OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
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November 18, 2010

Re: LR-10-135; Taxation of inbound freight charges

Dear

This is in response to your request for a ruling on the interpretation of the tax law regarding taxation of inbound freight charges. Set forth verbatim are the facts presented in your correspondence of September 3, 2010 along with our response thereto.

> I have enclosed some sample invoices & billbacks for taxes that our customer , is disputing. They have previously received a ruling, from you on Commission Rule 710:65-19-70 subsection (a) and (c), on March 15, 2004. If that ruling is incorrect, we would also like to request a retraction, of said ruling, in order to prevent confusion between and
>
> We are making this request, in an effort to insure that we are in accordance with Oklahoma law, regarding the taxation of inbound freight charges. We are under the impression that freight charges are taxable when:
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> 1. Material is directly shipped to a customer, from the manufacturer, after the shipping fees were originally charged to the vendor/seller.
> 2. When the vendor/seller incurs freight charges in order to bring material into their facilities for a specific customer's needs & then reships that material to the customer.
> 3. We do not believe that outbound shipping charges are ever taxed.

Gross receipts, gross proceeds, or sales price is the base upon which sales tax is calculated. The terms are synonymous and are defined as "the total amount of consideration . . . for which personal property or services are sold . . . whether received in money or otherwise. . . ." 68 O.S. § 1352(12)(a). No deduction from gross receipts is allowed for "interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller." 68 O.S. § 1352(12)(a)(3). Shipping, freight, or delivery charges paid by a seller in acquiring property for sale are considered costs of doing business to the seller and may not be deducted from

the gross receipts for sales tax computation purposes, even though such costs may be passed on to customers and regardless of whether they are separately-stated. OAC 710:65-19-70(d).

To the extent the designated inbound freight charge passed to its customer represents a shipping/freight cost incurred by to acquire the subject property for sale, then such charge represents a transportation cost of which cannot be deducted from gross receipts and is properly subject to sales tax.

This response applies only to the circumstances discussed in your request of September 3, 2010. 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

Brenda J. Sullivan
Tax Policy Analyst