OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

October 11, 2006

Re: Our File Number LR-06-143; Sales Taxability of "fuel additive dispensers"

Dear

This is in response to your inquiry concerning whether the manufacturing exemption allowed manufacturers in Oklahoma on their purchase of equipment for use in their manufacturing processes at their manufacturing sites in Oklahoma would be extended to the purchase of "fuel additive dispensers" which are purchased by entities that are fuel dispensers that dispense fuel at retail locations. To use your words, they are "blending/dispensing equipment installed at off site fuel stations on fuel pumps ...." In a telephone call, I verified with you that by "off site", you meant at a retail location, not at a refinery.

The Oklahoma Tax Commission Rule relating to Manufacturing, 710:65-13-150.1, restricts the exemption to tangible personal property purchased for used in a manufacturing operation at a manufacturing site by a manufacturer. It specifically states that it does not exempt purchases to be used in sales, administration, transportation, site maintenance, site construction, transportation and distribution.

Even if the purchase and use of the "fuel additive dispensers" was made by the same entity that was issued the Oklahoma Manufacturers Sales Exemption Permit, instead of being made by an affiliated company that cannot claim the manufacturer's exemption, the purchase would still not be exempt due to the fact that it is not made for use at the manufacturing site, it is being made for use in the sales area of the company, or conversely it is being made for use in the distributing area of the company and it is therefore taxable.

Finally, the Oklahoma Supreme Court has held in the case of *McDonalds Corp. v. Oklahoma Tax Commission* that operations that might be held to be manufacturing if they were conducted at a manufacturing site are not manufacturing operations if they are held at a retail store.

Therefore, the purchase of fuel additive dispensers for use at off site fuel stations on fuel pumps is subject to sales tax in Oklahoma.

This response applies only to the circumstances set out in your request of September 18, 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