

OKLAHOMA TAX COMMISSION



TAX POLICY DIVISION
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July 7, 2016

Re: File Number LR-15-035; (signage, installation, freight, etc.)

Dear

This is in response to your inquiry concerning sale of custom made signage in Oklahoma. Set forth are the facts presented along with the questions posed and the responses thereto.

FACTS

"We are doing our annual update of our tax files to be sure that we are aware of any new sales/use tax issues that would affect our company. Our company, sells custom made signage into your state where we are currently registered. The signage is either attached to a building or a pole that is concreted into the ground. We contract with an independent contractor to install the signs. The installation charges are separately stated on the billing and include charges for surveys, permits, engineering and repairs. We also contract with an independent freight carrier to deliver the sign to the site for installation. All freight charges are separately stated on the billing. Both the installation and the freight are charged to the customer at a rate higher than our companies cost.

Our questions based on the above circumstances are as follows.

- At the point of sale should we as the seller be charging the customer sales tax or is this a case where we would pay use tax?

RESPONSE

Since sells custom signs to Oklahoma customers and hires a third party to install the signs, the transaction is subject to Oklahoma sales tax because the third party installer is acting as an agent of

- If this is a case of use tax, how is the use tax calculated?

RESPONSE

Not applicable.

- Should tax be charged on the freight?

RESPONSE

The sales tax treatment of transportation, delivery charges, or freight is governed by Oklahoma Administrative Code 710:65-19-70. Charges that result from shipping merchandise to vendor's customers, i.e. the costs of transportation from the vendor's inventory to the customer, are not subject to sales or use tax, if they are separately stated.

- Should tax be charged on all components of the installation?

RESPONSE

Separately stated charges related to the installation of signs, if separately stated, are not subject to sales tax in Oklahoma. Please refer to Oklahoma Administrative Code 710:65-19-311.

- If tax is charged on the freight and installation, do we charge on the selling price or only on the element of profit?

RESPONSE

Not applicable.

- Are we obligated to collect local taxes in your state?

RESPONSE

Yes, is required not only required to collect, report and remit state sales tax but also any applicable local sales tax due on the sale of signs in this state.

- If we are obligated to collect the local tax should those taxes be remitted to the state or the locality?

RESPONSE

All applicable state, city and county sales tax are remitted to the state for appropriate disbursements to city and county governments.

- Do you have any special rules or exemptions that apply to your state relating to our situation?

RESPONSE

No special rules of exemptions specifically apply to your situation. However, certain sign sales could be exempt from sales tax based on the exemption of the purchasing entity. These exemptions are outlined in subchapter 13 of Chapter 65 of the Oklahoma Administrative Code.

- Are there any special circumstance for new construction or remodeling that would cause our customers to be exempt in this situation?

RESPONSE

No exemptions exist in the Oklahoma statutes which would serve to exempt sign sales for new construction or remodeling.

- Please provide any applicable code sections that would apply to signage, installation and freight for our future reference.

RESPONSE

Please refer to 68 O.S. § 1352(12) and Oklahoma Administrative Code 710:65-19-311.

- Does your state have a mass mailing list to provide us with updates when they become available? If so, will you please add us to your list or provide us with information to register for this.

RESPONSE

The state does not provide a list of updates. However, email address will be provided to our administrative rules liaison so Sign Up may receive notification when amendments have been proposed to Chapter 65. Sales and Use Tax which may be viewed on the Oklahoma Tax Commission website at www.tax.ok.gov.

Attached are copies of the referenced Oklahoma statutory and administrative rule provisions.

This response applies only to the circumstances discussed in your request received August 26, 2015. 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
Tax Policy Analyst

710:65-19-311. Vendors of signs

Vendors who engage in selling signs must collect, report and remit sales tax notwithstanding the fact that the signs have use or value (other than salvage value) only to the purchaser. However, effective July 1, 1997, the servicing of advertising devices is not subject to sales tax.[See: 68 O.S. §§1354, 1361]

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-70. Delivery charges

(a) Definition. "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. "Delivery charges" does not include charges for the delivery of "direct mail" if the charges are separately-stated on an invoice or similar billing document given to the purchaser.

(b) Separately-stated delivery charges. In every case where a delivery charge represents the cost of transporting the items sold from the vendor to the consumer, and is separately-stated on the invoice or statement, such charges are not subject to sales tax.

(c) Delivery charges included in price. If delivery charges are included in the selling price of the tangible personal property sold, the charges are subject to sales tax.

(d) Transportation costs of the seller. Shipping, freight, or delivery charges paid by a seller in acquiring property for sale are considered costs of doing business to the seller and may not be deducted from the gross proceeds of the sale in computing tax liability, even though such costs may be passed on to his customers and regardless of whether they are separately-stated.

(e) Demurrage. Demurrage is a charge for detaining a ship, freight car, or truck beyond the time allowed for loading or unloading. This is considered a penalty and is not subject to sales tax.

[Source: Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04]