OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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October 17, 2012

Re: LR-12-027; Oklahoma Drop Shipment Scenario

Dear

This is in response to your request for confirmation of your understanding regarding Oklahoma's treatment of certain third party drop shipments. Set forth verbatim are the facts presented in your correspondence of March 9, 2012 along with our response thereto.

> ships goods to different States on behalf of its customers — always by common carrier. Resellers usually provide us with valid Resale Certificates in accordance with destination State Laws & Regulations, and they habitually supply it without any disagreement. However, we have one who refuses to provide such document and keeps arguing that since his company is not the user of the goods it's not up to it to pay use tax. This business also refuses to pass the tax onto its customers. This purchaser is a reseller located in - a - . They've also led us to understand that their Company is not registered in your State for collecting and remitting taxes as they are not supposed to have Nexus in Oklahoma. Please take notice that we discovered that it is not always the case in some States.
>
> After several unsuccessful attempts to get the appropriate Oklahoma Resale or Exemption Certificate from this customer, and as per our understanding of Oklahoma Tax Commission Rules Chapter 710 Sections 710:65-7-2, 710:65-7-8, 710:65-13-200, 710:65-13-201 and 710:65-15-1, we have come to the conclusion that as it is the only one we have - is not a valid document to exempt tax on sales shipped to Oklahoma tax exempt, with the exception of customers located in your State who present their own Oklahoma Exemption Certificate or Direct Pay Permit. In all other instances, charges Use tax to this purchaser, and remits it to your Department of Revenue. We've always charged Use Tax to yet they have never paid it as per the above mentioned reasons.
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> This request is for confirmation that our understanding of Resale Certificate requirements in

a 3rd Party Drop shipment scenario is correct. We need to make sure that Home State Resale certificate is not a valid document for exempting tax on sales when we drop ship in your State upon a customer's request, even though the transaction is obviously a sale for resale. Therefore, when our customers are not registered and have no Nexus in Oklahoma, and are unable to provide any Oklahoma Resale Certificate, we assume that must to collect the Use Tax on each transaction.

Response

Under the described circumstances where the Buyer Corporation is not registered in, and has no nexus with Oklahoma, a resale certificate from the state of the Buyer Corporation will be accepted. . should obtain an exemption certificate listing the Buyer Corporation's resale number issued by its home state with written confirmation that it is in the business of reselling the items being purchased, and that the items being purchased are for resale. The certificate should be signed by a person authorized to bind the Buyer Corporation. The certification may be made in the manner set forth in paragraph (1) of Oklahoma Administrative Code 710:65-13-200, a copy of which is enclosed.

This response applies only to the circumstances discussed in your request of March 9, 2012. 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

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst