

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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



June 03, 2008

RE: LR-08-061
Sales tax (follow up) inquiry

Dear

I have received your publication in the mail along with your request to determine if it meets the definition of a periodical.

Our response:

Your publication meets the description of a periodical.

This response applies only to the circumstances discussed in your written request of May 26, 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,

A handwritten signature in black ink, appearing to read "Marc Morrison".

Oklahoma Tax Commission
Marc Morrison
Tax Policy & Research Division

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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May 15, 2008

RE: LR-08-061
Sales tax inquiry

Dear

You have inquired if you may use your sales tax permit to purchase the printing for your periodical tax exempt?

Our response:

Based upon your inquiry, we are not able to give you a ruling without knowing more about your publication and how you charge your customers for your publication. However, newspapers & periodicals are exempt from sales tax provided that they meet the following criteria (**Pursuant to 710:65-13-190, Newspapers and periodicals; taxable and exempt transactions**):

- (a) Sales of newspapers and periodicals are exempt from sales and use tax, regardless of whether purchased by single copy or subscription.
- (b) The term "**newspaper**" is not defined by statute. For purposes of this exemption, "**newspaper**" is defined as: A paper that is printed and distributed daily, weekly, or at some other regular and usually short interval and that generally contains news, articles of opinion (editorials), features, advertising, or other matter regarded as of current interest.
- (c) The term "**periodical**" is also not defined by statute. However, the Supreme Court of Oklahoma has defined "**periodical**" in the case of **Swap and Shop Advertiser v. Oklahoma Tax Commission**, 774 P.2d 1058 (Okla. 1989) as follows: Periodical: A magazine or other publication of which the issues appear at stated or regular intervals; usually used of a publication appearing more frequently than annually but infrequently used of a newspaper.

(d) The test which must be met in order to qualify for exemption as a periodical is that the publication must come out periodically and must be published on more than an annual basis. This periodicity test is met whether the publication is a weekly or a monthly or even a quarterly or semiannual publication.

(e) Other considerations in order of diminishing importance include the following:

(1) Does the publication contain articles and items which have value to the general public rather than to a specialized class of people?

(2) Is the publication one that has the basic format of a magazine, i.e., soft cover, individual pages, indexed articles, etc.?

(3) Can the publication be subscribed to?

(4) Does the publication contain general advertising?

(5) Is the publication commonly accepted as a magazine?

(f) An affirmative response to any of these considerations should tend to indicate the publication in question is a periodical, assuming the initial test of periodic publication, described in subsection (d), is met.

(g) Furthermore, each publication must stand alone. It must not, either singly or, when successive issues are put together, constitute a book such as loose-leaf packets which update a book or pocket parts.

(h) Finally, the sale of microfiche or microfilm which contains newspapers or publications which meet the test for a periodical are not exempt from tax as the sale of newspapers or periodicals under this rule. [See: 68 O.S. §1354(A)]

If your publication meets these criteria, you should not be charged sales tax, nor should you be charging sales tax to your customers. If it does not meet these criteria, then you must be a manufacturer and hold a valid sales tax permit to be exempt from sales tax on printing. In order to be a manufacturer depends on how much of the copying, photography, and other processes you do for your publication. **(Pursuant to 710:65-19-267, Printing; graphic arts production)**

Graphic arts production means printing by one or more of the common processes or graphic arts production services. Persons engaged in graphic arts production are manufacturers and are eligible to obtain a Sales/Manufacturers Permit and to make purchases for use in a qualified manufacturing operation exempt from sales tax in the same manner as other manufacturers. [See: 710:65-13-150.1]

If you determine that you should be qualified as a manufacturer, you may submit an application (which is available on our website www.OKTAX.STATE.OK.US) and a decision regarding your request will be rendered after your application is made.

If you determine that your publication does not meet the appropriate criteria and that you do not qualify as a manufacturer then you can not use your sales tax permit to be exempt from the printing services for your publication.

This response applies only to the circumstances discussed in your fax request of May 08, 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,

A handwritten signature in cursive script that reads "Marc Morrison".

Oklahoma Tax Commission
Marc Morrison
Tax Policy & Research Division

Mr. Marc Morrison
Oklahoma Tax Commission

May 26, 2008

RE: LR-08-061

Dear Mr. Morrison

In reply to your letter of May 15, 2008, to clarify my question: Can the
annual periodical avoid paying sales tax to the job printer that prints our semi-
annual periodical?

is published two times a year and sent to members. The subscription is part of the
annual dues. Other subscribers include libraries and schools for use by the general public.

is published in a soft cover, indexed article and numbered page format. An issue is
enclosed for your review.

We do not include advertising because of our non profit tax status.

No sales tax is charged for subscriptions or single copy sales.

The articles published in are stand alone stories of Southwestern Oklahoma
history.

I hope the above information is useful toward rendering a favorable decision for us. Please let
me know if there is any thing else we can submit to support our position for sales tax relief.

Sales tax number:

Federal ID:

Sincerely