OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
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March 28, 2003

Re: Our File Number LR-03-008; Sales tax on purchases made in connection with contracts with churches.

This is in response to your inquiry concerning the subject referenced above. I have set out your statements and questions below. Each is followed by our response.

Your first statement and questions

"Can a contractor who has entered into a contract with a church purchase goods free of tax upon providing to the manufacturer or supplier required for the contractual completion of the project shown on the contract any one of the following:

a. Copies of church tax exempt letter or card issued by the State of Oklahoma;
b. Copy of the contract;
c. Proof of arrangements for proper billing on invoices with the name of the church on each invoice?

It appears that such action would be similar to the Agency Agreements issued by schools and municipalities (other tax exempt organizations) for contracted services."

Response: None of the methods about which you ask above would allow a contractor to make purchases, exempt from sales tax, for use in the performance of a contract with a church. To be exempt, the purchases must be invoiced to and paid for by the church, using church funds. A brochure titled "Oklahoma Sales Tax Issues Affecting Houses of Worship" is enclosed. The exemption afforded contractors with schools and municipalities is covered in the next response.

Your second question

"If not, why are other tax exempt organizations able to provide Agency Agreements, and what process would need to take place for churches to be included in this process?"

Response: Purchases by contractors are specifically made taxable by 68 O.S. Section 1354, Subsection 20. The Sales Tax Code contains language, at 68 O.S. Section 1356(10) that specifically allows a sales tax exemption for contractors making purchases pursuant to a public contract with the eleven types of subdivisions or agencies of the state that are listed in that subsection of the statutes. For contractors with churches to be exempt from sales tax on their purchases for use in contracts with churches, a provision allowing for such an exemption would have to be added to the statutes. Copies of Oklahoma Tax Commission Rule 710:65-19-56 which deals with sales tax and contractors and 68 O.S. Sections 1354 and 1356 are enclosed.

Your third question

"As an alternative, can a contractor be assigned as a temporary purchasing agent for the church for each special project."

Response: There is no provision in the Sales Tax Code allowing contractors to be appointed temporary purchasing agents for churches in order for the contractors to be allowed to make purchases exempt from sales tax.

This response applies only to the circumstances set out in your request of January 9, 2003. 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
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