OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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July 28, 2006

Re: Our File Number LR-06-069; Sales Tax on purchases of natural gas and electricity

Dear

This is in response to your inquiry concerning whether sales tax is due on the purchase of natural gas and electricity by your clients which are nursing homes and homes for the aged. You ask for a ruling on whether such sales are exempt from sales tax because the utilities sold would be sold for "residential use" in the nursing homes or the homes for the aged.

While I cannot make a determination on a particular home without facts regarding that home, if that home has common areas, or if it has areas such as offices, maintenance rooms, a clinic, an assembly room, or other non-residential areas, the use of the utilities at the facility would not be "exclusively" used for residential purposes and therefore the natural gas and electricity would not be exempted from sales tax in Oklahoma. Please see the Oklahoma Supreme Court case, *Autumn House v. State ex rel. Oklahoma Tax Com'n* that I have enclosed that supports this position.

Although from your letter, it would appear that no refunds are due your clients, if you believe that your clients' fact situations are different from the fact situations of those entities who appealed the order of the Oklahoma Tax Commission in the court case, you may wish to have your clients fill out and file requests for refunds for the sales taxes they believe they have paid in error. A copy of a form that can be used for this purpose is enclosed. -

This response applies only to the circumstances set out in your request of April 12, 2006. 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