# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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May 28, 2002

Re: Our File Number 02-077; Tax status of restaurant equipment sale

Dear

This is in response to your inquiry for an opinion regarding the transaction for the sale for cash of three restaurants tangible non-inventory business operating assets.

Pursuant to Commission Rule 710:65-19-29 (c) which provides

**710:65-19-29. Buildings and structures**

(a) Any building structure permanently attached to land will not be subject to sales tax upon the sale of that structure, even though it is located on leased land or railroad right of way.

(b) Buildings sold to be moved as a unit or which are sold to be torn down and moved will be subject to the applicable sales tax. Fixtures and equipment which have retained their personality are not to be considered a building or structure and are therefore subject to sales tax even if they are not specifically mentioned or have a value assigned to them in the sale documents.

(c) Furniture, fixtures, and equipment included in the sale of a business are taxable, even if included in the bulk sale of real property, motels, hotels, and apartments.

Therefore, the sale of the Restaurants tangible non-inventory business operating assets is subject to sales tax.

This response applies only to the circumstances set out in your request of May 6, 2002. 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,

Brenda J. Sullivan
Tax Policy Analyst