OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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7/23/13

Re: LR-13-017

Dear

This is in response to your inquiry received March 28, 2013 wherein you requested a ruling concerning whether entry towers are real property or personal tangible property and the taxability of said entry towers. What follows is your facts and requested ruling and our response thereto.

Facts:

Could you please forward me a private letter ruling on whether 1) "Entry Towers" at a Dealership would be considered real property or personal tangible property, and 2) clarification of how taxes are to be applied.

The structure is free standing and stands proud of the main building by eighteen inches. It is installed to a concrete foundation on a series of anchor bolts.

There is a video demonstration of how these towers are installed at that may help with the understanding of what the towers are and whether they should be considered real property or personal tangible property.

. is purchasing these towers as finished goods from the manufacturer and hiring a third party to install them for us. We are then invoicing the dealers directly or general contractor for the supply, freight and install.

Your confirmation on if the "Entrance Towers" will be considered real property or personal tangible property and how taxes are to be paid and on what they are to be paid on would be greatly appreciated.

Ex. Taxable to the dealer or general contractor on selling price including product, transport and install; not taxable to the dealer or general contractor but amount of tax must be paid by the seller based on cost of materials; taxable on product only; etcetera.

Response:

1. Property Classification

   Pursuant to 68 O.S. §1352(24), tangible personal property is personal property that can be seen, weighed, measured, felt, touched or that is in any other manner perceptible to the senses. Therefore, the entry towers are considered tangible personal property when they enter Oklahoma and are thus subject to taxation.

2. Applicable Taxes

   Our records indicate that has been issued a vendor's use tax permit in order to collect Oklahoma use tax when it sells and ships its products directly to customers in Oklahoma using common carriers.

   However, since sells its entry towers to dealers and general contractors and hires a third party to install the towers, the transaction is subject to Oklahoma sales tax because the third party installer is acting as an agent of . Therefore, should register for an Oklahoma Sales Tax Permit and collect and remit state and any applicable local sales tax on the described transactions. To register for a sales tax permit, a completed Business Registration Packet (Packet A) available online at www.tax.ok.gov should be submitted, to the Taxpayer Assistance Division, Oklahoma Tax Commission, P.O. Box 26920, Oklahoma City, OK 73126-0920.

   Pursuant to OAC 710:65-1-2 and OAC 710:65-19-70, installment labor and freight charges are not subject to taxation if they are separately stated from the sale of "Entry Towers."

This response applies only to the circumstances set out in your request received March 28, 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.

Sincerely,

OKLAHOMA TAX COMMISSION

Haley Rader

Haley Rader
Tax Policy Analyst