OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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December 17, 2013

Re: Our File No. LR-13-035

Dear

This is in response to your inquiry regarding the taxability of equipment installation in Oklahoma. Set forth are the facts presented and the response thereto.

FACTS

About our business: installs building maintenance equipment for large window washing units that are placed on rooftops. We then hire subcontractor to install the equipment. There are switches and tracks that are also installed. Can you please confirm what if any is taxable to us the contractor and seller of the units. I was informed when calling that if it becomes part of the structure there is no sales taxes due.

RESPONSE

If the contract is one to make improvement to real property in Oklahoma, the Oklahoma Sales Tax Code provides that the contractor is the taxable consumer/user of all items of tangible personal property and taxable services used to complete the contract, therefore a contractor should charge a single price for materials and labor and no charge and itemize tax. The contractor would owe state sales or use tax and any local tax as applicable on the items purchased for use to make the improvements. If a contractor makes purchases from outside Oklahoma, from a vendor that is not required to collect Oklahoma sales or use tax, the contractor is required to accrue and remit Oklahoma state and any local use tax on the materials purchased. See OAC 710:65-1-7, OAC 710:65-19-55 and 710:65-19-56, copies enclosed.

However, if is not improving real property but is acting as a seller of the units responsible for installation of these items itself or through utilization of a third party, 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[1] and collect and remit state and any applicable local sales tax on the described transactions. Additionally, separately installation charges are not subject to sales tax. 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 73126-0926.

This response applies only to the circumstances discussed in your request of May 24, 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 there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst

[1] OTC 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 a common carrier.