OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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July 7, 2009

Re: LR-09-079; Taxability of book sales made inside and outside of Oklahoma and via internet

Dear

This is in response to your request for clarification regarding the taxability of book sales made to customers of the [illegible] inside and outside Oklahoma and internet sales. What follows is verbatim your facts and questions and our response thereto.

FACTS

We are currently selling books via individuals calling in from around the country and have been charging Oklahoma Sales tax to only those that live in Oklahoma and not to those outside this state. We are about to expand in doing presales for our new book on our website.

QUESTIONS

If we are selling our products (books, educational kits, or other tangible products) to buyers from our Oklahoma based nonprofit company when do we charge sales tax? My understanding is that we charge sales tax when an individual that buys our product lives within Oklahoma and the product is shipped to them in Oklahoma then we charge Oklahoma Sales Tax and if an individual that orders our product is ordering from out-of-state (outside Oklahoma) that is when we do not charge them Oklahoma Sales Tax. Is that right? What would be the Sales Tax policy for sales online? Would it be the same as our call in sales, in that only those that order from within the state of Oklahoma are the ones we charge sales tax too? Please clarify.

RESPONSE

Regardless of whether your sales are transacted at a store front, by phone or website, the location where a sale is sourced determines the taxes that are to be charged. Retail sales are sourced in accordance with 68 O.S. § 1354.27 to the location where the purchaser or the purchaser's donee receives the product. Oklahoma Administrative Code 710:65-18-2, provides that "receive" and

"receipt" does not include possession by a shipping company on behalf of the purchaser. State and any applicable local sales tax should be collected, reported and remitted to the Tax Commission on all sales sourced to Oklahoma. Copies of the referenced statutory and administrative rule provisions are attached.

Additionally, nay be required to register and collect tax in other states on its out-of-state sales. Generally, a state cannot require a business to collect its taxes if the business does not have a physical presence in that state. For such a determination, contact those states for information as to how their laws impact your business. Internet site http://www.taxadmin.org/fta/link/link.html links to all states' tax departments.

This response applies only to the circumstances discussed in your request of May 12, 009. 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