OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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May 3, 2006

Re: Our File No. LR-06-065-Retailer's Ability to Use a Credit Card to Purchase Low-Point Beer from a Wholesaler

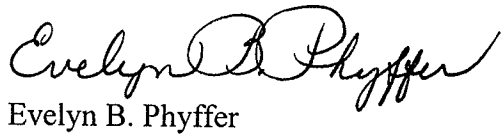
Dear :

Receipt is acknowledged of your request for guidance regarding the legality of a low-point beer retailer purchasing, with a credit card/purchasing card, low-point beer from a wholesaler. Your inquiry specifically relates to the purchase of beer by the Oklahoma City Public Property Authority (OCPPA) for the City-owned golf courses which it operates.

As you stated in your letter, Title 37 O.S. Section 231 (8) provides that it is unlawful for any person among others, including wholesalers, to "sell, offer for sale, or contract to sell to any retail dealer in low-point beer any low-point beer ...on any basis other than a bona fide cash sale." Based on our research we share your concerns regarding whether payment with a credit card is considered a bona fide cash sale as required in subsection 8. At the present time, there is no statutory authority either defining bona fide cash sale or that relates to transactions between wholesalers and retailers such as is found in 37 O.S. 537 relating to sales by package stores. Therefore, it is the recommendation of this office that the City contact the Oklahoma Legislature regarding amendment to the laws that regulate this area and seek clarification of these terms as used in Section 231. Until changes are made by the Legislature, the law as currently stated at 37 O.S. Section 231 (8) must be applied and purchases may not be made on any basis other than a *bona fide cash sale*.

This response applies only to the circumstances set out in your request of April 11, 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: Janine-Marlar McConville
Audit Division