# OKLAHOMA TAX COMMISSION

STATE OF OKLAHOMA

PHONE
(405) 319-8550

PHYSICAL ADDRESS
First National Center
120 North Robinson, 20th Floor
Oklahoma City, OK

FACSIMILE
(405) 601-7144

MAILING ADDRESS
First National Center
120 North Robinson, Suite 2000W
Oklahoma City, Oklahoma 73102-7801

OFFICE OF THE GENERAL COUNSEL

February 23, 2015

*Via U.S. Mail*

Re: Request for Letter Ruling from [redacted] and [redacted] Office of General Counsel File No. LR-14-006

Dear _____

This is in response to your inquiry regarding whether [redacted] and [redacted] should charge and collect general Sales Tax and/or Rental Tax on the amounts it bills its customers and/or their insurance companies on payment of reimbursement costs for repairs to [redacted] rental vehicles. It is my understanding, based on the facts outlined in your correspondence of March 5, 2014, that:

> [redacted] is a car rental company. As part of the rental transaction, [redacted] customers have the option of purchasing collision damage waiver coverage. If a customer purchases this coverage and is then involved in an accident or the car is otherwise damaged, then the customer is not responsible for paying to repair the rental vehicle. However, if a customer does not purchase collision damage waiver coverage and is then involved in an accident or the car is otherwise damaged, the customer is responsible for the cost of repairing the damage. If a customer does not have other insurance then bills the customer for the repairs. If the customer has insurance then the customer reports the damage to its insurance company which then pays [redacted] for the repairs, less the customer's deductible. [redacted] may collect the customer's deductible at the close of the rental or through a separate billing after the contract has been closed. The amount billed to the customer can range from a small deductible to the entire cost of the vehicle.

By letter dated June 25, 2014, you provided a copy of the rental agreement used by [redacted] for the rental of its vehicles. Paragraph 8 of the "Additional Terms and Agreements" of the rental agreement provides in pertinent part:

> **Indemnification by Renter.** Renter shall defend, indemnify, and hold Owner harmless from all losses, liabilities, damages, injuries, claims, demands, costs, attorney fees, and other expenses incurred by Owner in any manner from this rental transaction, or from the use of the Vehicle or Optional Accessories by any person, including claims of, or liabilities to, third parties. Renter may present a claim to Renter's insurance carrier for such events or losses; but in any event, Renter shall have final responsibility to Owner for all such losses.

***Issue:*** ***Whether [redacted] should charge and collect Sales Tax and/or Rental Tax on the amounts it bills its customers and/or their insurance companies for reimbursement of automobile damage repairs.***

*Sales Tax*

Oklahoma levies a sales tax of four and a half percent (4½ %)[1] of the gross receipts or proceeds of all sales not otherwise exempted in the Oklahoma Sales Tax Code, 68 O.S. 2011, § 1350 et seq. A sale occurs when there is a "transfer of either title or possession of tangible personal property for a valuable consideration . . . ." *Id.*, § 1352(22). The terms, gross receipts, gross proceeds and sales price are defined as "the total amount of consideration . . . for which personal property or services are sold . . . whether received in money or otherwise . . . ." *Id.*, § 1352(12)(a).

Because the customer or its insurance provider's reimbursement of repair costs to [redacted] for rental car repairs as outlined above does not constitute the transfer of title or possession of tangible personal property, this transaction is not a "sale." *See id.*, § 1352(22).

Therefore, it is the opinion of the Office of the General Counsel that the reimbursement paid to [redacted] by the customer or the customer's insurance provider is not subject to sales tax.

*Rental Tax*

68 O.S. Supp. 2012, § 2110 provides in pertinent part:

> *Rental tax of motor vehicle rentals*
>
> A. There is hereby levied a rental tax of six percent (6%) on the gross receipts of all motor vehicle rental agreements as provided in this section. This tax shall be levied on any rental agreement of ninety (90) days or less duration on any motor vehicle that is rented to a person by a business engaged in renting motor vehicles without a driver in Oklahoma, irrespective of the state in which the vehicle is registered.

Pursuant to § 2110, a rental tax is levied on the gross receipts or total consideration paid on all motor vehicle rental agreements. While § 2110 does not provide a definition for gross receipts, § 1352(12) of the Oklahoma Sales Tax Code defines gross proceeds as "the total amount of consideration . .

[1] Plus applicable city and county sales tax.

. for which personal property or services are sold. . . ." 68 O.S. 2011, § 1352(12)(a). The meaning assigned to gross receipts in § 1352 also applies in § 2110. *See* 25 O.S. 2011, § 2 ("Whenever the meaning of a word or phrase is defined in any statute, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears"); *see also Fraternal Order of Police, Lodge 108 v. City of Ardmore,* 2002 OK 19, ¶ 14, 44 P.3d 569, 573 ("When the provisions of a statute assign one meaning to a term, its definition will apply in every other instance in which the same term is found anywhere else in the compilation").

It is the opinion of the Office of the General Counsel that, because the subject reimbursements for repairs are not gross receipts of rental agreement, said reimbursement for rental car repairs are not subject to rental tax. *See* 68 O.S. Supp. 2012, § 2110.

In conclusion, this letter ruling may generally be relied upon only by the taxpayer to whom it is issued, provided that all facts have been accurately and completely stated, and that there has been no change in applicable law. OKLA. ADMIN. CODE § 710:1-3-73(e). Furthermore, this letter ruling does not preclude the Commission from conducting an audit or examination under 68 O.S. § 206 of any report or transaction outlined in this letter ruling. The Commission reserves the right to issue any assessment, correction, or adjustment authorized under 68 O.S. § 221.

Sincerely,

Linda Samuel-Jaha
Assistant General Counsel

APPROVED:

Douglas B. Allen
General Counsel