OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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May 13, 2013

Re: LR-13-014

Dear

This is in response to your inquiry dated March 21, 2013, wherein you requested a ruling concerning Oklahoma Sales and Use Tax Sourcing. What follows is verbatim your facts and requested ruling and our response thereto.

Facts:

We would like to request a ruling to clarify two sales and use taxes issues as it relates to proper sourcing of sales/purchases delivered by a third party carrier to aid in dealing with a customer/vendor. Below is our understanding of the Oklahoma laws pertaining to these issues.

1) If we purchase items out of state that are brought into the State of Oklahoma via a third party carrier the transaction is subject to Oklahoma Use tax payable by the purchaser and sourced to the location the items are delivered to and should not be charged sales tax in the originating state. This methodology is true regardless of whether the seller or buyer hired the third party carrier.

2) Similar to (1), if we purchase items in state that is delivered to our location via third party carrier the transaction is subject to Oklahoma Sales tax to be collected by the seller sourced to the location the items are delivered to by the third party carrier and should not be sourced to the location of the seller. Again, this methodology is true regardless of whether the seller or

buyer hired the third party carrier.

Response:

1) Pursuant to OAC 710:65-21-4, tangible personal property bought outside this State by an Oklahoma user or consumer or out-of-state user or consumer in such a way that the vendor need not collect sales tax in that State, and brought into this State for storage, use, or other consumption is subject to use tax. Use tax must be reported and paid by the purchaser on forms prescribed by and available from the Commission. If the purchaser buys such tangible personal property from an out-of-state vendor who is authorized or required by the Use Tax Code to collect, report or remit use tax, the purchaser should pay the use tax to such vendor.

2) Pursuant to OAC 710:65-18-3, for determination of the taxes to be charged, retail sales are sourced to the location the purchaser or the purchaser's done receives the product in the following manner:

> When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser, or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

3) Pursuant to OAC 701:65-18-2, "receive" and "receipt," as used above, mean taking possession of tangible personal property, and do not include possession by a shipping company on behalf of the purchaser. Therefore, the above stated rules are applicable whether the seller or buyer hires a common carrier.

This response applies only to the circumstances set out in your request dated March 21, 2013. 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 that there has been no change in applicable law.

If I can be of further assistance, please feel free to call me at (405) 521-3133.

Sincerely,

OKLAHOMA TAX COMMISSION

Haley Rader

Haley Rader
Tax Policy Analyst