OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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

August 10, 2011

COPY

[redacted]

RE: LR-11-009 (Sales Tax Inquiry)

Dear [redacted]

This is in response to your request regarding sales tax. Set forth are the facts presented along with the question posed and our response thereto.

Facts:

The Company is a direct seller of products. The Company is an LLC that is headquartered in the state of [redacted]. The Company utilizes a network of independent sales consultants who facilitate orders of its product to consumers. The products are shipped directly via a common carrier from its [redacted] warehouse to customers located within your state. The Company's sales consultants never own the product no do they take delivery of the product. The Company collects sales taxes on behalf of its consultants and remits the tax directly to the state.

The independent sales consultants will solicit persons to host a party. At the party, the sales consultant will display the Company merchandise and take orders from those who attend the party and desire to make purchases. As stated above, all orders are processed at the warehouse in [redacted] and the product is then shipped to the customer via common carrier.

The Company provides an incentive for the hostess to host the party. The incentive is a price reduction on a certain number of items. The number of items that are eligible to be purchased at a reduced price is dependent upon the total amount of sales for the overall party. The higher the dollar volume of sales, the more items the hostess may purchase at a discount. The Company does not provide coupons nor does it provide a manufacturer's rebate. It simply provides a price discount to the hostess at the point of sale. The discount is for each item purchased. The number of items that can be purchased at a discount depends upon the total sales at the party. If a hostess wishes to purchase an item that is not eligible for the discount, the item is purchased at the full retail purchase price. Additionally, all items must be purchased at the party. Discounts do not apply if items are purchased at a later date.

Question:

What is the proper sales price in which to assess the sales tax on the articles sold to a hostess?

Response:

Tax Commission records indicate that your client is registered to collect Oklahoma Use Tax from its Oklahoma customers. However, as a vendor operating a multi-level distribution system in Oklahoma, your client must obtain an Oklahoma sales tax permit and 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, who are not required to hold an Oklahoma sales tax permit, to the consumers/users. The distributors are to collect the sales tax from the consumer.

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). "Vendors operating a multi-level distribution system will collect tax on the gross receipts of the retail value of the products sold." See Oklahoma Administrative Code 710:65-19-214(a). Oklahoma Statutes or Commission Rules do not contain special provisions which allow a deduction from gross receipts before computing sales tax on transactions related to multi-level sales, nor are the provisions concerning coupons applicable to multi-level sales. Consequently, sales tax should be collected on the retail value of the products sold without regard of credits or discounts to its hostesses.

This response applies only to the circumstances discussed in your written request of January 12, 2011. 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

Marc Morrison
Tax Policy Analyst