OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
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July 14, 2015

RE: LR-14-014 (Sales Tax Inquiry)

Dear

This letter is in response to your request regarding Oklahoma sales tax. Set forth are facts presented along with the response thereto.

Facts:

is the parent company of several project subsidiaries, which each have, or will have, manufacturer's sales tax exemption permits in Oklahoma. is requesting, on behalf of each project subsidiary, a ruling to clarify that certain manufacturing equipment qualifies for manufacturer's sales tax exemption pursuant to such subsidiary's sales tax exemption permit.

The manufacturing process for and its subsidiaries consists of the capture and conversion of wind to electricity through use of wind turbine generators and associated equipment. Electricity generated from a wind turbine is transmitted via various collector lines to a collection substation and then further transported to a utility substation and sold to a third part at the point the project interconnects to the grid. requests a ruling to clarify that "Collector Line Equipment", as defined below, qualifies for manufacturer's sales tax exemption.

For purposes of this Letter Ruling Request, "Collector Line Equipment" includes, but is not limited to the collection system: junction boxes, padmount transformers, collection cable and ground counterpoise, fiber optic cable, termination kits, splice kits, cable markers, underground direction drilling material and any and all materials required to construct the collection system required to move electricity from the wind turbine generator to the collection substation.

Because the conversion of wind to electricity manufacturing process) is not complete, and the electricity generated is not in saleable form until it has passed through the collection substation into the point of interconnect, the Collector Line Equipment falls within the definition of exempt manufacturing equipment. The Collector Line Equipment is necessary to, and is an integral part of, the single economic unit which is represented by the entire facility. In accordance with Oklahoma law, the manufacturing facility should be deemed to begin at the wind turbine and end at the collection substation.

Response:

The generation of electricity is recognized as manufacturing in Oklahoma. The Oklahoma Sales and Use Tax Codes specifically exempt manufactures from the payment of sales and use tax on certain purchases. Section 1359 of Title 68 affords a manufacturer a sales tax exemption on its purchases of goods, wares, merchandise, tangible personal property, machinery and equipment for use in a manufacturing operation. A manufacturing operation, pursuant to 68 O.S. 1352(15), consists of the "designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property" and starts " at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site." Section 1352(16) of Title 68 defines manufacturing site to mean "a location where a manufacturing operation is conducted, including a location consisting of one or more buildings or structures in an area owned, leased, or controlled by a manufacturer." 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 wasted 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, distribution, transportation, site construction, or site maintenance are not included in a manufacturing operation. 68 O.S. § 1352(15). Site construction is the "construction of buildings and other structures and improvements to real property" and "includes land preparation, new construction, reconstruction, remodeling, renovation, repair, upgrading and making alterations and additions to the real property, whether the work is done by the manufacturer or by other firms." Oklahoma Administrative Code 710:65-13-150.1(a)(9).

Project subsidiaries as manufacturers of electricity holding manufacturers' sales tax exemption permits may purchase the equipment needed to move the electricity from the wind turbine generator to the collection substation exempt from sales/use tax. Conversely, materials and equipment used to construct the collection system between the turbines and collection substation may not be purchased exempt from sales/use tax. Further, a contractor may not make purchases of tangible personal property exempt from sales or use tax pursuant to the exemption afforded manufacturers in Section 1359(1) of Title 68. However, an entity, which in relation to certain agreements may be acting as a contractor engaged in the improvement of real property may also act as a vendor in respect to other agreements and make purchases for the purposes of being resold to a manufacturer. In order for such purchases to be made exempt from sales tax, the entity must hold an Oklahoma sales tax permit.

This response applies only to the circumstances discussed in your written request of January 23, 2014. 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

Marc Morrison
Tax Policy Analyst