

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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May 2, 2000

Re: Our File Number LR – 00-84; State sales tax exemption on gas and electricity for residential/apartment complex common area energy usage

Dear _____

This is in response to your inquiry for clarification as to whether gas and electricity purchased by an apartment complex to operate facilities that benefit the common good (i.e., office, swimming pool and recreational areas, laundry, security lighting, hallways, and the like), come within the tax exemption of 68 O.S. Section 1357 (6) for “sales of ... Gas and electricity when sold exclusively for residential use”.

Please be advised that the Commission adopted the report of its administrative law judge who determined that “the use of gas and electricity in the common areas of an apartment complex may be incidental to the residential use of the utilities by the individual customer of the individual units, but the purchases (by the complex through its managers) cannot be found to be exclusively for residential use”. See “residential use” defined by Commission Rule 710:65-13-120. Accordingly, purchase by the complex of gas and electricity to operate the common facilities does not come within the “sold exclusively for residential use” exemption.

Please find enclosed a copy of the statutory reference for your information. If I can be of further assistance, please contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure