OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

December 29, 2005

Re: Our File Number LR-05-176; Sales tax exemption for agricultural equipment.

Dear

This is in response to your inquiry concerning the claimed agricultural exemption of your customer who purchased a lawn tractor from on August 31, 2005. The customer presented with a valid agricultural exemption permit at the time of sale. refused to exempt the transaction based on their understanding of Oklahoma Tax Commission Rule 710:65-13-15 wherein "Garden and lawn equipment" are listed as examples of items that are taxable when purchased by holders of Agricultural exemption permits. was advised by personnel of the Oklahoma Tax Commission not to refund the sales tax charged on the sale and that any refund needed to be issued directly to the customer by the Tax Commission.

While the sale of machinery and equipment which is to be used in a garden or in the upkeep of a lawn is subject to sales tax and is not eligible for exemption from sales tax as agricultural equipment, the same type of equipment, even if it is commonly thought of as being used for lawn and garden purposes, which instead is used in agricultural production may be purchased exempt from sales tax by the holder of an Agricultural Exemption Permit.

Since the statutes provide that the vendor will honor the Agricultural Permit when presented, you should refund the sales tax you have collected from your customer and have paid to the Oklahoma Tax Commission. You can amend the sales tax report on which the tax was paid in to get a letter of credit for the tax paid in error.

If you will provide me with the name or phone number of the person at the Oklahoma Tax Commission with whom you talked who advised you that the sale was taxable and could not be exempted, I will be happy to forward to them or their supervisor, a copy of this file.

If you have reason to believe that the equipment is not being used in agricultural production, but instead is in fact being used on a lawn or in a garden, after you have refunded the tax, please mail any information you have along with a copy of the sales invoice to:

Audit Division
Oklahoma Tax Commission
2501 N Lincoln Blvd.
Oklahoma City OK 73194

This response applies only to the circumstances set out in your request of September 30, 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.

If I can be of further assistance, please feel free to contact me.

Sincerely,
OKLAHOMA TAX COMMISSION

Michael G. Pillow
Tax Policy Analyst