OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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

November 3, 2011

Re: Our File No. LR-11-085

Dear

This is in response to your request for assistance on how should proceed with the request for credit from its customer, Set forth verbatim are the facts presented along with the response thereto.

FACTS

We have a customer that is seeking a sales tax credit from our company.

Situational Facts:

- production facility is located in
- accounting support office is located in
- sells fabricated rebar; reinforcing steel for concrete.
- customer is
- --Job site is located in
- Commercial carrier delivered numerous shipments of steel to job site.
- Invoice date was 1/27/11 — last invoice date was 4/19/11
- in sales tax over entire job has been invoiced to our customer.
- customer has short paid all invoices to exclude sales tax.
- has been paid to Oklahoma Tax Commission.
- has placed lien on job.
- customer states they have re-sold material to another company and should be exempt from sales tax. customer presented a sales tax permit in the past month to our company; after last shipment of steel to job site. customer is requesting that a tax credit be issued to remove sales tax from previous customer invoices. (see attached).

We have requested that our customer pay the sales tax invoiced and then for them to seek a refund from the Oklahoma Tax Commission. Our customer does not believe they owe the sales tax and will not pay the sales tax invoiced by our company.

It is Our understanding that the State of Oklahoma holds the seller liable for sales tax due where the claimed exemption is found to be invalid.

We request assistance from the Oklahoma Tax Commission of how to proceed. Please outline the expectations of the Oklahoma Tax Commission.

Our lien on the job has increased the urgency of this topic being resolved. Please feel free to contact me by phone or email. We would prefer email over fax.

RESPONSE

Vendors who are making taxable sales in this State on a regular basis are required to hold an Oklahoma sales tax permit[1] and collect, report, and remit state[2] and any applicable local sales tax[3] on their sales in Oklahoma. Vendors who hold a valid Oklahoma sales tax permit may purchase exempt from sales tax, items to be resold to their customers. 68 O.S. § 1357(3). Oklahoma Administrative Code 710:65-7-8 sets forth the properly completed documentation that must be accepted from a purchaser claiming a sales tax exemption for resale 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. See also, OAC 710:65-7-6 and OAC 710:65-13-200.

Tax Commission records indicate that sales tax permi was issued . Based on the foregoing facts, the sales at issue by to occurred prior to issuance of sales tax permit. Therefore, the resale exemption claimed by does not apply and sales tax was properly due on these transactions.

Pursuant to 68 O.S. § 1361(B), the sales tax due on a sale is to be added by the vendor to the price and once added becomes a part of the price, which shall be a debt from the consumer or user to the vendor until paid, and recoverable in the same manner as any other debt.

This response applies only to the circumstances discussed in your request of August 3, 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,

Brenda J. Sullivan

OKLAHOMA TAX COMMISSION
Brenda J. Sullivan
Tax Policy Analyst

---

[1] 68 O.S. §§ 1363 and 1364

[2] Current state sales tax rate is 4.5%.

[3] Charts which set forth the current municipal and county sales and use tax rates are available on the Tax Commission website.