# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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


September 17, 2013

Re: LR-12-105

Dear

This is in response to your inquiry received December 20, 2012 wherein you requested a ruling concerning Oklahoma sales tax. What follows is verbatim your facts, the requested ruling and our response thereto.

FACTS

respectfully requests a ruling on the proper treatment of sales tax on pharmaceuticals and over the counter medications purchased from a third party vendor for dispensing to our patients as detailed under Title 710, Chapter 65: Sales and Use Tax of the Oklahoma Administrative Code.

A. Statement of Facts

is a 501(c)(3) corporation which operates as a freestanding psychiatric hospital located at and its telephone number is . sales tax permit and federal tax identification numbers are and respectively. As part of the care provided to our patients, operates a pharmacy which processes prescription requests from our in house physicians for dispensing to patients housed in our facility for care.

B. Ruling Requested

I am writing to request a formal ruling on whether is required to remit sales tax for prescription and over the counter medications that are purchased for dispensing to our patients.

RESPONSE

Sales of drugs[1] sold pursuant to a prescription written for the treatment of human beings by a person licensed to prescribe the drugs are exempt from the levy of sales tax in Oklahoma. However, this exemption does not apply to over-the-counter drugs[2]. Therefore,
, as a consumer/user of all tangible personal property and services used in its health care operation must pay sales/use tax on its purchases of over-the counter medications for dispensing to patients.

This response applies only to the circumstances discussed in your request of December 20, 2012. 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
Tax Policy Analyst

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[1] Drug means a compound, substance or preparation, and any component of a compound, substance or preparation:

a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or office National Formulary, and supplement to any of them,
b. intended of use in the diagnosis, cure, mitigation, treatment, or prevention of disease, or
c. intended to affect the structure of any function of the body.

[2] Over-the-counter drug means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R., Section 201.66. The over-the-counter-drug label includes:

a. a Drug Facts" panel, or
b. a statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation. 68 O.S. § 1352(17).