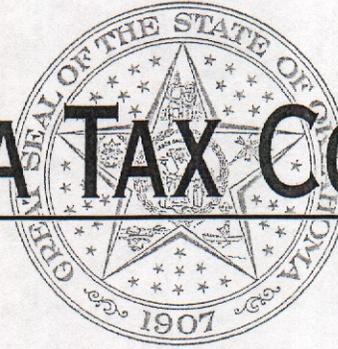


OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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



August 23, 2011

Re: LR 11-097; Business Activity Tax

Dear [REDACTED]

This is in response to your inquiry of June 21, 2011 wherein you requested a ruling concerning the Oklahoma Business Activity Tax. What follows is verbatim your facts and requested ruling and our response thereto.

FACTS:

Agricultural Cooperative are (sic) formed under Title 2 -17 of the Oklahoma Cooperative marketing Association Act. Other cooperatives, such as rural electric cooperative are formed in other titles of Oklahoma law. Cooperatives are currently exempt from franchise tax because they are defined in statute as a nonprofit corporation.

“Associations organized pursuant to the Cooperative Marketing Association Act shall be deemed nonprofit, inasmuch as they are not organized to make profit for themselves, nor for their members, but only for their members as producers or users of products purchased.”

I also have members formed as Limited Liability Companies that are wholly owned by agricultural cooperatives to assist in the daily operations of the cooperative business. For example, these Limited Liability Companies market grain, buy fertilizer and buy fuel for the agricultural cooperatives and their farmer owners. These Limited Liability Companies are organized and taxed as partnerships; therefore, all net revenues, if any, are passed back to the owner cooperatives.

RULING REQUESTED:

In closing, are agricultural cooperatives and their Limited Liability Companies exempt from the Business Activity Tax?

OTC RESPONSE:

Agricultural cooperatives are exempt from the Business Activity Tax. Agricultural cooperatives under 2 O.S. § 17-3 (B) are nonprofit organizations. Under 68 O.S. § 1217 nonprofit organizations are exempt from the business activity tax.

Limited Liability Companies regardless of the composition of their members are subject to the Business Activity Tax and would file Oklahoma Tax Commission Form BT190.

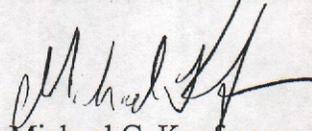
This response applies only to the circumstances set out in your request of June 21, 2011. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon only by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

Please be advised that the issuance of this ruling does not preclude the Oklahoma Tax Commission from conducting an audit or examination under 68 Okla. Stat. §206 of any report or return claiming a credit for the transactions outlined in this letter ruling. The Commission reserves the right to issue any assessment, correction, or adjustment authorized under 68 Okla. Stat. §221.

If I can be of further assistance, please feel free to call me at (405) 521-3133.

Sincerely,

OKLAHOMA TAX COMMISSION



Michael C. Kaufmann
Tax Policy Analyst