

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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December 11, 2006

Re: Our File Number LR-06-140; Sales or Use Tax on Parts Utilized under a Long Term Service Agreement to Repair Manufacturing Machinery and Equipment.

Dear _____ :

This is in response to your inquiry concerning the subject matter referenced above. You have provided a copy of an agreement _____ which is presently between _____ and _____. The questions you have asked are set out below. Each question is followed by our response.

Your question No. 1: Can _____ utilize its MSEP on the acquisition of the maintenance parts consumed under the _____ where title has passed to _____ at the point the parts are "free on board or free carrier" from _____ facility?

Our Response to Question No. 1: _____ can utilize its MSEP to make purchases of parts to be used in the maintenance of manufacturing machinery and equipment, exempt from sales tax, pursuant to Oklahoma Tax Commission Rule 710:65-13-150.1. It should provide the vendor a copy of the MSEP as required by Oklahoma Tax Commission Rule 710:65-7-9. Based on the fact that the parts are brought into Oklahoma and are installed by _____ in Oklahoma on the manufacturing machinery and equipment in Oklahoma it is our position that the sales are potentially subject to sales tax and that the point of sale of the repair parts from _____ to _____ is the point of installation based on the language of 68 O.S. 1354.27(A)(2) and Oklahoma Tax Commission Rule 710:65-15-1.

Your question No. 2: Will use tax be imposed against either _____ or _____ on the sales transactions related to the maintenance parts consumed under the _____?

Our Response to Question No. 2: Pursuant to 68 O.S. Section 1404 and Oklahoma Tax Commission Rule 710:65-20-21, _____ may bring goods into Oklahoma for resale exempt from use tax. _____ may purchase goods from outside Oklahoma for use inside Oklahoma exempt from

use tax for use in its manufacturing operations using its MSEP pursuant to Oklahoma Tax Commission Rule 710:65-13-150.1.

This response applies only to the circumstances set out in your request of September 5, 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

A handwritten signature in black ink, appearing to read "Michael G. Pillow", written in a cursive style.

Michael G. Pillow
Tax Policy Analyst