

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
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July 3, 2008

Re: Sales Tax Inquiry; Our File No. LR-08-072

Dear

I am writing in response to your inquiry whether _____ may make exempt purchases of materials and rentals of equipment to be consumed or utilized in the construction of a wind farm for the owner of the _____. You indicate in your correspondence of May 30, 2008 that the _____ owner, as a manufacturer of electricity, possesses a Manufacturer Sales Tax Exemption Permit.

Generally, neither a manufacturer nor a person to whom a manufacturer has entered into a construction contract may make purchases of tangible personal property or services exempt from sales and use tax for use in site construction of a manufacturing facility. Site construction is the "construction of buildings and other structures and improvements to real property" and "includes land preparation, new construction, reconstruction, remodeling, renovation, repair, upgrading and making alterations and additions to the real property, whether the work is done by the manufacturer or by other firms." Oklahoma Administrative Code 710:65-13-150.1(a)(9). An exception to this rule is the provision found at Section 1359(7) of Title 68 which exempts from the sales tax levy sales of tangible personal property to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility. For purposes of Section 1359(7) sales made to a contractor or subcontractor who has previously entered into a contractual relationship with the qualified manufacturer for construction or expansion of a manufacturing facility are considered sales made to a qualified manufacturer. A qualified manufacturer is defined by this Section as a manufacturing enterprise that meets certain requirements involving total costs of facility construction or expansion, construction material costs, and added and maintained full-time-equivalent employees. This exemption is administered as a refund and in order to obtain a refund of sales and use tax under Section 1359(7) of Title 68 certain procedural requirements must be met by the manufacturer in accordance with Section 1359.1 of Title 68. See also OAC 710:65-13-153.

Copies of the referenced statutory and administrative code provisions are enclosed.

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

This response applies only to the circumstances discussed in your request of May 30, 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

A handwritten signature in cursive script that reads "Christy J. Caesar".

Christy J. Caesar
Tax Policy Analyst