OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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July 22, 2010

Re: LR-10-039; Sales Tax Inquiry

Dear

This is in response to your request regarding the sales tax treatment of certain transactions outlined in your correspondence of February 20, 2010. Set forth verbatim are the facts presented along with questions posed and the response thereto.

FACTS

- On October 13, 2008 we received our not for profit certificate of Incorporation from the State of Oklahoma. We file an e-postcard form 990N to the IRS because our revenue is not more that $15,000 a year.

- We have a gift shop for which we charge state tax. We have been doing this for a long period of time under permit #

- We make pillows for the patients of our hospital and give them out when they enter the hospital. We have to buy material and stuffing to make these pillows for which we pay sales tax on all the materials to make them. They are made by all the auxiliary members.

- We sell some of the pillows we make to the public outside of the gift shop, to help defray the cost of the materials we must buy to make the pillows. Do we have to charge sales tax on them?

- We also sponsor a golf scramble every year to raise money for equipment we buy the hospital as to their requested needs for the benefit of our patients. Most of the food stuffs are donated to us but we do have to spend money on materials to publish flyers and send letters which costs us to buy paper, envelopes and many other things which we pay sales tax on when we purchase these items.

QUESTIONS

Do we qualify for sales tax exemption?

Can we be exempt from the sales tax we pay for this project of making pillows for the patients of our hospital?

Do we have to charge sales tax on the pillows sold to the public?

RESPONSE

Section 1354(A) of Title 68 levies a sales tax on sales not otherwise exempted in the Oklahoma Sales Tax Code. Although there are numerous provisions in the Sales Tax Code setting forth specific kinds of entities which are exempt from sales tax, absent from those provisions is any reference to an organization such as Furthermore, although holds a sales tax permit, it does not appear to be regularly engaged in selling the pillows and therefore may not purchase the fabric and stuffing sales tax exempt for resale pursuant to Section 1357(3) of Title 68 of the Oklahoma Statutes. Consequently, is not exempt from sales tax on its purchases of pillow materials, paper, envelopes or other items and must collect and remit sales tax of its sales of pillows.

This response applies only to the circumstances discussed in your request of February 20, 2010. Pursuant to Oklahoma Administrative Code 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