

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

August 15, 2001

Re: Our file Number LR-01-122; Sales tax on the sale of goods to firms that may act as both contractors and as vendors.

Dear

This is in response to your inquiry dated August 6, 2001. Attached to that inquiry was a letter from a local manufacturer, which is in the process of expanding its plant, addressed to its contractors. In the letter, the manufacturer instructs that its contractors should pay sales tax on any purchases that are made for use in a contract that is to result in a repair or addition to real property. It also sets out an Oklahoma Sales tax permit and states that any sales to the manufacturer of tangible personal property be made exempt from sales tax pursuant to the sales tax number.

The day after you delivered your first letter, you hand delivered a copy of a document titled "Exhibit A Pricing" that was faxed to you by one of your customers. At the time you delivered this document, you asked if it was sufficient basis for you to exempt from sales tax, sales of tangible personal property you made to firms that have a relationship to the manufacturer as either a vendor or as a contractor.

Regardless of what documentation your customers obtain from their customers, and even if they are acting as a vendor of goods to a manufacturer, rather than as a contractor, they can only make purchases of goods, exempt for resale, to the manufacturer if they hold an Oklahoma Sales Tax Permit. The tax status of the manufacturer only effects your customers' sales to the manufacturer. It does not exempt sales made to a vendor of the manufacturer. Oklahoma statutes and rules require an Oklahoma vendor to hold an Oklahoma sales tax permit in order for the vendor to make purchases exempt from sales tax, without regard to whom the vendor will be selling to. Copies of the statute (68 O.S. Section 1357(3)) and the rule (710:65-13-200) are enclosed.

In your letter, you also state that you are losing sales to certain of your competitors because they are not charging sales tax. If you have information concerning

your competitors that indicates they are not following the statutes and the Oklahoma Tax Commission Rules, you may wish to forward that information to:

Monty Bivens, Director
Audit Division
Oklahoma Tax Commission
2501 N. Lincoln Blvd.
Oklahoma City OK 73194

This response applies only to the circumstances set out in your request of August 6, 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 style with a large initial "M".

Michael G. Pillow
Tax Policy Analyst

cc: Monty Bivens