OKLAHOMA TAX COMMISSION

STATE OF OKLAHOMA

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January 24, 2008

Re: In the Matter of the Request of the
of Sales Tax Charged to Members of
; Case No. LR-08-002

Dear Ms. Johnston:

This letter follows our telephone conversation on January 23, 2008, in response to a letter that our office received from one of your former colleagues, with whom you worked in your hotel's accounts receivable department.

In that letter, dated December 7, 2007, stated that problems continually arise, when your hotel attempts to collect sales tax on the room charges billed to your guests who are members of Reportedly, those guests claim they are exempt from sales tax solely because they are members of a Although you explained that your hotel is not swayed by this argument and that you have been collecting and remitting sales tax on those room charges, you requested our office provide "clarification and documentation" in support. To that end, I sent you a copy of our policy letter outlining the three requirements that must be satisfied for an Indian sales tax exemption to apply.

Those requirements, as restated by the federal court in a 1994 case titled "Chickasaw Nation v. State of Oklahoma", 31 F.3rd 964, 973, include the following: (1) The sale must be made directly to the tribe; (2) payment must be received directly from the tribe; and (3) the tribe itself must consume or use the purchased goods on land that falls within the legal definition of "Indian Country". ("Indian Country" is defined by the United States Code to mean formal and informal reservations, dependent Indian communities and Indian allotments that are restricted or held in trust by the United States for a particular tribe. 18 U.S.C. §1151).

Our policy letter also states that this sales tax exemption "does not extend to individuals, corporations, partnerships, or other business or legal entities who are purchasing items...ostensibly 'for the Tribe' or for business ventures under tribal license or contract with private parties".

Ms. Johnston, I hope that I have answered your questions and provided to your satisfaction the support you requested. If, however, you need further assistance, please do not hesitate to contact me.

Yours truly,

Liessa Lieppman
Assistant General Counsel

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cc: Dawn Cash, Director
Tax Policy and Research