OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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May 13, 2010

Re: LR-10-075; Tax Inquiry

Dear

I am writing in response to your inquiry regarding the tax treatment of a transaction set forth in your correspondence of April 9, 2010. Set forth verbatim are the facts presented along with our response thereto.

> is based out of We are a retail store that sells fitness equipment to is also based in . builds golf course/apartment communities in and several other surrounding States. When we sell them fitness equipment for their clubhouses, we have it shipped directly to the job site; our employees meet the truck on site and install the equipment. Because of the size of the orders, logistically it makes sense for us to do it this way. We invoice for the equipment and they pay the sales tax to the State where the fitness equipment is located.
>
> One of our vendors who is shipping the product directly to OK on our behalf is trying to charge us Oklahoma State sales tax on the order. So if we pay the tax on the wholesale cost of the order, then pays the Oklahoma State sales tax on the retail price of the order, then essentially Oklahoma is collecting tax twice on the same order...surely this can't be correct. They claim that on March 1st of this year, they are required by law to collect the tax on the order because it is not being shipped directly to us in even though the financial transaction is occurring between two based companies.

Oklahoma will recognize the sale from to as an exempt sale for resale. Regarding this transaction, should provide an exemption certificate listing the 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 certification may be made in the manner set forth in paragraph (1) of Oklahoma Administrative Code 710:65-13-200.

The transfer from to is subject to Oklahoma sales tax since tangible personal property is being shipped to and installed in Oklahoma by See OAC 710:65-15-1. If the described transaction is a one time event or if only makes occasional sales in Oklahoma, it should collect the applicable state and local sales taxes and remit same at the time the sale is made on a casual basis utilizing an Oklahoma sales tax report [Form 13-23]. Otherwise, may be required to hold an Oklahoma sales tax permit[1] and collect, report, and remit state and local sales tax on its sales in Oklahoma.[2] An Oklahoma Business Registration Packet [Packet A] and Oklahoma sales tax report [Form 13-23] is available on the Oklahoma Tax Commission website at www.tax.ok.gov.

Copies of the referenced statutory and administrative code provisions are attached.

This response applies only to the circumstances discussed in your request of April 9, 2010. Pursuant to Oklahoma Administrate 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

Christy J. Caesar

Christy J Caesar
Tax Policy Analyst

[1] 68 O.S. §§ 1363 and 1364
[2] 68 O.S. § 1365