OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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May 23, 2000

Re: Our file Number LR- 00-02; Reporting lease transactions

Dear

This is in response to your request for an opinion on the questions in your inquiry of December 20, 1999. The questions raised in your letter have been set out below, followed by our responses.

1) We sell a lease to another Lessor, yet as a service to the new Lessor we continue to bill the Lessee for rentals and sales taxes, and remit the sales tax to the taxing authorities on our tax return; is this acceptable?

Response: No, please refer to Oklahoma Tax Commission Rule 710:65-7-2(a). The remittance needs to be filed by the lessor of the property under its sales tax permit.

2) We sell the receivable only to another Lessor, and we retain title and rights to any residual. Which party is legally responsible for billing and remitting of sales taxes? Is it all right for us to handle this function?

Response: The lessor of the property is responsible for remittance of sales taxes due on the lease agreement. Since you retain title to the property, you appear to be the lessor and the "other lessor" is, in effect, simply servicing the lease for you.

3) We are considering entering into a new business in which we would provide a service to another leasing company under which we will bill and collect rentals and sales taxes and remit to the proper taxing authority on our own tax returns for their leases. Is this acceptable?

Response: No, the tax reporting should reflect these returns of the lessor of property.

4) We sell a Lease to another Lessor who is not registered for sales tax purposes in your taxing jurisdiction. This transaction is the only business this other leasing company does in your locality. Does this Lessor need to register for sales tax purposes, or is it okay for him to not register and instead have us act as his Agent for the purposes of billing, collecting and remitting sales taxes?

Response: The out-of-state vendor would need to register. However, your company may furnish the service of billing, collecting and remitting the sales tax under the out-of-state lessor's sales tax permit. Furthermore, the possession of title to property will give rise to liability to report and pay Franchise tax, Income and Ad Valorem taxes in most instances.

5) We enter into a partnership with another Leasing Company. Each party contributes Leases into the partnership in exchange for partnership interest. Does the partnership have to be registered for sales tax purposes or is it okay for one of the partners, who is already registered, to bill, collect and remit sales taxes under its own registration number?

Response: The formation of the new partnership results in a new entity which is engaged in leasing. The new partnership is the responsible entity for the remittance of sales tax. Please see Commission rule 710:65-9-3.

This response applies only to the circumstances set out in your request of December 20, 1999 and may not be relied upon by any entity other than the addressee. In the event of any change in the facts surrounding the transaction described, this letter ruling would no longer be applicable. You are further advised that subsequent statutory or administrative rule changes or judicial construction of the statutes or rules upon which this advice is based may yield a different result from that which is expressed here.

Please find enclosed the Commission rules referenced. If I can be of further assistance, please feel free to contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosures