OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

August 11, 2010

RE: LR-10-014; Sales Tax Inquiry

Dear

I am writing this letter in response to your request regarding refunds of sales tax for returned merchandise. Set forth verbatim are the facts presented followed by the questions posed and the responses thereto.

Facts:

I work as a tax advisor in the field of state and local taxes for a number of direct selling companies (AKA multi level and network marketing). These companies have entered into an agreement or arrangement with your state to administer sales taxes on behalf of their independent sellers. Under this agreement or arrangement, the company recollects the applicable sales tax based on the suggested retail price (or actual sales price if known) of taxable products including shipping charges if taxable and the ship-to-address.

All of these companies have a buy back policy. Under the terms of their policy, the company will:

- Refund the full purchase price if their independent seller or customer of the independent seller is not satisfied with the product including shipping charges or
- Refund the full purchase price if their independent seller or customer of the independent seller is not satisfied with the product excluding shipping charges.
- Refund 90% of the purchase price of marketable products if returned within one year from date of purchase including shipping charges or
- Refund 90% of the purchase price of marketable products if returned within one year from date of purchase excluding shipping charges.

Question #1.

If the independent seller or their customer returns merchandise pursuant to this policy and receives a full refund including shipping charges, are they entitled to a full refund of the sales tax charged?

Response:

Yes, the Direct Selling Company ("Company") may refund the customer, and the gross receipts attributable to the returned merchandise should be reported on Line 3f. *Returned Merchandise* of Schedule N. Sales Tax Exemption Schedule and deducted from gross receipts on Line 3 of the Sales Tax Report [Form 13-23]. The described deductions cannot be made more than three years after the date the sales tax was remitted to the Tax Commission. 68 O.S. § 227

Question #2

If the independent seller or their customer returns merchandise pursuant to this policy and receives a full refund excluding shipping charges, are they entitled to a full refund of the sales tax charged?

Response

See question #1.

Question #3

If the independent seller or their customer returns merchandise pursuant to this policy and receives less than the original purchase price including shipping charges, are they entitled to a full refund of the sales tax charged?

Our Response

If the company credits a customer less that the original purchase price of an item, the sales tax refunded to the customer should be based upon the amount of the credit allowed.

Question #4

If the independent seller or their customer returns merchandise pursuant to this policy and receives less than the original purchase price excluding shipping charges, are they entitled to a full refund of the sales tax charged?

Our Response

See question #3.

Question #5

If the company is allowed to refund all or a percentage of the sales tax, is it entitled to deduct the applicable sales amount and corresponding tax on the return for the period when this adjustment is made:

Our Response:

Yes, see response to Question #1.

This response applies only to the circumstances discussed in your written request of December 16, 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