OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

May 4, 2005

Re: Our File Number LR-05-003; Sales tax on the sale of drugs to hospitals

This is in response to your inquiry concerning whether a hospital may make purchases of drugs, prescribed for patients and administered under the direction of their attending physician, exempt from sales tax. I have copied your **"FACTS"** and your **"REQUEST FOR RULING"** into this letter and our response follows them.

YOUR FACTS:

Client owns and operates one or more for-profit hospitals within the state of Oklahoma. During the course of patients' treatment, attending physicians will prescribe certain drugs to be administered to the patients as part of the diagnosis, cure, mitigation, treatment or prevention of disease.

YOUR REQUEST FOR RULING

In accordance with the above, we respectfully request on Client's behalf a determination by the Commission that, to the extent the drugs purchased by Client would meet the definition of a "drug" as set forth in Oklahoma Code Annotated Title 68, Section 1352(7), the apparent requirement under Oklahoma Code Annotated Title 68, Section 1352(7) that a prescription be presented in order for the drug to be exempt should be interpreted to mean that the drug is exempt upon purchase by Client if the drug will be subsequently administered to a patient pursuant to a "prescription," as defined in Oklahoma Code Annotated 1352(7) and enumerated on a patient's medical chart.

OUR RESPONSE:

Your client, operating one or more hospitals, may make purchases of drugs, exempt from sales tax, provided the drugs are not "over-the-counter" drugs, and further provided that the client holds a sales tax permit for each location of each entity that is a hospital engaged in the administration of the drugs to the patients of the hospitals, as required by Oklahoma Tax Commission Rule 710:65-142(b).

This response applies only to the circumstances set out in your request of December 21, 2004. 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
Tax Policy Analyst