

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

June 28, 2003

Re: Our File Number LR-03-120; Sales

manufacturers.

Dear

This is in response to your inquiry concerning the taxability of sales of tangible personal property, specifically maintenance equipment and pollution control equipment, when sold to a manufacturer.

I am not using the matrix which was attached to your email because the matrix does not appear to correctly characterize the manufacturing exemptions available under the Oklahoma Sales Tax Code. The statute change to the manufacturing exemption from sales tax that was effective in 1998, exempts purchases of tangible personal property which are purchased by manufacturers for use in a "manufacturing operation". The phrase "manufacturing operation" is defined in 68 O.S. Section 1352 as:

'...the designing, manufacturing, compounding, processing, assembling, warehousing or preparation of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site. "Manufacturing operation" does not include administration, sales, distribution, transportation, site construction, or site maintenance;'

Thus, equipment used in the maintenance of other machinery, which equipment is itself used by a manufacturer at a "manufacturing site" (a phrase also defined in the section of the statutes referenced above), in a manufacturing operation, may be purchased by the manufacturer, exempt from sales tax provided the manufacturer holds an Oklahoma Manufacturer's/Sales Exemption Permit.

In the same manner, pollution control equipment, that retains its identity as tangible personal property may also be purchased, by the manufacturer, for use in a "manufacturing operation", exempt from sales tax. However, pollution control equipment which is to be

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incorporated into real property, where the pollution control equipment is sold to either a manufacturer or to a contractor which has a contract to improve real property belonging to the manufacturer, would be property sold for "site construction" or "site maintenance" and could not be purchased exempt from sales tax by either the manufacturer or the contractor.

A copy of Oklahoma Tax Commission Rule 710:65-13-150.1 which deals with the administration of the manufacturing exemption is attached.

This response applies only to the circumstances set out in your request of June 25, 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

A handwritten signature in cursive script that reads "Michael G. Pillow".

Michael G. Pillow
Tax Policy Analyst