OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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October 26, 2007

FAX

Re: Our File No. LR-07-178; Sales taxability of manufacturer's purchases of gas to fuel forklifts.

Dear

This is in response to your inquiry concerning the sales taxability of gas purchased by a manufacturer pursuant to its manufacturer's sales exemption permit for use to run forklifts. In your request you indicated that the forklifts are utilized in the manufacturer's production area to move the product from the line to a place to be checked by Quality Control and then moved to the yard or other location.

Purchases of tangible personal property, by a manufacturer which holds an Oklahoma manufacturer's 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. Subsection (b) of Oklahoma Administrative Code 710:65-13-150.1 sets forth the activities encompassed in a manufacturing operation and gives examples of the machinery, equipment, tools, and supplies utilized in these areas which are eligible for exemption when purchased by a manufacturer.

Your client's purchases, made pursuant to its manufacturer's sales exemption permit, of gas to fuel the forklifts for use in the manner described are exempt from sales and use tax. Oklahoma Administrative Code provision OAC 710:65-7-9 outlines the properly completed documentation that must be accepted from a purchaser claiming a manufacturing sales tax exemption and retained by the vendor in order for the vendor to be relieved of any liability for the sales tax and the duty to collect imposed by 68 O.S. § 1361 of Title 68.

Copies of the referenced statutory and administrative code provisions are attached.

[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."

This response applies only to the circumstances discussed in your request of October 24, 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
Tax Policy Analyst