OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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February 8, 2011

Re: Franchise Tax Inquiry; LR-11-021

Dear

I am writing in response to your request for a determination regarding whether Corporation is required to file Oklahoma franchise tax returns for tax years 2006 through 2009. Set forth below are the facts presented in your correspondence of July 27, 2010 along with our response thereto.

FACTS

is a direct selling company that uses independent sales associates to sell its product (costume jewelry) nationwide. Associates purchase product from ınd in turn, sell such product to customers.

Sales are made on a wholesale basis by the Company to its associates in Oklahoma. The associates in turn sell the products on a retail basis. . utilizes an independent sales associate agreement for all associates. There is only one associate in Oklahoma.

In addition, once had a website in which customers could order product via the internet. Once an order was placed, shipping department would ship the product from directly to the customer. The website was shut down during January 2009.

has no assets in Oklahoma. It has no land, buildings, equipment, furniture and fixtures or automobiles. It has no employees in Oklahoma. Its employees in do not travel to Oklahoma. There are no sales meetings, conventions or training or other events held in Oklahoma.

RESPONSE[1]

Until the enactment of the Business Activity Tax[2], the Oklahoma Franchise Tax[3] applied to every corporation qualified to do or doing business in Oklahoma in a corporate capacity, and specifically included corporations organized under the laws of a state other than Oklahoma.[4]

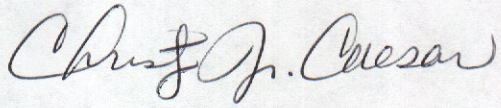
"Doing business" is defined in the Franchise Tax Code as "each and every act, power or privilege exercised or enjoyed in the State, as an incident to, or by virtue of the powers and privileges acquired by the nature of such organizations."[5] The definition of doing business is sufficiently broad to include out-of-state corporations engaged in the activities you described.

Based on the facts presented, was and is doing business in Oklahoma. Further, no statutory provision exempted business activity in Oklahoma from the franchise tax levy.[6] Therefore, must file Oklahoma franchise tax returns and pay franchise tax for the years at issue.

This response applies only to the circumstances discussed in your request of July 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 there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION



Christy J Caesar
Tax Policy Analyst

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[1] The response is based on applicable law in effect during the tax periods 2006-2009 about which Tidings of Love Inc. inquired.

[2] Effective August 27, 2010, corporations doing business in Oklahoma are required to pay the Business Activity Tax ("BAT") in an amount equal to their franchise tax paid for tax year 2010 or $25.00 whichever is greater. The BAT return [Form 190] for tax year 2010 is due July 1, 2011.

[3] 68 O.S. § 1201 et seq.

[4] 68 O.S. § 1201.

[5] 68 O.S. § 1202.

[6] 68 O.S. § 1206.