

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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January 11, 2008

Re: LR-07-212
Sales Tax Inquiry

Dear

You had inquired if the aggregate a company quarries is subject to sales tax.

Our response:

Aggregate is a primary ingredient for making asphalt concrete and other products. Companies that make concrete, asphalt, and other products from aggregate would not be subject to sales tax. They are making a product for resale purposes and they will be charging sales tax on their product(s).

(Pursuant to 710:65-19-60 Made-to-order and custom sales)

Where persons contract to manufacture compound, process or fabricate their materials into articles of tangible personal property according to the special order of their customers, the total receipts from the sales of such articles are subject to tax. The seller may not deduct any of his costs, nor can he deduct any of his charges for labor or services, which are an item of the production or fabrication costs of the article, to arrive at the amount of gross receipts subject to tax. Articles commonly made to order are curtains, draperies, tents, awnings, clothing, and slipcovers. The person making sales of made-to-order and custom made articles may purchase the materials which become a component or ingredient of their products tax exempt pursuant to a valid sales tax permit. The equipment, tools and supplies directly used or consumed in the production of such articles and not becoming a part thereof are subject to tax.

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IT IS OUR MISSION TO SERVE THE PEOPLE OF OKLAHOMA BY PROMOTING TAX COMPLIANCE THROUGH QUALITY SERVICE AND FAIR ADMINISTRATION

(Pursuant to 710:65-7-8, Vendors' responsibility - sales for resale)

In the case of sales for resale, items set out in this Section are required to establish **properly completed documentation**:

- (1) A **copy** of the purchaser's sales tax permit, **or if unavailable**, the purchaser's name, address, sales tax permit number, and its date of expiration. If a copy of the sales tax permit is unavailable, and if the information provided has not been previously verified, it must be verified by either calling the Taxpayer Assistance Division or by reference to the sales tax permit list obtained pursuant to *OAC 710:65-9-6*;
- (2) A statement that the articles purchased are purchased for resale;
- (3) The signature of the purchaser or a person authorized to legally bind the purchaser;
- (4) Certification on the face of the invoice, bill or sales slip or by a separate document, that says the purchaser is engaged in reselling the articles purchased; and,
- (5) In cases where purchases are made on regular basis, and the certification indicates that all purchases are for resale, then subsequent purchases may be made without further certification until the expiration date of the permit.

(Pursuant to 710:65-7-9, Vendors' responsibility - sales to a manufacturer)

In the case of sales to purchasers claiming exemption for manufacturing, the vendor must obtain a **copy** of the purchaser's manufacturer's exemption permit issued pursuant to 68 O.S.Supp.1998, § 1359.2 (hereafter referred to as "Sales/Manufacturers Permit"), **or if unavailable**, the name, address, and Sales/Manufacturers Permit Number of the purchaser **or**, a statement that contains the information that would appear on the Sales/Manufacturers Permit. If a copy of the Sales/Manufacturers Permit is unavailable and if the information provided has not been previously verified, it must be verified by either calling the Taxpayer Assistance Division or by reference to the sales tax permit list obtained pursuant to *OAC 710:65-9-6*.

Any other sale of aggregate to an individual that does not pertain to resale or manufacturing would be subject to sales tax.

This response applies only to the circumstances discussed in your written request of October 25, 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.

If you should have any questions, please feel free to contact me.

Sincerely,

Oklahoma Tax Commission



Marc Morrison

Tax Policy & Research Division