OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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August 1, 2005

Re: Our File Number LR-05-122; Proper usage of exemption permits

Dear

This in response to your inquiry wherein you asked two questions regarding patrons claiming sales tax exemption at your client's restaurant. I have scanned your questions below, followed by our response.

"My client runs a restaurant"

Question #1 "We have a patron that comes into the restaurant (along with ranch hands) and **eats in the restaurant.** This patron insists that they do not have to pay sales tax because they have a "farm tax permit" and can purchase tax free."

Our Response: The statute provides an exemption from sales tax for sales of certain items to be used directly in **"Agricultural production",** see O.S. § 1358 and Tax Commission Rule 710:65-13-15. A vendor wishing to be relieved of liability to collect the tax on sales that qualify for the exemption should follow the requirements of OAC 710:65-7-6 and 710:65-7-11. However, sales for personal use are taxable, see subsection (f) of the listed rule, which states in part "Sales to farmer or rancher of fuel, clothing and all other tangible personal property for personal living or human consumption or use are taxable." Therefore, food or food products for rancher and ranch hands is subject to sales tax.

Question #2 "We have patrons that come into the restaurant and **eat in the restaurant.** These patrons insist that they do not have to pay sales tax because they are " a church" and churches are exempt from sales tax."

Our Response: The statute provides an exemption from sales tax on the sale of tangible property or services to or by churches, see O.S.68 § 1356 (7) and Commission

Rule 710:65-13-40, which states in subsection (b), generally, sales made directly to a church are exempt from sales and use tax. Only sales purchased by the church, invoiced to the church, and paid for by funds or check directly from the church, will qualify for the exemption. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of OAC 710:65-7-6 and 710:65-7-15. Therefore, charges for goods and taxable services billed to and paid by a church are exempt. Otherwise purchases made with other than church funds are subject to sales tax.

This response applies only to the circumstances set out in your request of July 21, 2005. 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. Please find enclosed copies of the rules references, which deal with exemptions, generally, and agricultural and church exemptions. If I can be of further assistance, please feel free to contact me.

Sincerely,

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst

Enclosure