

# OKLAHOMA TAX COMMISSION



TAX POLICY DIVISION  
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June 24, 2016

RE: LR-16-008 (Sales Tax Inquiry)

Dear

This is in response to your request regarding Oklahoma sales tax. Set forth verbatim are the facts presented along with our responses thereto.

Facts

I wanted to confirm a few points regarding OK sales taxes, given the scenario below:

- We are a distributor of tangible personal property
- Our inventory is located outside of OK
- We have sales tax nexus in OK, are registered and file regularly
- We ship inventory to customers throughout the US, including OK

I wanted to confirm the following:

1. If a customer provides their sales tax permit, the customer still needs to complete the multistate jurisdiction permit (or another similar statement)? (ie- providing the permit is not enough support to exempt the transactions, it simply allows us not to validate the permit# provided).

Response:

Oklahoma Administrative Code 710:65-7-8 outlines the properly completed documentation that must be accepted from a purchaser claiming a sales tax exemption for resale and retained by the vendor in order for the vendor to be relieved of any liability for the sales tax and the duty to collect imposed by 68 O.S. § 1361 of Title 68 which is set forth below:

- (1) A **copy** of the purchaser's sales tax permit, **or if unavailable**, the purchaser's name, address, sales tax permit number, and its date of expiration. If a copy of the sales tax permit is unavailable, and if the information provided has not been previously verified, it must be verified by either calling the Taxpayer Assistance Division or by reference to the sales tax permit list obtained pursuant to *OAC 710:65-9-6*;
- (2) A statement that the articles purchased are purchased for resale;
- (3) The signature of the purchaser or a person authorized to legally bind the purchaser;
- (4) Certification on the face of the invoice, bill or sales slip or by a separate document, that says the purchaser is engaged in reselling the articles purchased; and,
- (5) In cases where purchases are made on regular basis, and the certification indicates that all purchases are for resale, then subsequent purchases may be made without further certification until the expiration date of the permit.

The required certification may be made on the bill, invoice or sales slip retained by the vendor or by furnishing a certification letter to the seller. The Multi-State Tax Commission Certificate, the Streamlined Sales and Use Tax Exemption Certificate, an Oklahoma Exemption Certificate, BT107, or a reasonable facsimile may be used. *OAC 710:13-200*.

2. Unlike manufacture sales permits, sales tax permits do no expire. Is that correct?"

Response:

In Oklahoma, the Manufacturers Sales Exemption Permit and Sales Tax Permit are issued under the same account number and both have an expiration date of three years.

3. When Accepting a Manufacturer Sales permit, we can accept it under good faith, and no further documentation is require (ie-they do not need to provide us with a letter or further statement that the goods they purchase will be used in the manufacturing process). Correct?

Response:

Correct, *OAC 710:65-7-9* contains the properly completed documentation that must be accepted from a purchaser claiming a manufacturing sales tax exemption and retained by the vendor in order for the vendor to be relieved of any liability for the sales tax and the duty to collect imposed by 68 O.S. § 1361 of Title 68 which is set forth as follows:

- (1) A copy of the purchaser's manufacturer's exemption permit issued pursuant to 68 O.S. § 1359.2 (hereafter referred to as "Sales/Manufacturers Permit"),
- (2) If a copy of the purchases manufacturer's exemption permit is unavailable, the name, address, and Sales/Manufacturers Permit Number of the purchaser; or
- (3) A statement that contains the information that would appear on the Sales/Manufacturers Permit.

Please note that a contractor or subcontractor, may not make purchases of tangible personal property exempt from sales or use tax pursuant to the exemption afforded manufacturers in Section 1359(1) of Title 68 of the Oklahoma Statutes except under circumstances where contractor has entered into a contractual relationship with a manufacturer for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and

equipment for use in a manufacturing operation of a petroleum refinery classified under Industry Group No. 324110. OAC 710:65-7-9(b) and OAC 710:65-7-13(b)(9).

4. In a drop shipment scenario, we invoice Company A (registered in OK), but ship to Company B (registered in OK), who must provide the exemption certificate: The company we are selling/invoice, or the company we are shipping to?

Response:

You should obtain the exemption certificate from the company you are selling to and adhere to the requirements of OAC 710:65-7-8 previously outlined in the response to question 1.

This response applies only to the circumstances discussed in your written request of March 4, 2016. 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

A handwritten signature in cursive script, appearing to read "Marc Morrison".

Marc Morrison  
Tax Policy Analyst