OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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June 7, 2011

RE: LR-11-029; Sales Tax Inquiry

Dear

I am writing this letter in response to your request regarding sales tax. Set forth are the facts presented along with the responses thereto.

Facts:

> We have a nursing home located in Oklahoma that is classified as a commercial entity, but our electric usage is centrally metered and is set apart for residential use. Like an apartment complex, we are commercial in nature, but the electricity on the main meter is used for the benefit of the residents. A large part of the electricity is consumed in the individual units. And then a much smaller portion of the electricity goes to lighting in hallways other areas appurtenant to the individual units. The heating and lighting of these common areas are essential to the resident's use of their apartments, and thus we feel should fall under the umbrella of the residential exemption clause listed in the above sales tax code. The common area electricity is not used to generate additional revenues and therefore we feel that the common areas must be viewed as an extension to individual units.

Response:

Nursing homes, hospitals, and sanitariums are engaged in the selling of services and are considered to be the consumers or users of all tangible personal property and services used in the operation of the institution. OAC 710:65-1-7(1). Therefore, sales of electricity to nursing homes which are engaged in the business of providing licensed care do not qualify for the state sales tax exemption for residential use electricity. 68 O.S. § 1357(8).

This response applies only to the circumstances discussed in your written request of February 17, 2011. 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

Marc Morrison
Tax Policy Analyst