OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
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October 8, 2009

Re: Our File No. LR-09-091

Dear

I am writing in response to your request regarding certain construction performed by in Oklahoma. Set forth verbatim are the facts presented along with a response to your request.

FACTS

My company designs and builds compressed natural gas fueling stations. We are located in and our customer is in Oklahoma City. He has an existing gasoline fueling station and we will be doing construction on his existing property to add equipment to fuel with compressed natural gas. The equipment will be purchased out of state, primarily Texas. The contract is an agreement to provide the following:

1. engineering drawings that must be approved by Oklahoma
2. on-site supervision of mostly local contractors for the electrical and mechanical work.
3. sale and installation of equipment related to natural gas fueling

RESPONSE

If the contract is one to make improvements to real property in Oklahoma, the Oklahoma Sales Tax Code provides that the contractor is the taxable consumer/user of all items of tangible personal property and taxable services used to complete the contract, therefore a contractor should not charge and itemize tax. The contractor would owe state sales or use tax and any local tax as applicable on the items purchased for use to make the improvements. If a contractor makes purchases outside Oklahoma, from a vendor that is not required to collect Oklahoma sales or use tax, the contractor is required to accrue and remit Oklahoma state and any local use tax on the materials purchased.

If is not improving real property but is acting as a vendor of tangible personal property responsible for installation of these items, it must collect sales tax on the gross receipts[1] attributable to the sale of the tangible personal property in Oklahoma and report and remit same to the Oklahoma Tax Commission. Separately stated installation charges are not subject to sales tax.

Copies of the referenced statutory and administrative code provisions are attached.

This response applies only to the circumstances discussed in your request of June 3, 2009. Pursuant to Oklahoma Administrative Code 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
Tax Policy Analyst

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[1] The terms gross receipts, gross proceeds and sales price are synonymous and are defined as "the total amount of consideration . . . for which personal property or services are sold . . . 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 state on the invoice, billing or similar document given to the purchaser, and
6. credit for any trade-in . . . ." 68 O.S. § 1352(12)(a).