

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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August 7, 2001

Re: Our file Number LR-01-108; Sales tax on purchases which are to be sold to a manufacturer.

Dear

This is in response to your inquiry concerning the subject referenced above. I have scanned your fact situation and your questions into this letter, followed by our response.

Your Fact Situation

"This is to confirm our prior conversation regarding the purchase of supplies and materials that may be subject to the manufacturer's exemption from sales tax from entities that are also engaged as contractors. We represent (" "). qualifies as a manufacturer under Section 1352 of Title 68 of the Oklahoma Statutes and was issued a manufacturer's sales tax permit by the Oklahoma Tax Commission (the "Commission"). is planning to construct a manufacturing facility in the State of Oklahoma. has engaged a joint venture between (the "Contractor") to perform engineering and construction services related to the construction of a manufacturing facility. has also entered into a procurement contract with Contractor for the purchase of the supplies and materials required for the construction of the manufacturing facility as well as the equipment necessary for the facility to become operational. Contractor will obtain a resale permit with respect to the items sold to under the procurement contract."

Your Questions

"It is my understanding based upon our conversation, that the Commission would allow Contractor in a situation similar to that described in this letter to serve as both a contractor and reseller of goods. Thus, the equipment and supplies purchased pursuant to

the procurement contract (i) would not be subject to taxation at the time Contractor purchases the supplies and equipment due to its intent to resale and (ii) would be eligible for the manufacturer's exemption when sold to _____ so long as such equipment and supplies are utilized by _____ in a manner which qualifies for exemption under Section 1359 of Title 68 of the Oklahoma Statutes. Based on our understanding, we respectfully request that the Commission issue a letter confirming the tax consequences of the transaction described above."

Our Response

You are correct in your understanding that an entity, which in relation to certain agreements may be a contractor that is engaged in the improvement of real property may also act as a vendor in respect to other agreements and make purchases for the purpose of being resold to a manufacturer. In order for such purchases to be made, exempt from sales tax, the entity must hold an Oklahoma sales tax permit.

This response applies only to the circumstances set out in your request of July 20, 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



Michael G. Pillow
Tax Policy Analyst