

OKLAHOMA TAX COMMISSION



TAX POLICY DIVISION
RICK MILLER, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

August 27, 2014

Re: LR-13-071; Sales Tax Inquiry

Dear

This is in response to your request regarding Oklahoma sales tax. Set forth are the questions posed along with the responses thereto.

Question 1

If I'm a registered seller in Oklahoma, but I'm located in another state and I drop ship equipment into Oklahoma, is the freight charge also taxable? Does it matter if the freight is separately stated on the invoice?

Response: to Question 1

Separately stated delivery/freight charges are not subject to sales tax unless they represent amounts paid by the seller in acquiring the property for sale. 68 O.S. § 1352(a)(12)(3) and Oklahoma Administrative Code 710:65-19-70(d). For example, if the amount billed by the vendor to its customer is attributable to the vendor's costs of preparing and transporting merchandise to the customer and is separately stated on the customer's bill or invoice, the delivery charge is not subject to sales tax. However, if such an amount relates to shipping, freight or delivery charges paid by a vendor to acquire the merchandise for sale/rental, then the amount becomes part of gross receipts and is subject to sales tax when resold to a customer, even if separately stated on the customer's bill or invoice.

Question 2

Also I will provided an installation team to go into Oklahoma and install this equipment at the end users site, it this installation taxable. When I say "installation," I mean my team will go to the jobsite and assembly the equipment onsite. Does Oklahoma view installation and assemble as the same thing or different?

Response to Question 2

Separately stated installation or assembly charges are not subject to Oklahoma sales tax.

Question 3

If I go to a Government jobsite (AFB) to "REPAIR" tangible personal property, would this be considered taxable? Is a Gov't entity always exempt: If they are exempt, do I need to get some sort of exemption form from them.

If your company is operating as a repairer of the tangible personal property at the Government jobsite and charges the governmental entity a single price for parts and labor, it should pay sales or use tax to suppliers when purchasing parts, materials and other property used to perform repair services. If your company is making sales of parts, materials and other property to the governmental entity and separately charging for labor or installation, the tangible personal property sold directly to the United States government is not subject to Oklahoma sales tax. Likewise separately stated installation charges are not taxable. Records should be maintained that the sales were billed to and paid with funds of the United States Government.

This response applies only to the circumstances discussed in your written request of September 24, 2013. Pursuant to OAC 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

A handwritten signature in cursive script that reads "Marc Morrison".

Marc Morrison
Tax Policy Analyst