OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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

November 4, 2019

[redacted]

Re: File Number LR-19-015 (Drop shipment)

Dear [redacted]

This is in response to your request for clarification of the Oklahoma sales tax exemption for resale transactions. Outlined below are the facts presented along with our response thereto.

Facts

[redacted] is an out of state vendor located in [redacted] with customers located in Oklahoma. Since [redacted] is not an Oklahoma resident and has no nexus, [redacted] was not allowed to open a Oklahoma sales tax account, but was allowed to open up an Oklahoma use tax account to remit sales/use tax collected from sales to [redacted] customers in Oklahoma.

[redacted] places orders for goods with suppliers located in Oklahoma for drop shipment delivery to the [redacted] customer located in Oklahoma. All [redacted] purchases from Oklahoma suppliers are for resale purposes and for this reason, purchases from Oklahoma suppliers should be exempt from Oklahoma sales tax in the application of OAC Section 710:65-13-200 (Exemption on sales for resale). To support our resale exemption status and following the application of OAC Section 710:65-7-8, [redacted] has provided the Oklahoma supplier a signed [redacted] multi-state jurisdiction tax exemption certificate, including the [redacted] address, the [redacted] sales tax account number and a statement that all purchases are for resale.

Response

Under the facts outlined above, [redacted] has properly documented its claimed sales tax exemption for resale purposes. OAC 710:65-13-200.

The supplier in order to be relieved from liability to collect the tax should retain a copy of the signed [redacted] multi-state jurisdiction tax exemption certificate, which includes the [redacted] address, the [redacted] sales tax account number and a statement that all purchases are for resale. OAC 710:65-7-6 and OAC 710:65-65-7-8.

The cited administrative code provisions are outlined below:

710:65-7-6. Vendors' or certified service providers' relief from liability and duty to collect sales tax

(a) **Presumption of taxability.** All sales are presumed to be subject to sales tax unless specifically exempted by the Sales Tax Code. Vendors are liable for the sales tax collected as well as for tax that should have been collected.

(b) **When vendor or certified service provider may be relieved of liability.** A vendor or certified service provider shall be relieved of any liability for the tax and of the duty to collect imposed by Section 1361 of Title 68 of the Oklahoma Statutes if the vendor, in good faith, timely accepts from a consumer, properly completed documentation certified by the Oklahoma Tax Commission that such consumer is exempt from the taxes levied by the Oklahoma Sales Tax Code.

(c) **General requirements.** Three requirements must be met before the vendor or certified service provider is relieved of liability.

(1) **Vendor or certified service provider good faith.** Good faith requires that the vendor strictly comply with statutory requirements.

(2) **Timely acceptance from a consumer.** Timely acceptance from a consumer requires that documentation be in the possession of the vendor within ninety (90) days subsequent to the date of sale. In the case of continued sales to the same purchaser, the vendor must have, on file, a sales tax permit, card, or exemption letter for each renewal interval. If no renewal interval is provided by statute, the renewal period will be deemed three (3) years, except in the case of entities with specific statutory exemptions who have established eligibility as set out in 710:65-7-15 and 710:65-7-17 through 710:65-7-20.

(3) **Properly completed documentation certified by the Oklahoma Tax Commission.** Examples of properly completed documentation certified by the Oklahoma Tax Commission are described in 710:65-7-8 through 710:65-7-15 and 710:65-7-17 through 710:65-7-20.

(d) **When vendor or certified service provider may not be relieved of liability.** Relief from liability for the tax and of the duty to collect imposed by Section 1361 of Title 68 shall not apply to:

(1) a seller or certified service provider who fraudulently fails to collect tax;

(2) a seller who solicits purchasers to participate in the unlawful claim of an exemption; or

(3) a seller who accepts an exemption certificate when the purchaser claims an entity-based exemption when:

(A) the subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller; and

(B) the Tax Commission provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in this state.

(e) **Specific applications.** The items of information described in 710:65-7-8 through 710:65-7-15 and 710:65-7-17 through 710:65-7-20 shall constitute minimum requirements to establish **"properly completed documentation certified by the Tax Commission"** for each respective category of purchasers.

710:65-13-200. Exemption on sales for resale

The gross proceeds derived from sales of goods, wares, merchandise, and telecommunications services by vendors, for resale, to persons having a valid sales tax permit who are regularly engaged in reselling the articles or services purchased are exempt from sales tax. If the purchaser is an Oklahoma resident, he must provide the vendor with his Oklahoma sales tax permit number if the sale is made in Oklahoma. In addition to furnishing his sales tax permit number to the vendor, the purchaser must certify in writing to the vendor that said purchaser is engaged in the business of reselling the articles purchased. Failure to so certify, or to falsely certify, with the knowledge that the items purchased are not for resale, shall be sufficient grounds upon which the Commission may cause the purchaser's sales tax permit to be canceled. The seller will be held liable for sales tax due on any sales where an exemption certificate is found to be invalid, for whatever reason. [**See:** 68 O.S. § 1365(G)]

(1) 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.

(2) The vendor should obtain the information set out in 710:65-7-6 and 710:65-7-8.

This response applies only to the circumstances discussed in your request of August 29, 2019. 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,

Brenda J. Sullivan

OKLAHOMA TAX COMMISSION
Brenda J. Sullivan
Tax Policy Analyst