OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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July 30, 2013

Re: LR-12-097 Sales Tax Inquiry

Dear :

This is in response to your request for a sales tax determination for the products listed in your correspondence. Set forth is the list of products presented and the response thereto.

Food and Food Ingredients – Is the following products subject to tax under Okla. Stat. tit. 68 § 1354(A)(10)?

1. **Function Water – Vapor Distilled Water and Electrolytes**

RESPONSE

Sales of vapor distilled water and electrolytes are subject to Oklahoma sales tax pursuant to 68 O.S. § 1354(A)(1) & (10).

Medical Equipment – Are the following products considered exempt prosthetics devices under Okla. Stat. tit. 68 § 1357 (22)?

1. **- Knees**
2. **- Ankle**
3. **– Wrist**
4. **– Back**
5. **Arch Support**
6. **Heel Support**
7. **Custom Fit Orthotics**

RESPONSE

For purposes of Section 1357(22) of Title 68 which exempts sales of prosthetic devices to an individual for use by such individual, the above-described items of medical equipment are considered prosthetic devices[1].

Miscellaneous

1. **(Propane)** – Are the following products subject to tax/ If taxable, what is the tax base?
   - **prefilled 20 lb. tank**– Assume that the customer purchases the tank/propane for $50 without exchanging another propane tank.
   - **pre-filled 20 lb. tank** – Assume customer purchases the propane for $20, and exchanges an empty tank at the time of purchase.

RESPONSE

Sales of propane are subject to sales tax. 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)(a). In accordance with Section 1352(12)(a)(6) of Title 68 no deduction from gross receipts is allowed for a credit for any trade-in. Therefore, in both instances sales tax would be due on $50.

2. **Trail mix with Candy** – Are these products considered taxable candy?

3. **Cigarette Rolling Papers** – Are cigarette paper sold by retailers subject to tax?

RESPONSE

The sale of tangible personal property in Oklahoma, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. §1354(A)(1). No provisions exist in the Oklahoma Sales Tax Code which exempt trail mix with candy or cigarette rolling papers from the imposition of sales tax. Therefore, sales of these items are taxable transactions.

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[1] Prosthetic device is defined in Section 1357.6(C) of Title 68 as follows:

The term 'prosthetic device' means a replacement, corrective or supportive device, including repair and replacement parts for same, worn on or in the body to:

(A) Artificially replace a missing portion of the body;
(B) Prevent or correct physical deformity or malfunction; or,
(C) Support a weak or deformed portion of the body.

* * *

4. **2012 Entertainment Book** – Is this product a nontaxable coupon or certificate book?

RESPONSE

It is my understanding that the above-referenced book only contains coupons which entitles the purchaser thereof to obtain discounts of goods and services at participating restaurants, theaters, sporting events etc. Sales of the described entertainment book do not constitute the transfer of tangible personal property nor do they fall within one of the other enumerated transactions subject to Oklahoma Sales Tax. Therefore, sales of the 2012 Entertainment Book are not subject to sales tax.

Copies of the referenced statutory and administrative rule provisions are attached.

This response applies only to the circumstances discussed in your request of October 16, 2012. Pursuant to Oklahoma Administrative Code Rule 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