OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

April 29, 2008

RE: LR-08-027
Sales Tax

Dear

You had previously inquired if the can pass their tax exemption to a contractor. Our response was no, they could not. After receiving the copy of the tax exemption that you sent to us upon request, we are reversing our previous ruling regarding the ability of the to pass their tax exemption to a contractor, (Pursuant to **710:65-13-210, Exemption for public and private schools and institutions of higher education).**

(a) **Sales to schools.** Sales of tangible personal property or services to the following entities are exempt from taxation:

(1) Private institutions of higher education.

(2) Private elementary and secondary schools.

(3) Members of the Oklahoma system of higher education.

(4) Public school districts.

(b) **Scope of exemption.** The exemption in this subsection shall apply only if said institution or school is accredited by the State Department of Education, registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher education which are exempt from taxation pursuant to 26 U.S.C.A.. 501(c)(3) of the Internal Revenue Code. Included in sales which are exempt are materials, supplies and equipment used in construction and improvement of buildings owned by said entities and operated for educational services.

(c) **Sales by a lease or lease-purchase agreement with a school district.** As of July 1, 1999, sales of tangible personal property or services pursuant to a lease or lease-purchase agreement executed between a vendor and a school district are exempt from sales tax.

(d) **Sales under public contract.** Sales to any public school, institution of the Oklahoma system of higher education and to any person, including subcontractor, whom a public school or institution of the Oklahoma system of higher education has duly entered into a contract pursuant to law necessary for carrying out said contract are exempt from taxation.

(e) **Certification required.** Certification on the face of the invoice is required of persons making purchases on behalf of an entity listed in subsection (a). The invoice containing the certification must be retained by the vendor. Wrongful or erroneous certification may result in criminal punishment.

(f) **Campus or school construction.** Sales for use on campus or school construction projects for the benefit of either the institutions of the Oklahoma system of higher education, private institutions of higher education accredited by the Oklahoma State Regents for Higher Education, or for public schools or school-districts, are exempt when the projects are financed by or through the use of nonprofit entities exempt from taxation pursuant to the provisions of the Internal Revenue Code 26 U.S.C., 501(c)(3).

(g) **Obtaining exemption for campus or school construction projects.** The general contractor shall request a letter of confirmation that the project qualifies for the exemption from the Taxpayer Assistance Division. Along with the request, the following must be supplied:

(1) A letter from the institution confirming that the not-for-profit entity is financing the project and that the requestor is the general contractor for the project.

(2) A copy of the IRS letter to the not-for-profit entity showing its exemption status.

(h) **Private schools tuition.** Tuition and educational fees paid to private institutions of higher education, private elementary and secondary institutions of education duly accredited by the State Board of Education or registered to participate in federal programs are exempt from sales tax. The institution must be exempt from income taxation pursuant to the provisions of 26 U.S.C.A. 501(c)(3) for this exemption to apply.

(i) **Sales in school cafeterias.** Sales of food in cafeterias or lunchrooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils are exempt from taxation so long as the cafeteria or lunch room is not operated primarily for the public or for profit. Management companies operating for a profit who contract with a school, college or university to operate a lunchroom or cafeteria will be denied the exemption. Also, sales of food made on school premises but not in a cafeteria or lunchroom do not fall within the exemption provided by statute.

(j) **Sales of admission tickets.** That portion of the gross receipts received from the sale of admission tickets which is for the repayment of money borrowed by an accredited state-supported college or university for the purposes outlined in the statute is exempt from taxation if said amount is:

(1) separately stated on the admission ticket; and

(2) imposed, collected and used for the sole purpose of servicing the debt incurred by the college or university for capital improvements described in the statute.

(k) **Sales by school, student, parent organizations.** Private schools, public schools, public school boards, public school districts, and public school student organizations (to include parent organizations) can make sales of tangible personal property, including admission tickets and concessions at athletic events, for fund-raising projects to benefit

the school or the organization without collecting and remitting sales tax. [**See:** 68 O.S. §§ 1356(13),(14)]

(l) **Sales to, or by, parent-teacher organizations.** Parent-teacher associations and parent teacher organizations that are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code may make purchases and sales free from the levy of Oklahoma sales taxes.

(m) **Sales to career technology student organizations.** Career technology student organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education may make purchases exempt from Oklahoma sales and use taxes and local sales and use taxes.

This response applies only to the circumstances discussed in your telephone request of April 23,2008. 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
Marc Morrison
Tax Policy & Research Division

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

April 09, 2008

RE: LR-08-027
Sales Tax

Dear Ms. Watral:

You have inquired if the and the can pass their tax exemption to contractors.

Our Response:

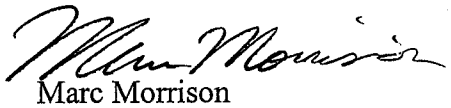
With certain exceptions, contractors are considered consumer users and must pay sales tax on all taxable services and tangible personal property, including materials, supplies, and equipment, purchased to develop and improve real property. OAC 710:65-1-7. However, a contractor who has a public contract with one of the entities set forth in Section 1356(10) of Title 68 may make purchases of tangible personal property and services necessary for carrying out the public contract exempt from sales tax. are not one of the entities specifically provided for in Section 1356(10) therefore the described purchases by the private contractor would not be exempt from sales tax.

This response applies only to the circumstances discussed in your written request of April 02, 2008. 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