

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
DAWN CASH, DIRECTOR



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

September 23, 2008

FAX (405) 842-0056

Re: Sales Tax Inquiry; Our File No. LR-08-123

Dear

I am writing in response to your inquiry regarding whether your client's purchase of a monorail system and other assets qualify for the sales tax exemption in Section 1356(2) of Title 68. The facts presented in your inquiry are set forth verbatim along with the questions posed and the response thereto.

is a general contractor for the U.S. Government. They will purchase assets for construction of a monorail system to be installed at . . . . . Most of the assets will be directly shipped to . . . . . Title of the monorail will take place in Oklahoma with . . . . . and then transfer to . . . . . within a short period of time. Some of the other assets for the contract that will be used to complete the contract will require purchasing of materials and assets in Oklahoma to be used on the construction site.

## QUESTIONS:

- 1) Will . . . . . be required to pay sales tax on the following assets?
  - A) Monorail system purchased out of state and directly shipped to . . . . .
  - B) Other Assets used in the construction of the contract with the U.S. Government.

Section 1356(2) of Title 68 exempts "sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government." In order for the referenced purchases to qualify for exemption under Section 1356(2) both title and possession of the items purchased must transfer immediately to the U.S. Government. The supplied information "that title of the monorail will take place in Oklahoma with . . . . . and then transfer to . . . . . within a short period of time" is insufficient to establish that this purchase qualifies for the exemption found in Section 1356(2) of Title 68. See OAC 710:65-13-131. Therefore, without additional information use tax will be due on . . . . . purchase of . . . . .

2501 NORTH LINCOLN BOULEVARD • OKLAHOMA CITY • OKLAHOMA 73194

the monorail system and sales tax will be due on the materials and other assets purchased in Oklahoma by to be used on the construction site.

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

OKLAHOMA TAX COMMISSION

A handwritten signature in cursive script, appearing to read "Christy J. Caesar".

Christy J. Caesar  
Tax Policy Analyst