OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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April 12, 2013

RE: GTL Plant Tax Questions; LR-13-20

Dear]

In response to your request regarding the sales and use tax implications of building a Gas-to-Liquids plant in this state, set forth below is an overview of the sales/use tax exemption afforded manufacturers in Oklahoma.

The Sales and Use Tax Codes exempt manufacturers from the payment of sales and use tax on certain purchases. Specifically, Section 1359(1) of Title 68 of the Oklahoma Statutes affords a manufacturer, possessing a manufacturer exemption permit[1], a sales and use tax exemption on its purchases of goods, wares, merchandise, tangible personal property, machinery and equipment for use in a manufacturing operation[2]. 68 O.S. 2011, § 1359(1). "Manufacturing" for purposes of the Sales Tax Code is defined in pertinent part to mean and include "the activity of converting or conditioning tangible personal property by changing the form, composition, or quality of character of some existing material or materials, including natural resources, by procedures commonly regarded by the average person as manufacturing, compounding, processing or assembling, into a material or materials with a different form or use." 68 O.S. Supp. 2007, § 1352(14).

Subsection (b) of Oklahoma Administrative Code 710:65-13-150.1 sets forth the activities encompassed in a manufacturing operation: product development, production, testing or quality control, production waste disposal, warehousing supplies and equipment, and shipping, and gives examples of the machinery, equipment, tools and supplies utilized in these areas which are eligible for exemption when purchased by a manufacturer. The areas of administration, sales,

[1] 68 O.S. Supp. 1998, § 1359.2

[2] Section 1404(4) of Title 68 of the Oklahoma Statutes provides that use tax shall not apply to "the use of tangible personal property . . . specifically exempted under the Oklahoma Sales Tax Code".

distribution, transportation, site construction, or site maintenance are not included in a manufacturing operation. 68 O.S. Supp. 2007, § 1352(15).

With the exception of telecommunications nonrecurring charges, amounts for labor billed separately from tangible personal property are not subject to sales and use tax.

Please note that the location of the fabrication site of equipment is not relevant to the determination of whether the purchase of such equipment qualifies for exemption pursuant to Section 1359(1) of Title 68.

To apply for a manufacturer exemption permit, a completed *Oklahoma Business Registration Packet for Manufacturers* (Packet M), available online at www.tax.ok.gov, should be submitted to the Taxpayer Assistance Division, Oklahoma Tax Commission, P.O. Box 26920, Oklahoma City, OK 73126-0920.

The statutory and administrative rule provisions referenced above are attached.

This response applies only to the circumstances discussed in your written request of March 28, 2013. Pursuant to Oklahoma Administrative Code 710:1-3-73(e), this response 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