OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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August 31, 2007

Re: Sales tax question re section IRC 338(h)(10) election; Our File No. LR-07-098

Dear

I am writing in response to your inquiry regarding the sales tax consequences of your company's potential purchase of a business in Oklahoma. The questions posed and the responses thereto are set forth as follows:

1. If we purchase all of the stock of the corporation, is sales tax due on the tangible personal property of the corporation.

The Oklahoma Sales Tax Code levies sales tax on the sale of tangible personal property, but not intangible personal property. Therefore, the described stock purchase is not subject to sales tax.

2. If an IRC section 338(h)(10) election is made for this stock, does that change the answer for question number 1 above.

An IRC 338(h)(10) election for the purchase of stock does not alter the determination made in response to question number 1.

3. The target corporation elected to be a Subchapter S corporation as of 01/01/05. Does that change the answer for question number 1 above.

The election by the target corporation to be a Subchapter S corporation as of 01/01/05 does not change the answer for question number 1 above.

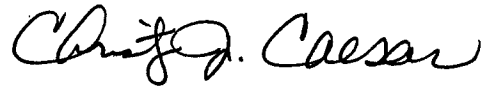
In response to your telephone inquiry regarding the sales tax consequences of the immediate liquidation of the target corporation into the purchasing entity, I have enclosed copies of Section

1360 of Title 68 and Oklahoma Tax Commission administrative rule provision OAC 710:65-13-201 for your review.

This response applies only to the circumstances discussed in your request of July 30, 2007. 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 there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION



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