OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

June 9, 2008

Re: LR-08-057

Dear :

This is in response to your inquiry as to whether an agricultural permit holder may purchase sales tax exempt equipment commonly used to care for lawns and gardens.

The sale of machinery and equipment which is used in a garden or in maintenance of a lawn is subject to sales tax and is not eligible for exemption as agricultural equipment. However, this equipment which is to be used in agricultural production may be purchased exempt from sales tax by a holder of an agricultural exemption permit.

"Agricultural production" and "production of agricultural products" is defined in OAC 710:65-13-15 as being "limited to what would ordinarily be considered a farming or ranching operation undertaking for profit." The term refers to the raising of food crops or livestock for sale. Included within the meaning of "agricultural production" and production of agricultural products" are ranches, orchards, and dairies..." Subsection (h) of 710:65-13-15 provides further, "the fact that an item is purchased for use on a farm or ranch, or that a piece of equipment is convenient, does not necessarily make the purchase exempt from sales tax. The items purchased must be directly used on the purchaser's farm or ranch in the production of agricultural products. To be directly used by the purchaser on a farm or ranch in the production of food or agricultural products, requires that the property in question must have a direct effect on the article being produced."

The statutes provide that vendors will honor an Agricultural Permit when presented, if the equipment is used in agricultural production. See Commission Rule 710:65-7-11.

Copies of the rules referenced in the above are being faxed for your information.

This response applies only to the circumstances set out in your request of April 25, 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 that there has been no change in applicable law. If I can be of further assistance, please feel free to contact me.

Sincerely,

OKLAHOMA TAX COMMISSION

Brenda J. Sullivan
Tax Policy Analyst