OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

April 28, 2010

Re: Our File Number LR-09-205.1

This is in response to your request for clarification regarding the sales tax treatment of admission charges for plays at the theatres wherein you indicate that although called theatres both the are recreation centers.

Dues and fees for the use of facilities and programs, including plays, classes and other events, at a recreation center owned by the City of are exempt from the imposition of sales tax. 68 O.S. § 1356(23)

This response applies only to the circumstances discussed in your request of April 19, 2010. 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

Brenda J. Sullivan

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Tax Policy Analyst

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
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April 16, 2010

Re: Our File Number LR-09-205

This is in response to your request for a ruling regarding the sales tax treatment of certain charges at the City of [illegible] public facilities and clarification of LR-09-183 issued November 18, 2009 relating to the sales taxability of admission fees to municipally owned pools. Set forth are the facts presented along with the questions poised and the responses thereto.

1. POOLS — The [illegible] charged a flat $2 admission fee per person. Sales tax was remitted at the amount calculated based on those flat admissions. There was no sales tax specifically broken out and charged per customer.

(a.) Does this entitle the [illegible] to a sales tax refund since there was no sales tax charged to the customer?

RESPONSE

It is my understanding that the [illegible] did not collect sales tax on the $2.00 swimming pool admission fees nor did it include the applicable sales tax in the charge to its customers. It did however, calculate sales tax on the $2.00 admissions and pay these amounts to the Tax Commission using [illegible] funds. The [illegible] may request a refund of the sales tax paid on the pool admissions.

A refund application may be made by forwarding Form 13-19 *Application for Credit or Refund of State and Local Sales or Use Tax* with supporting documentation to the Credits/Refunds Section, Account Maintenance Division of the Oklahoma Tax Commission.

(b.) Additionally, is the [illegible] required to submit sales tax on current admissions collections based on the above information where no specific sales tax was charged?

RESPONSE

No, as indicated in LR-09-183, admission fees to swimming pools located at municipally owned recreation centers are exempt from sales tax. 68 O.S. § 1356(23)

2. ZOO — The is municipally owned. The pays sales taxes on admissions to the facilities. The Oklahoma Sales Tax Code includes "...commercial animal, reptile, and zoological exhibits..." in its definition of a "place of amusement".

(a.) Does this imply that admissions to a municipally owned zoo are exempt from sales tax?

RESPONSE

Unless specifically exempted by statute sales is due on the gross receipts derived from sales of tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities, and free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made. 68 O.S. § 1354(13). No statutory provision exists which specifically exempts admissions charges to city owned zoos nor are these transactions exempt pursuant to 68 O.S. § 1356(23). Zoological parks are excluded from the definition of "recreation centers" for purposes of the exemption in Section 1356(23) of Title 68. See OAC 710:65-19-77. Therefore, admission fees to a municipally owned zoo are subject to sales tax.

3. EVENTS AT MUNICIPAL FACILITIES — The hosts several events in our municipally owned parks and pools [which include dances for seniors at Breakfast with Santa and plays at the currently admissions are not charged sales tax.

(a.) Are admissions to these events subject to sales tax?

RESPONSE

Charges for admission to senior dances held at are sales tax exempt pursuant to Section 1356(23) of Title 68. Likewise, admissions charges for the children's event "Breakfast with Santa" is also exempt from sales when held at a municipally owned recreation center. However, fees imposed for admission to plays at the are taxable pursuant to 68 O.S. § 1356(13)

4. MUNICIPAL PARK GATE FEE — Currently, motorized vehicles must pay a gate parking fee when entering during the summer months. Currently the is paying sales tax on this revenue.

(a.) For verification purposes, are these gate fees taxable?

RESPONSE

Section 1354(8) of Title 68 levies a sales tax on the service of furnishing storage or parking privilege by auto hotels or parking lots. OAC 710:65-19-268(b) provides that "the sale of parking privileges for motor vehicles is taxable even if the person making the sale is primarily engaged in some other business or profession." Therefore, the described parking fees are subject to sales tax.

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

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