

August 6, 2008

Re: LR-08-097

Dear \_\_\_\_\_ :

This letter is in response to your request for confirmation that the documentation provided by your customer allows it to make purchases exempt from sales tax based on the exempt status of the \_\_\_\_\_ Set forth verbatim are the facts presented along with the question posed and the response thereto.

\_\_\_\_\_, a plumbing supply wholesaler, has been given the attached November 1, 2007 cover letter from the \_\_\_\_\_

indicating that \_\_\_\_\_ and subcontractors designated by \_\_\_\_\_ will be able to claim the \_\_\_\_\_ sales tax exemption and a second letter of the same date from the \_\_\_\_\_ to "**designate \_\_\_\_\_ and subcontractors designated by you \_\_\_\_\_ in writing, individually and without power of redesignation or assignment, as agent for the**

**acting for and on behalf of \_\_\_\_\_, for the sole and exclusive purpose of placing orders as agents for said \_\_\_\_\_ for the purchase of tangible personal property that will become a part of or incorporated at**

\_\_\_\_\_ and goes on to say that "**In order for any individual invoice to qualify for the (sales tax) exemption, it must clearly reflect upon its face the following:**

- 1. Certification, in writing, that the purchase was made by you or your subcontractor for and on behalf of the \_\_\_\_\_.**
- 2. That from a description of the building material as the same appears on the purchase order or invoice, it is clearly revealed that such materials entered into and became a part of the building of project.**
- 3. That title to such personal property passed from the vendor directly to the**

Question: Does the above language allow our customer (who is not the exempt party) to purchase materials for a project at \_\_\_\_\_ without sales tax if the material is being charged to and paid for by our customer, or for the exemption to apply must the sale be **charged AND paid for** by the \_\_\_\_\_

Section 1356(10) of Title 68, allows a contractor, who has a public contract, or a subcontractor to that public contract, with . . . an institution of the Oklahoma System of Higher Education . . . to make purchases of tangible personal property or services, which are necessary for carrying out the public contract, exempt from sales tax.

OAC 710:65-7-13 sets forth the documentation that a vendor is required to obtain when making sales to contractors or subcontractors pursuant to 68 O.S. § 1356, in order for the vendor to be relieved of liability for the sales tax. In the case of the sale to your customer claiming exemption pursuant to 68 O.S. § 1356, Norman Supply Company must obtain:

- (1) A copy of the exemption letter or card issued to
- (2) Documentation indicating the contractual relationship between the contractor and the entity; and,
- (3) Certification by the purchaser, on the face of each invoice or sales receipt, setting out the name of the exempt entity, that the purchases are being made on behalf of the entity, and that they are necessary for the completion of the contract.

The referenced statutory and administrative code provisions are enclosed.

Sincerely,

OKLAHOMA TAX COMMISSION

Christy J. Caesar  
Tax Policy Analyst