

OKLAHOMA TAX COMMISSION

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Page [REDACTED]
LR-0 [REDACTED]
December 5, [REDACTED]

July 24, 2009

Re: LR-09-089; Sales Tax Inquiry

I am writing in response to your request for clarification regarding whether separately stated shipping and handling charges are subject to sales tax. It is my understanding that one of your vendors bills sales taxes on a separately stated combined charge for shipping and handling based on the belief that handling charges are subject to sales tax.

Oklahoma Administrative Code 710:65-19-70 defines delivery charges to mean "charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing."

Separately stated delivery charges are not subject to sales tax unless they represent amounts paid by the seller in acquiring the property for sale. Oklahoma Administrative Code 710:65-19-70(d). For example, if the amount billed by the vendor to its customer is attributable to the vendor's costs of preparing and transporting merchandise to the customer and is separately stated on the customer's bill or invoice, the delivery charge is not subject to sales tax. However, if such an amount relates to shipping, freight or delivery charges paid by a vendor to acquire the merchandise for sale, then the amount becomes part of gross receipts and is subject to sales tax when resold to a customer, even if separately stated on the customer's bill or invoice. Therefore, if the \$8.95 charge designated as shipping and handling on the subject invoice falls under the first example then the vendor incorrectly imposed sales tax thereon. Otherwise, the imposition of sales tax is correct.

This response applies only to the circumstances discussed in your written request of May 27, 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

Marc Morrison

Tax Policy Analyst

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