OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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

August 17, 2011

Re: Our File Number LR-10-165; Multi-level

Dear

This is in response to your request for confirmation regarding the sales tax treatment of direct sellers in Oklahoma. Set forth verbatim are the facts presented along with our response thereto.

FACTS

Our client (the "Company") is a Texas business that proposes to sell cosmetic items (the "Product") at wholesale. The wholesale customers will be Oklahoma medical practitioners ("Distributors") who will make the product available for purchase to their patients and customers (the "Customer'). In a typical transaction the Customer will purchase the Product from the Distributor who in turn will purchase the Product from the Company. The Company will direct ship the Product to Customer. Company will invoice the Distributor at its wholesale price for the Product. Distributor will invoice Customer at a marked up retail price. Company will assist Distributor with processing Customer's orders, so Company will likely know the retail price in each case. Company wishes to collect and remit tax on behalf of its Distributors in accordance with Oklahoma Administrative Code 710:65-19-214.

Based on the facts presented, it does not appear that your client's operations will constitute a multi-level distribution system as outlined in OAC 710:65-19-214. In Oklahoma, vendors operating a multi-level distribution system must obtain an Oklahoma sales tax permit and collect, report and remit sales tax on the retail value of the products sold. The sales tax is to be passed through the multi-level distributors to the consumers/users. The distributors are to collect the sales tax from the consumer. Shipping and handling charges associated with the shipment of multi-level sales merchandise to the distributor or the distributor's customers are not subject to sales tax, if separately stated. 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.

This response applies only to the circumstances set out in your request of October 27, 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 that there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst