioned upon the invoice being paid within a specific period of time.

710:65-1-9. Gross receipts, gross proceeds, and sales price

(a) **General provisions.** The gross proceeds, gross receipts, or sales price reported by the taxpayer must include the total receipts from all sources, including cash from sales, charge sales, credits, services, and property other than cash accepted as consideration. Sales tax reports are to be filed on an accrual accounting basis. Sales tax should be reported and remitted for the month that the sale is made regardless of whether payment is received, charged, deferred, or otherwise to be made in the future, and regardless of the time or manner of payment.

(b) **Scope of "gross receipts", "gross proceeds", or "sales price".** *"Gross receipts", "gross proceeds", or "sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:*

- (1) The seller's cost of the property sold;*
- (2) The cost of materials used, labor, or service cost;*
- (3) Interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;*
- (4) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;*
- (5) Delivery charges and installation charges, unless separately-stated on the invoice, billing, or similar document given to the purchaser; and,*
- (6) The value of exempt personal property given to the purchaser, where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.*

(c) **Excluded items and transactions.** *"Gross receipts", "gross proceeds", or "sales price" shall not include:*

(1) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

This response applies only to the circumstances discussed in your written request of April 15, 2008 as well as our phone conversations on April 17, 2008. 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

A handwritten signature in cursive script that reads "Marc Morrison".

Marc Morrison

Tax Policy & Research Division

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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



April 4, 2008

RE: LR-08-017
Sales Tax inquiry

Dear

We are in receipt of your inquiry and invoices regarding your interpretation of 710:65-19-74 (Discounts). You are correct, if a vendor allows a discount for the product that they are selling, sales tax is to be calculated on the selling price minus the discount. If the discount is from a 3rd party, then the sales tax is to be calculated on the selling price without the discount.

This response applies only to the circumstances discussed in your written request of February 1, 2008. 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

Tax Policy & Research Division