

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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July 16, 2001

Re: Our file Number LR-01-098; Sales Tax on the Sale of Concrete for a car wash

Dear

This is in response to your inquiry concerning the correctness of one of your customer's claim for exemption from sales tax on purchases of concrete for a car wash.

Your customer holds a valid Oklahoma sales tax permit. It was advised by a representative of our Taxpayer Assistance Division that it could properly make purchases of concrete for resale.

However, in the case of the purchases in question, since they are made for the purpose of building a car wash, which is an improvement to real estate, your customer is acting as a contractor and not as a vendor. When your customer is acting as a contractor, it is the consumer/user of the goods purchased. The goods are not purchased for resale. A copy of Oklahoma Tax Commission Rule 710:65-19-56 relating to contractors is enclosed.

Although normally a vendor may accept in good faith that a sale is a purchase for resale if the documentation is provided in a timely manner, in an instance such as this where a vendor knows that the purchase is not for resale but is instead for use in developing real property, a resale exemption can not be accepted in good faith since the vendor has knowledge indicating its non exempt use.

I have discussed the above situation with the representative of the Taxpayer Assistance Division and was advised that he thought your customer was engaged in the business of providing oilfield services. In some very specific instances, concrete may be purchased for resale when it is used in facilitating production on a lease. The difference being that the well lease is not owned by the operator of the well and the concrete and the other property located on the lease do not become part of the real property on which the

lease is located. Instead, they maintain their identities as items of tangible personal property.

This response applies only to the circumstances set out in your request of July 11, 2001. Pursuant to Commission Rule 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 that there has been no change in applicable law.

If I can be of further assistance, please feel free to contact me.

Sincerely,
OKLAHOMA TAX COMMISSION

A handwritten signature in black ink, appearing to read "Michael G. Pillow". The signature is written in a cursive, somewhat stylized font.

Michael G. Pillow
Tax Policy Analyst