

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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April 18, 2006

RE: LR-06-049-Permissibility of Beer Promotional Package

Dear

Receipt is acknowledged of your letter to Monty Bivens, Director of the Audit Division, wherein you stated that _____ is considering a promotional package consisting of 12 cans of beer and 2 glasses. You further stated that _____ lines are not automated to assemble such a package and, therefore, is considering other options. You requested advice as to the permissibility of:

- 1) **product and combo item shipped to distributors for assembly and subsequent delivery to retailers; or**
- 2) **product and combo item shipped to distributors for assembly by a local re-packer, delivery back to our distributors and subsequent delivery to retailers.**

Title 37 O.S. Section 537, subsection (C)(6) provides that no package store licensee shall offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverages, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in the prohibition. However, no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold.

Based on the foregoing, if the glasses are included by the manufacturer in packaging with the cans of beer or for packaging, then this promotion would not be a prohibited act.

The statute referenced above may be viewed in its entirety at the following website by entering the appropriate section number as the search term:

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

This response applies only to the circumstances set out in your request of March 10, 2006. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon only by the entity to which it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

Sincerely,
OKLAHOMA TAX COMMISSION


Evelyn B. Phyffer
Tax Policy Analyst

cc: Monty Bivens, Director
Audit Division

Donna Hunter McKay
Audit Division