OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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September 15, 2014

[redacted]

RE: LR-14-045 (Sales Tax Inquiry)

Dear [redacted]

This letter is in response to your request regarding Oklahoma sales tax. Set forth below are your questions posed and our responses thereto.

Question 1

Should I be paying the state of Oklahoma sales tax on money that was listed separately on order invoices for shipping charges on orders shipped from my business in Oklahoma to customers within the state of Oklahoma, via UPS?

Response:

Separately stated delivery fees which constitute the cost of transporting tangible personal property from the vendor to the customer are exempt from sales tax[1]. However, if such an amount relates to shipping, freight or delivery charges paid by a vendor to acquire the merchandise for sale, 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.[2]

Question 2

If not, how far back can I go to request refunds for such taxes paid on shipping charges.

Response:

Any taxpayer who has paid to the State of Oklahoma, through error of fact, or computation, or misinterpretation of law, any tax collected by the Tax Commission may request a refund of such tax so erroneously paid, without interest within three (3) years from the date of the payment[3].

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[1] OAC 710:65-19-70(b)
[2] OAC 710:65-19-70(d)
[3] 68 O.S. § 227

Vendors may refund their customers sales tax erroneously charged and collected, and file a refund application with the Tax Commission or customers may seek a refund directly from the Tax Commission. A refund application may be made by forwarding Form 13-19 *Application for Credit or Refund of State and Local Sales or Use Tax,* with supporting documentation to the Credits/Refunds Section, Account Maintenance Division of the Oklahoma Tax Commission. See OAC 710:65-11-1, copy enclosed.

Question 3

Regarding my agricultural exemption permit: What items are exempt from paying sales tax at the time of purchasing? I have been told and have always used the rule, if the item being purchased was going directly into the product I'm producing and selling, those items are tax exempt. However most people I know say all items used on the farm are tax exempt, example, water pipe, lumber for greenhouses, tools, fence, wire, tractors, things needed on the farm to product the product. Please clarify.

Response:

OAC 710:65-13-15, copy enclosed, outlines the sales tax exemption[4] for sales of items directly used in the production of agricultural products,[5] provides examples of items that may be purchased by an agricultural permit holder exempt from sales/use tax if said items are to be directly used in agricultural production and also gives examples of taxable purchases.

4. If all items purchased for use on the farm are exempt, how far back can I go to claim these as paid taxes to the state of Oklahoma?

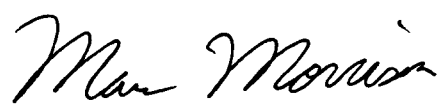
Response:

See response to question 2.

This response applies only to the circumstances discussed in your written request of July 23, 2014. 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



Marc Morrison
Tax Policy Analyst

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[4] 68 O.S. § 1358

[5] "Agricultural production" and "production of agricultural products" is limited to what would ordinarily be considered a farming or ranching operation undertaken for profit. The term refers to the raising of food crops or livestock for sale. Included within the meaning of "agricultural production" and "production of agricultural products" are ranches, orchards, and dairies. Also included is any feedlot operation, whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned by persons conducting the feedlot. OAC 710:65-13-15(a)(1).