

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
DAWN CASH, DIRECTOR

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

August 21, 2009

Re: Sales Tax Inquiry; Our File No. LR-09-116

Dear

I am writing in response to your inquiry regarding whether the rental of a storage container by your customer, is exempt from sales tax.

Section 1356(10) of Title 68, allows a contractor who has a public contract with an institution of higher education and any subcontractors to that public contract, to make purchases of tangible personal property or services, which are necessary for carrying out the public contract, exempt from sales and use tax. "Sale" is defined to mean, "the transfer of either title or possession of tangible personal property for a valuable consideration regardless of the manner, method, instrumentality, or device by which the transfer is accomplished in this state. . . ." 68 O.S. §1352(22).

The term "sale" includes but is not limited to "the exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property." 68 O.S. §1352(22)(a). Generally, contractors to a public contract with an institution of the Oklahoma State System of Higher Education as set forth in Section 1356(10) may rent or purchase items necessary to fulfill the contract exempt from sales tax. However, the Purchasing Agent Appointment Agreement provided designates your customer as an agent for the for the "sole and exclusive purpose of placing orders . . . for the purchase of tangible personal property that will become a part of or incorporated into the Additionally, although invoices were not provided for review, the Purchasing Agent Appointment Agreement specifically provides that project invoices to qualify for exemption should clearly reflect the following:

1. That title to such personal property passed from the vendor directly to the

2. The order was entered by you as agent for the \_\_\_\_\_ and not by you as a contractor.

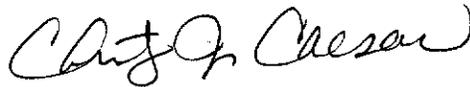
3. That a description of the building material as it appears on the purchase order or invoice clearly reveals that such material entered into and became a part of the building or project

Therefore, based on the foregoing, your customer's rental of a storage container is not exempt from sales tax.

This response applies only to the circumstances discussed in your request of August 7, 2009. Pursuant to Oklahoma Administrative Code 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 black ink, appearing to read "Christy J. Caesar". The signature is written in a cursive, flowing style.

Christy J. Caesar  
Tax Policy Analyst