

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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October 10, 2002

Re: Our File No. LR-02-183; Exemption Status

Dear

This office is in receipt of your letter wherein you inquire as to the feasibility of your organization being able to gain state tax exemption status. The facts, as stated in your letter, are summarized below.

FACTS:

(hereinafter "FRPOA") has been incorporated since 1974. A board elected of its citizens governs it. It provides street maintenance, electrical, water and sewer service. It also provides parks and recreational activities. It has a senior citizen's nutrition program and allows several schools to use its facilities without charge, as well as, the Oklahoma Department of Agriculture for a tree judging contest.

You refer to your organization as a "substate" organization, however, you do not define what that means, and I do not find that term defined by statute nor in Black's Law Dictionary. You state, further, that does not receive a break on its ad valorem, sales or fuel use taxes as a municipality, rural water district or school, or other qualifying "substate" agency.

QUESTION:

Does qualify for state tax exemptions?

ANSWER:

The Supreme Court of the State of Oklahoma held in Bert Smith Road Machinery Company, Inc. v. Oklahoma Tax Commission, 563 P.2d 641 (1977), that exemption statutes are to be strictly construed against exemptions. Therefore, the burden of proving that an exemption is applicable to the transaction in question is upon the party claiming the exemption.

You specifically refer to exemptions from ad valorem, sales and fuel use taxes available to municipalities, rural water districts, schools and other qualifying "substate" agencies. The exemption statutes for ad valorem tax are codified at 68 Oklahoma Statutes, 2001, Sections 2887 and 2903. The governmental and nonprofit exemption statute for sales tax is codified at 68 O.S. 2001, Section 1356. The exemption statute for motor fuel tax is codified at 68 O.S. 2001, Section 500.10. Although there are specific exemptions that relate to governmental and/or nonprofit entities within each of these statutes, the burden would fall upon _____ to show that it qualifies as one of the exempt entities.

In an effort to determine if _____ qualifies, we would refer you to Title 11, O.S. Section 1-101 et seq. wherein you will find definitions of "city", "municipality", and "town", and the procedure for incorporation of same. Although you state that _____ was incorporated in 1974, it does not appear to have been incorporated as one of the entities contained in the exemption statutes. Definitions and descriptions of rural water, sewer, gas and solid waste management districts may be found at 82 O.S. Section 1324.1 et seq. The procedure for creation of state agencies and counties of the state may be found at 74 O.S. Section 3301 et seq. and Oklahoma Constitution Art. 17, Section 4, respectively.

Copies of the exemption statutes and case cited herein are enclosed. You may locate other statutory references at the Oklahoma Supreme Court website:

<http://www.oscn.net>

After reviewing the statutes cited herein, if you still believe that your organization should qualify for exemption, you should contact the Taxpayer Assistance Division of the Oklahoma Tax Commission at (405) 522-5714.

This response applies only to the circumstances set out in your request of October 1, 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.

Sincerely,

OKLAHOMA TAX COMMISSION


Evelyn B. Phyffer
Tax Policy Analyst