

JOE M. ALLBAUGH
DIRECTOR



J. KEVIN STITT
GOVERNOR

STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF CORRECTIONS
BUSINESS SERVICES

January 15, 2019

Dear Sir or Madam:

This is in response to your request for documentation concerning the sales taxability of purchases made by the Oklahoma Department of Corrections, EIN 736017987. This entity of government is exempt from payment of state/local sales tax pursuant to Title 68 O.S. Section 1356.

Taxes on State Purchase

The Office Management and Enterprise Services (OMES) procedures have been that state agencies (not employees) are exempt from state sales tax per Title 68, § 1356. A.G. Opinion (Citation: 02-035, 8/14/2002) outlines that this statute goes beyond tax exemption to tax immunity, i.e., the federal government has immunity from taxes imposed by states and municipalities and the State has immunity from taxes imposed by municipalities. For the federal government, this is based on the Supremacy Clause in the U.S. Constitution and for the State it arises from state sovereignty.

Therefore, state agencies should not be paying taxes to Oklahoma municipalities, including sales tax, hotel occupancy tax, entertainment tax, etc. However, state agencies situated in the corporate limits of a municipality may not deduct, say, franchise taxes from their monthly electric bills because the tax is on the electrical public utility and not the rate payer (including state agencies). The difference is that the utility is passing on a cost, not actually charging a tax.

This immunity does not apply to other states and their municipalities. Also, employees are still required to pay taxes on "state expenses" and seek reimbursement as appropriate.

This letter may not be used by any entity other than the Department of Corrections and its subunits.

If you have any questions concerning this matter or if I can be of further assistance, please feel free to contact me at (405) 425-2694

Sincerely,
Ashlee Clemmons

A handwritten signature in cursive script that reads "Ashlee Clemmons".

Director of Business Services, ODOC

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