

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

PHONE (405) 521-3133  
FACSIMILE (405) 522-0063



January 5, 2012

RE: LR-09-221 Follow up (Sales Tax Inquiry)

Dear [REDACTED]

This is in response to your request for advice regarding Oklahoma's treatment of the transaction in your correspondence. Set forth are the facts presented in your correspondence of December 09, 2011 along with our response thereto.

Facts:

The manufacturer, [REDACTED] as of January 1, 2011, no longer makes the final sales across the [REDACTED]

Effective January 1, 2011, we formed a marketing entity: [REDACTED]

[REDACTED] This entity name has changed to [REDACTED] as of [REDACTED] due to a merger between [REDACTED]

[REDACTED] The same FEIN remains [REDACTED]

Since January, this marketing entity has made the same sales to the same customers in OK for intermediate products (unfinished lube oils, etc.) to non-license Ok customers who are immediately exporting these materials outside of OK for further manufacturing and processing in other states or for resell to other distributors that will resell the product.

In this fact pattern, is [REDACTED] required to collect all sales taxes for sales where title transfers to the customer in Oklahoma, yet immediately exported outside of Oklahoma?

I would think that these unfinished products would still be exempt from the Oklahoma sales taxes due to the fact that these products are immediately exported and a written signed statement to the seller that the property leaving the state would not be used in Oklahoma would suffice, but I've been informed differently by [REDACTED]

Response:

The sale of tangible personal property, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. §1354(A)(1).

Generally, sales of goods purchased in Oklahoma for export to another state are not exempt from sales tax. In order for the exemption set forth in 1359(5) of Title 68 of Oklahoma Statutes to apply the sale of the manufactured good must be sold by the manufacturer at a non-retail location to a person who transports it to a state other than Oklahoma for immediate and exclusive use in a state other than Oklahoma.

Since the seller of the intermediate products [redacted] is not the manufacturer of such products the exemption set forth in Section 1359(5) of Title 68 does not apply to the sales made by [redacted]

Also, for sales sourced<sup>1</sup> to Oklahoma, an out-of-state manufacturer cannot claim a manufacturing exemption issued by its home state to exempt a purchase from Oklahoma sales tax nor can an out-of-state manufacturer avail itself of the sales tax exemption afforded manufacturers pursuant to Section 1359(1) of Title 68 of the Oklahoma Statutes.

If the Buyer of the intermediate products is a reseller and claims an exemption as such, Oklahoma will recognize the purchase by the Buyer from [redacted] as an exempt transaction as outlined herein. Oklahoma resident businesses are required to hold an Oklahoma sales tax permit to purchase items exempt for resale. However, non-resident businesses are not required to hold an Oklahoma sales tax permit before they can make purchases, exempt from sales tax for resale. See 68 O.S. § 1357(3) and OAC 710:65-13-200. Therefore, if the Buyer does not have sufficient physical connection with Oklahoma to require it to register for sales tax purposes, [redacted] may accept an exemption certificate issued by the Buyer's home state. [redacted] should obtain an exemption certificate listing the Buyer's resale number issued by its home state with written confirmation that it is in the business of reselling the items being purchased, and that the items being purchased are for resale. The certificate should be signed by a person authorized to bind the Buyer. The certification may be made in the manner set forth in paragraph (1) of Oklahoma Administrative Code 710:65-13-200, a copy of which is enclosed.

Sincerely,

OKLAHOMA TAX COMMISSION



Brenda J. Sullivan  
Tax Policy Analyst

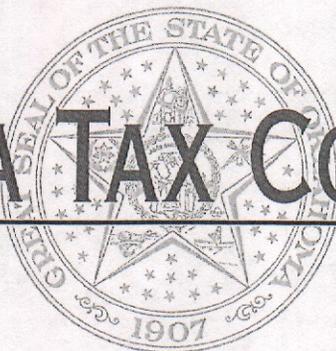
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<sup>1</sup> The location where a sale is sourced determines the taxes that are to be charged. Retail sales are sourced in accordance with 68 O.S. § 1354.27 to the location where the purchaser or the purchaser's donee receives the product. Oklahoma 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.

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

PHONE (405) 521-3133  
FACSIMILE (405) 522-0063



October 19, 2011

Re: LR-09-211

Dear [REDACTED]:

This is in response to your request for advice regarding Oklahoma's treatment of the transaction in your correspondence. Set forth verbatim are the facts presented in your correspondence of December 17, 2009 along with our response thereto.

When selling product in OK destined for Out of State, example being OK to MO, customer takes title of product in Oklahoma, should we require them to fill out the Oklahoma export form we've attached with the Missouri license number in order to exempt Oklahoma taxes?

My concern is we have a customer purchasing product in Oklahoma but exporting it to Missouri, yet only supplying Kansas exemption certificate. I'm not sure I should accept it when I know the product is going to Missouri even though title transfers in Oklahoma destined for out of state.

Our records indicate that Holly Refining & Marketing-Tulsa, LLC is a holder of an Oklahoma Manufacturer Exemption Permit. As a manufacturer, Holly Refining & Marketing-Tulsa, LLC may sell goods that it manufactures at a non-retail location exempt from Oklahoma sales tax to a person who immediately takes the manufactured item outside Oklahoma for immediate and exclusive use outside Oklahoma. OAC 710:65-13-152.1(a). In order to qualify for this exemption, the purchaser must give a written statement to the manufacturer-seller that the property will leave the State and will not be used in Oklahoma. OAC 710:65-13-152.1(b). Otherwise, sales of goods purchased in Oklahoma for export to another state are not exempt from sales tax. Also, for sales sourced to Oklahoma, an out-of-state manufacturer cannot claim a manufacturing exemption issued by its home state to exempt a purchase from Oklahoma sales tax nor can an out-of-state manufacturer avail itself of the sales tax exemption afforded manufacturers pursuant to Section 1359(1) of Title 68 of the Oklahoma Statutes.

This response applies only to the circumstances discussed in your request of December 17, 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

Brenda J. Sullivan  
Tax Policy Analyst