OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

PHONE (405) 521-3133
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August 25, 2011

RE: LR-11-059 (Sales Tax Inquiry)

Dear

I am writing in response to your request regarding Oklahoma Sales and Use Taxes. Set forth verbatim are the facts presented along with the question posed and our response thereto.

Facts

is an auctioneer for industrial assets. We sold items on invoice number (invoice attached) to from our online auction event name: a Division of is a manufacturer located in and they feel that they should be exempt as a manufacturer in Oklahoma. They purchased and to be used in their manufacturing company. is an auction house we do not arrange for shipment, is required to hire their own shipper to get the assets from facility in Oklahoma.

Ruling Request

Please provide a ruling to exempt or not exempt an out of state manufacturer from sales tax in Oklahoma. Please note I the seller is not responsible for shipping the assets, after the bid is won by they own the assets and must make the arrangements to get the assets to their facility in

Please let us know if out of state manufacturer are exempt from sales tax in Oklahoma when the assets are not shipped by the seller?

Response:

Based upon the information presented, the Tax Policy Division is unable to determine if the sale is subject to Oklahoma Sales Tax without more information regarding the conditions of the sale and transportation of the tangible personal property (i.e. did the buyer take possession of the property inside of Oklahoma or did they purchase the property online and arrange for shipment through a common carrier?).

However, please be advised that 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. Unless otherwise exempt, state and any applicable local sales tax should be collected, reported and remitted to the Tax Commission on all sales sourced to Oklahoma.

For sales sourced to Oklahoma, an out-of-state manufacturer cannot claim a manufacturing exemption issued by its home state to exempt a purchase from sales tax nor can an out-of-state manufacturer avail itself of the sales tax exemption afforded manufacturers pursuant to Section 1359(1) of Title 68 of the Oklahoma Statutes. Only entities holding a manufacturers sales tax exemption permit issued by the Oklahoma Tax Commission can purchase tangible personal property e.g., goods, machinery and equipment for use in its manufacturing operation exempt from sales tax.

Oklahoma Administrative Code provision 710:65-7-9 sets forth the properly completed documentation that must be accepted from a purchaser claiming a manufacturing sales tax exemption and retained by the vendor in order for the vendor to be relieved of any liability for the sales tax and the duty to collect imposed by 68 O.S. § 1361 of Title 68.

This response applies only to the circumstances discussed in your written request of April 28, 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