MEMORANDUM

OKLAHOMA TAX COMMISSION
TAX POLICY AND RESEARCH

DATE: January 9, 2006

SUBJECT: Status of governmental entities and their requirement to obtain LPG Decals

TO: Larry Wilson, Director
Taxpayer Assistance Division

FROM: Tony Mastin, Director TM
Tax Policy and Research

This memorandum is in response to your request for guidance concerning inquiry (see attached) and establishing internal procedures regarding the status of government entities and their requirement to obtain LPG decals.

The inquiry from pertains to governmental entities; "a city government in a nearby town and the Oklahoma State Department of Wildlife". The question asked was, "Do government entities have to obtain a state LPG decal and are they required to pay the federal excise tax?"

Background:

68 O.S. § 708 (8) **Exemptions from tax,** states, in part, the tax levied shall not apply to "Special fuel purchased by any county, city or town for use as fuel to propel motor vehicles on the public roads and highways of this state,...provided that if the special fuel is placed directly into the fuel supply tank or tanks of the motor vehicle by the supplier, and exemption certificate must be furnished to the supplier on forms prescribed and furnished by the Tax Commission."

68 O.S. § 723 **Fee in lieu of tax.** Subsection (A) states, in part, "no such fee shall be levied on any vehicle which is the subject of an exemption pursuant to Section 708 of this title." Further, subsection (I) states that provisions contained in Sections 701 through 721 of this title shall not apply to any vehicle using liquefied petroleum gas, liquefied natural gas, compressed natural gas, methanol or "M-85".

Conclusion and Recommendation:

Pursuant to the above sections, counties, cities and towns are exempt from the Special Fuel Use Tax and Flat Fee in lieu of tax decal, respectively and section 708 (8) provides that an exemption certificate must be furnished to the supplier. However, State Agencies are not exempt unless specifically named in exemption Section 708 and would be required to pay the flat fee tax decal. To administer the exemption contained in the above statutes, it is my recommendation that your office

notify all LPG suppliers on file indicating that counties, cities and towns are exempt from the Special Fuel Use tax and Flat Fee and also, upon request from any exempt entity, issue an exemption certificate thereon. Additionally, State Agencies that are not exempt should continue to apply and pay the flat fee tax decal accordingly.