

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
DAWN CASH, DIRECTOR

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January 6, 2010

Re: Sales Tax Inquiry; LR-09-176

Dear [REDACTED]

This letter ruling is in response to your request for the sales tax treatment of certain purchases by your wholly owned subsidiary, [REDACTED]. Set forth verbatim are the fact presented along with the question posed and the response thereto.

[REDACTED] mines and processes gypsum products in several locations here in Oklahoma. We possess Manufacturer Sales Tax/Exemption Permits for several of our locations including that of our wholly owned subsidiary, [REDACTED]

("WODG") (Permit 236818). WODG uses ore quarried by our company in Major County, OK and converts it into industrial gypsum plasters which are shipped all over North America. One of our product lines, [REDACTED] is a self-leveling flooring plaster that is used in commercial construction to level floors and provide a fire break between floors of buildings with wood sub-floors. A companion line of products that we sell along with [REDACTED] are made by [REDACTED]. All of the [REDACTED] products we purchase and then re-sell are made outside of the state of Oklahoma and are drop-shipped by [REDACTED] to our customers.

This business arrangement with [REDACTED] is the reason I am writing. WODG is currently being required to remit Oklahoma sales tax to [REDACTED] for purchases of their products. I have been told several times by OTC personnel that our trade arrangement with [REDACTED] does not require the payment of Oklahoma Sales Tax. [REDACTED] management has agreed that they will cease this practice if they receive an opinion by the OTC that specifically addresses our arrangement. To facilitate that end, I have four specific questions which I would like you to address. They are as follows:

## Question 1

[REDACTED] drop-ships their products and invoices WODG for them. In instances where the products that [REDACTED] sells WODG do not enter the state of Oklahoma on their journey from [REDACTED] to our customer, should [REDACTED] be collecting Oklahoma Sales Tax from WODG?

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### **Response to Question 1**

WODG may purchase from [redacted] pursuant to its MSEP, the referenced products exempt for resale. Therefore, [redacted] is not required to collect sales tax on these transactions from WODG, but should obtain a copy of WODG's Manufacturer/Sales Exemption Permit ("MSEP") along with a statement that WODG is in the business of making sales of the items being purchased and is purchasing the items in question for resale. The referenced statement must be signed by a person authorized to bind WODG.

### **Question 2**

If WODG purchases products from [redacted] and they ship those products to Oklahoma from any of their plants outside of the state of Oklahoma, should [redacted] collect Oklahoma Sales Tax from WODG?

### **Response to Question 2**

See response to Question 1.

### **Question 3**

Does the Manufacturer Sales Tax/Exemption Permit possessed by WODG also serve as a Resale Tax Permit?

### **Response to Question 3**

Yes, WODG's MSEP also serves as an Oklahoma sales tax permit.

### **Question 4**

When WODG sells [redacted] products that it has purchased and put into its (WODG's) inventory here in Oklahoma where the customer location where the product *is* shipped by WODG is outside of the state of Oklahoma, should WODG be collecting Oklahoma Sales Tax?

### **Response to Question 4**

No, WODG is not required to collect Oklahoma sales tax on its out-of-state sales.

This response applies only to the circumstances discussed in your request of October 29, 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



Marc Morrison  
Tax Policy Analyst