

OKLAHOMA TAX COMMISSION



TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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June 4, 2014

RE: LR-13-64 (Sales Tax Inquiry)

Dear

This is in response to your request for a sales tax exemption for the food sales made on the campus of _____ in the student cafeteria. Set forth are the facts as presented in your correspondence of September 5, 2013 along with our response thereto.

Facts

_____ has recently contracted with _____ to manage the University's student cafeteria, which is operated primarily for enrolled students, and the University pays _____ directly for their services based on the number of meal plans that the University sells to students. The University sells the meal plans to students not _____ Sales tax is charged to the limited visitors who eat in the cafeteria.

Question

Is the University responsible for remitting sales tax to the State of Oklahoma on student meal plans because an outside management company has been hired to operate the cafeteria?

Response

Under Section 1356(5) of Title 68 of the Oklahoma Sales Tax Code, the statute states that the "[s]ale of food in cafeterias or lunch rooms of elementary schools, high school, colleges or

universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit” are exempt from taxation. Furthermore, the Oklahoma Administrative Code 710:65-13-210(i) states: “Management companies operating for a profit who contract with a school, college or university to operate a lunchroom or cafeteria will be denied the exemption.”

Based on the facts of your letter, it appears that the management company is not selling food to the students or earning a profit on the food sold to the students, but rather the students are buying meal plans from the University. Therefore, the University is exempt from remitting sales tax to the State of Oklahoma for student meal plans.

Question

If your response is that sales tax should not be remitted on student meal plans, would the exemption also apply to meal plans purchased by faculty and staff?

Response

The exemption applies to the faculty and staff so long as the meal plans are sold by the school, and is not making a profit on the food sold to the faculty and staff. Therefore, the University is exempt from remitting sales tax on meal plans purchased by faculty and staff.

This response applies only to the circumstances set out in your request of September 5, 2013. Pursuant to the 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 that there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION



Morgan E. Lankford
Tax Policy Analyst