OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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May 3, 2005

RE: LR-05-072-Taxation of Charge for Wine Education Class

Dear

A memorandum from OTC auditor, Darlene Daugherty, to OTC audit supervisor, Janine Marlar-McConville, was forwarded to this office for a letter ruling. The facts as stated therein are that holds wine education classes at the restaurant. The charge is $15.00 per person. This entitles them to wine tastings and appetizers during the class." The question is whether the proceeds from the class are taxable."

Section 576 of Title 37, Oklahoma Statutes, provides, in part, that the gross receipts tax is levied on "any charges for the privilege of admission to a mixed beverage establishment, which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages." "Mixed beverages" is defined at Title 37 Section 506(22) and means "one or more servings of a beverage composed in whole or part of an alcoholic beverage". "Alcoholic beverage" is defined at Title 37 Section 506(3) to include wine. Oklahoma Tax Commission Rule OAC 710:20-5-5 further provides, at subsection (b), that "Admission charges which are responsible for complimentary and discounted mixed beverages, as well as some other purpose not commonly considered incidental to the operation of a Mixed Beverage establishment, shall be subject to the Gross Receipts Tax upon that portion covering mixed beverages."

Therefore, the admission charges for the wine education classes would be subject to mixed beverage gross receipts tax on that portion attributable to the wine. Each establishment would have to be evaluated on a case-by-case basis to determine when the admission charge is for "some other purpose not commonly considered incidental to the operation" of the mixed beverage establishment involved. Sales tax would also be due on that portion of the admission charge attributable to the wine and food. If the portion of the admission charge due to wine and food cannot be separately stated then the entire admission charge would be subject to tax.

Copies of Commission rules and statutes cited herein are attached. Statutes referenced herein may also be viewed at the following website by entering the appropriate section number as the search term:

www.oscn.net/applications/oscn/search.asp?simple=true

The rules referenced herein may be viewed at the following website by entering the rule number as the search term:

www.oar.state.ok.us/oar/codedoc02.nsf/

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 we can be of further assistance, please feel free to contact this office.

Sincerely,
OKLAHOMA TAX COMMISSION

Evelyn B. Phyffer

Evelyn B. Phyffer
Tax Policy Analyst
Attachments (4)

cc: Janine Marlar-McConville, Audit Supervisor
Darlene Daugherty, Auditor