

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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July 29, 2013

Re: LR-11-131 Sales Tax Inquiry

Dear

While the following does not individually address each question posed in your letters, to respond to the sales tax inquiries posed therein, a general overview of the application, administration and apportionment of state and local sales tax along with the eligibility requirements to make claim for sales tax relief¹ is outlined below:

The sale of tangible personal property in Oklahoma, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. §1354(A)(1). The Oklahoma Sales Tax Code does not contain a provision exempting sales by prison commissaries or to incarcerated individuals. The ("Commissary") as vendor is required to charge and collect state and local sales tax² from the inmates on their taxable purchases and the inmates are required to pay to the vendor as trustee for and on account of the state the sales tax levied by the Oklahoma Sales Tax Code. 68 O.S. 1361(A). The sales tax collected must be remitted by the Commissary to the Oklahoma Tax Commission. 68 O.S. § 1362. Presently, state sales tax revenues are apportioned in accordance with Section 1353 of Title 68 as follows:

General Revenue Fund	83.61%
Education Reform Revolving Fund	10.46%
Teacher's Retirement System Dedicated Revenue Revolving Fund	5.0%
Oklahoma Tourism Promotion Revolving Fund	36% of .87%
Oklahoma Tourism Capital Improvement Revolving Fund	64% of .87%
Oklahoma Historical Society Capital Improvement & Operations Revolving Fund	.06%

Cities and Counties are apportioned the amount of sales tax collected for their jurisdictions.

¹ Authorized pursuant to Section 5011 of Title 68 of the Oklahoma Statutes.

² Currently, the combined sales rate applicable to sales at the Commissary is 8.75% which consists of the state rate of 4.5%, the City of Lawton rate of 4.125% and the Comanche County rate of .25%.

Pursuant to 68 O.S. § 5011 and OAC 710:50-15-96 only eligible individual taxpayers may make a claim for sales tax relief. Paragraph (E) of Section 5011 of Title 68 provides that “a person convicted of a felony shall not be permitted to file a claim for sales tax relief . . . for the period of time³ during which the person is an inmate in the custody of the Department of Corrections.” See OAC 710:50-15-96(g).

This response applies only to the circumstances discussed in your request of May 13, 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
Tax Policy Analyst

³ In accordance with Section 5011(E) of Title 68, “such period of time shall include the entire calendar year if the person is in the custody of the Department of Corrections during any part of the calendar year.”