OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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December 2, 2005

Re: Our File Number LR-05-206; Sales tax on the sale of boxes of food obtained from

Dear

This is in response to your inquiry concerning the sales tax requirements resulting from the sale of food boxes obtained from and sold by non-profit organizations.

This response is based on the information you have provided, information contained on the website of. and information sent to us by other persons who have inquired about this subject.

A sale is defined in Oklahoma Tax Commission Rule 710:65-1-2 as the "transfer of title or possession of tangible personal property for consideration." Therefore, the transfer of the food boxes to the persons who have paid the $25.00 charge for the boxes is a sale and is subject to sales tax.

Although some non-profit organizations have an exemption from sales tax on their purchases, few have an exemption on their sales. For those that do, such as churches, other limitations may apply. The sales tax code at 68 O.S. Section 1356(7) makes taxable those sales by churches that are "sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business...."

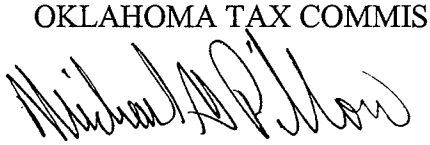
Sales of the food supplied by and sold by churches appear to be in competition with businesses that also sell food, and therefore the sales would be subject to sales tax.

Please be aware of the fact that, notwithstanding the above, for those sales where all or any part of the consideration of the sale of the food box is paid for with food stamps, the entire sale is exempt pursuant to the language in the Sales Tax Code found at 68 O.S. Section 1357(10).

This response applies only to the circumstances set out in your request of November 29, 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

cc: