OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

October 9, 2007

Re: Sales Tax Inquiry; Our File No. LR-07-135

Dea :

This is in response to your inquiry concerning the sales taxability of propane purchased by a manufacturer pursuant to a manufacturers sales exemption permit for use to run forklifts.

Purchases of tangible personal property, by a manufacturer which holds an Oklahoma manufacturer sales exemption permit, which are used in a manufacturing operation at a manufacturing site are exempt from sales and use tax. 68 O.S. § 1359.[1] Manufacturers may not make exempt purchases of tangible personal property for use in the areas of sales, administration, site maintenance, site construction, transportation, or distribution.

Pursuant to Section 1361.1 of Title 68 a vendor shall be relieved of liability for any sales tax or the duty to collect any sales tax imposed by Section 1361 of Title 68, if the vendor, in good faith, timely accepts from a consumer properly completed documentation certified by the Oklahoma Tax Commission that the consumer is exempt from sales tax. See OAC 710:65-7-6. In the case of sales to purchaser's claiming exemption for manufacturing the vendor must obtain a copy of the purchaser's manufacturer's sales exemption permit issued pursuant to 68 O. S. § 1359.2. OAC 710:65-7-9.

Based on the information provided, I am unable to provide a definitive answer as to the exempt or nonexempt status of the item enumerated in your letter. Since , as the vendor, has previously obtained the information set forth in OAC 710:65-7-9, it is relieved of liability to collect sales tax on the sales of propane when is claiming the exemption afforded manufacturers in Section 1359 of Title 68.

[1] Section 1404(4) of Title 68 provides that use tax shall not apply to "the use of tangible personal property . . . specifically exempted from taxation under the Oklahoma Sales Tax Code."

Should wish a definitive ruling regarding whether the purchase is exempt under Section 1359 of Title 68, it should send a request to my attention along with a detailed explanation of the manner in which the forklifts are utilized in its manufacturing operation.

Additionally requests for refunds should be addressed to Credits & Refund Section, Account Maintenance Division, 2501 Lincoln Blvd., Oklahoma City, OK 73194 – (405) 521-3270. Enclosed are copies of the above-referenced statutory and Oklahoma Tax Commission administrative code provisions along with Section 227 of Title 68 which deals generally with refunds and OAC 710:65-11-1 which specifically relates to obtaining a sales tax credit or refund.

This response applies only to the circumstances discussed in your request of August 17, 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

Christy J. Caesar

Christy J. Caesar
Tax Policy Analyst