OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

August 16, 2006

Re: County Use Tax Resolution; Our File No. LR-06-094

Dear

I am writing in response to your inquiry of June 22, 2006 regarding passage of a resolution for use tax. A restatement of the facts outlined in your inquiry, the questions posed therein along with the responses thereto are set forth below:

> recently passed a sales tax that is earmarked for the Fire Departments. The Board of County Commissioners is considering passing a resolution for use tax.
>
> If the County adopts the resolution, will the funds have to be ear-marked for the Fire Departments or can the Use tax be used in the County General Fund?
>
> If the County passes an additional Sales Tax, will it affect the Use Tax provision?

A board of county commissioners of a county is specifically authorized, pursuant to the provisions of 68 O.S. § 1411, to levy a use tax at a rate that does not exceed its county sales tax rate. However, there is no requirement in Section 1411 that the use tax funds be used for the same purpose as the one for which the county sales tax was levied. In accordance with Article X, Section 19 of the Oklahoma Constitution, the resolution passed by the board of county commissioners must specify distinctly the purpose for which the use tax is levied. Therefore, the funds can be used for any lawful purpose as long as that purpose is distinctly specified in the resolution passed by the board of county commissioners. Further, the passage by the County of an additional sales tax should not affect the use tax provision. 68 O.S. §1411.

Sincerely,

OKLAHOMA TAX COMMISSION

Christy J. Caesar

Christy J. Caesar
Tax Policy Analyst