OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

December 29, 2010

Re: LR-10-040; Sales Tax Inquiry

Dear :

This is in response to your request regarding the correct figure to use when completing your monthly sales tax report. Set forth verbatim are the facts presented in your correspondence of February 23, 2010 along with our response thereto.

> I have a question regarding the correct figure to use when completing my monthly sales tax report. Prior to this month I have had no activity, and thus no questions. However, I have now manufactured enough of my jewelry pouches that I am ready to begin my sales campaign. I have sold a few pouches retail, and I am confident that my figures are correct there. I just put in the total sales amount and show in which city and county of Oklahoma the delivery took place. My understanding is that I do not report out of state sales on this form.
>
> My question is in reference to the promotional pouches that I give away. I am a single member LLC with no employees. MY understanding is that I use the cost of the raw materials that I purchased in order to make the pouches. I have made an exhaustive computation showing how much was spent on each component of each style of pouch. Is the Direct Cost of the Raw Materials the value I should be using to determine the sales tax due on the pouches removed from inventory to be used as samples or promotional gifts?

Sales tax is calculated on the "sales value" of items which are withdrawn from a vendor's resale inventory to be used as samples or promotional gifts. 68 O.S. § 1362(D). Sales value is defined in Oklahoma Administrative Code 710:65-1-2 subsection (E) to mean the larger of either the vendor's cost at the time the exempt purchase of goods was made, or the price at which it would be sold to the vendor's best customer in the ordinary course of business. Therefore, regarding the pouches removed from your resale inventory to be used as samples or promotional gifts, sales tax should be calculated on the cost of the materials used to make the pouches.

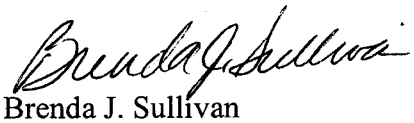
Please note that your understanding of the reporting requirements for out-of-state sales is incorrect. Gross receipts from out-of-state sales should be: (1) included on Line 1. Total Sales of sales tax report, (2) reported on Line 3g. Other Legal Sales Tax Exemptions of Schedule N. Sales Tax Exemption Schedule and (3) deducted from gross receipts on Line 3. Total Exemptions of the sales tax report.

A copy of the referenced statutory and administration code provisions are enclosed.

This response applies only to the circumstances discussed in your request of February 23, 2010. Pursuant to Oklahoma Administrative Code 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



Brenda J. Sullivan
Tax Policy Analyst