

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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October 16, 2006

Re: Our File Number LR-06-161; Taxability Matrix on Prepared Foods

Dear

This is in response to your inquiry referenced above:

1. 'Is "prepared food" viewed by the state as a tax on restaurants, caterers, etc?'
Answer: No. There is no specific levy of sales tax on "prepared food."
2. 'What is the "state" sales tax rate for food sold in grocery stores, such as milk eggs and bread?'
Answer: 4.5%
3. 'What is the "state" sales tax rate for "prepared food"?'
Answer: While the phrase "prepared food" is not used in the levy of the Oklahoma sales tax, the subsection that levies the sales tax on sales of "foods, confections or drinks" is also at the tax rate of 4.5%.

(Questions 4 and 5 are being answered after a review of the information presented in your email in the blocks titled "FACT BASIS" and "THRIFT STORES".)

4. 'Would a loaf of bread or a snack cake, manufactured by the company and sold in its remote thrift store be subject to taxation under the state's definition of "prepared food"?'
 - A. 'If manufactured "in state"?'
Answer: Since Oklahoma's Sales Tax Code does not have a definition of, nor levy on, "prepared food", it would be subject to sales tax at the same rate as any other food.
 - B. 'If A is taxable, at what rate?'
Answer: 4.5% plus applicable local taxes
 - C. 'If manufactured "out of state" and shipped to the company owned retail stores?'

Answer: Since Oklahoma's Sales Tax Code does not have a definition of, nor levy on, "prepared food", it would be subject to sales tax at the same rate as any other food.

D. 'If C is taxable, at what rate?'

Answer: 4.5% plus applicable local taxes.

5. 'If the company were to create a "new" wholly owned corporation with a separate federal ID for the wholesale and retail operations. Would the same loaf of bread in question 4, purchased from the manufacturing parent company, be taxable as "prepared food"?'

Answer: If a consumer purchased the loaf of bread from the "new" corporation the sale would be subject to sales tax at the rate of 4.5% state sales tax plus applicable local taxes. As set out above, there is no separate, additional sales tax on prepared food.

This response applies only to the circumstances set out in your request of September 15, 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