OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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March 17, 2009

Re: LR-09-005: Sales Tax Inquiry

Dear

This is in response to your request for a reply wherein you asked if your client has to collect sales tax and remit to the state of Oklahoma. What follows is verbatim your facts and requested ruling and our response thereto.

Facts:

We received a letter from) stating they had conducted an internal audit of customer billing and discovered a number of taxable accounts that had not been charged Oklahoma sales tax. The period the sales tax was not charged was November 2005 through October 2008.

The letter goes on to state: State law requires to collect from its customers and remit to the State of Oklahoma the appropriate state sales tax. Therefore, we must bill each of our customers for these sales taxes.

is a business that remits sales tax and it has always been my understanding that if we don't collect the appropriate amount from our customer than (sic) the business is responsible for remitting the correct amount. I don't understand why this doesn't apply to How can they come back to us and ask us to pay this sales tax when it was their failure to collect it originally? If is able to charge us this sales tax, can they actually go back to November 2005?

Our Response:

Yes. Pursuant to 68 O. S. §1361 (B), ... "The tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts."

This response applies only to the circumstances discussed in your request of January 07, 2009. 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

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst