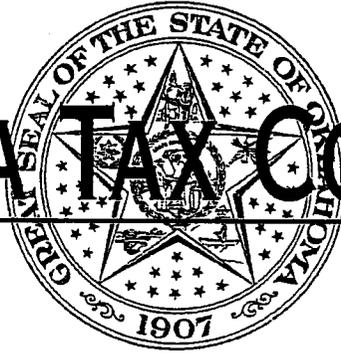


OKLAHOMA TAX COMMISSION



TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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

August 21, 2014

Re: LR-13-83 (Sales Tax Inquiry)

Dear

This is in response to your request for a determination of the taxability of aggregate materials that are used to repair roads. Set forth verbatim are the facts presented in your correspondence of October 31, 2013 along with the question posed and our response thereto.

Facts

We are a seller of aggregate and construction materials, including sand, gravel, crushed stone and concrete materials used in building and road construction. Our inquiry is whether the purchase of these materials qualify for the Agricultural Exemption for a buyer in the tree forestry industry.

Our customer, _____ has given us a copy of his Agricultural Exemption Permit number 544719 as proof of exemption for the purchase of aggregate materials he is using to repair roads on his forestry property, noting that "the roads are necessary for the removal of trees that are sold."

Oklahoma rule 710:65-13-15 definitions includes persons who harvest trees and are qualified as farmers. This rule also indicates that the agricultural exemption is limited to the purchase of items that are used in the production of agricultural products and the items must have a direct effect on the article being produced.

Question

Please advise if our customers purchase of aggregate materials used to repair roads is a qualified exempt purchase under the agricultural products and the items must have a direct effect on the article being produced.

Response

Oklahoma Administrative Code 710:65-13-15 outlines the sales tax exemption¹ for sales of items directly used in the production of agricultural products,² provides examples of items that may be purchased by an agricultural permit holder exempt from sales/use tax if said items are to be directly used in agricultural production and also gives examples of taxable purchases. In order to be directly used by the purchaser/holder of an agricultural permit in the production of agricultural products the property in question must have a direct effect on the article being produced. OAC 710:65-13-15(h).

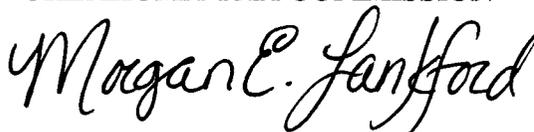
Because your customer pursuant to his agricultural exemption permit has claimed an agricultural exemption on the purchase of aggregate materials, the sale should be made without computation of any sales tax.³ OAC 710:65-7-11 sets forth the properly completed documentation that must be accepted from a purchaser claiming a sales tax exemption for agricultural production and retained by the vendor in order for the vendor to be relieved of any liability for the sales tax and the duty to collect imposed by 68 O.S. § 1361 of Title 68.

Enclosed are copies of the above-referenced statutory and administrative rule provisions.

This response applies only to the circumstances discussed in your request of October 31, 2013. 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



Morgan E. Lankford
Tax Policy Analyst

¹ 68 O.S. § 1358

² "Agricultural production" and "production of agricultural products" is limited to what would ordinarily be considered a farming or ranching operation undertaken for profit. The term refers to the raising of food crops or livestock for sale. Included within the meaning of "agricultural production" and "production of agricultural products" are ranches, orchards, and dairies. Also included is any feedlot operation, whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned by persons conducting the feedlot. OAC 710:65-13-15(a)(1).

³ Section 1358.1 of Title 68 provides that the exemption claimed by an agricultural exemption permit holder must be honored by the vendor.