OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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March 5 2009

Re: LR-09-010, Sales Tax Inquiry

Dear

This is in response to your request for a ruling concerning the exempt status of a sale to an agriculture permit holder who is a tenant farmer where1/3 of the purchase cost of the fertilizer is charged to the landowner's account. What follows is verbatim your facts and requested ruling and our response thereto.

Facts:

When a land owner who may or may not live anywhere near the farm which he or she owns and owns nothing other than the land itself can they be sales tax exempt when the tenant (who has a farm tax exempt number) purchases fertilizer for this farm and charges a share (usually 1/3) to the landowner's account

Requested Ruling:

Does the tenant's exempt number define the tax status for both the tenant and landowner's purchase?

Our Response:

No. Oklahoma Tax Commission 710:65-1-2 defines a "sale" as the "transfer of title or possession of tangible personal property for consideration." It further defines "consideration" as "the price arrived at between a purchaser and the vendor". The rule does not specify the manner or method of invoicing the payment that would change the sales transaction otherwise. The sale in your fact constitutes a sale to the tenant farmer rather than to both the tenant farmer and landowner. Therefore, the sale of fertilizer to the tenant farmer is exempt based on his agricultural permit.

Further, a vendor who makes a sale to an agricultural permit holder may relieve himself of liability if he follows the requirements as set out in Rule 710:65-7-6 and 710:65-7-11 (Copies enclosed).

This response applies only to the circumstances discussed in your request of December 11, 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

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst