

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
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September 19, 2000

Re: Our file Number LR-00-046; Sales Tax on Leases of Airplanes.

Dear

This is in response to your inquiry concerning sales tax on leases and rentals of aircraft. I have scanned your fact scenario and your questions into this document. Each question is followed by our answer:

is an equipment lessor that does business in all 50 states. We are requesting a written response regarding the proper treatment for the following transaction with Company B.

purchases an aircraft to lease to Company A. The FAA title is in the name of . At the end of the long term lease (over 12 months), Company A decides to return the aircraft to , rather than exercise their fair market value purchase option. Hence, finds an appropriate hangar location and puts the aircraft into inventory. Shortly thereafter, rents the airplane to Company B. The rental agreement to Company B is a short term agreement, less than 12 months."

Question 1: What is the proper sales tax treatment for the short term rental agreement with Company B? Does sales/use tax apply upfront on the cost or over the stream on the rental payments? If tax applies upfront, is it based on the original purchase price or depreciated value?

**Response to Question 1:** *The stream of payments is subject to sales tax. If holds aircraft in its inventory for both outright sales where both title and possession change, and for lease or rentals, may be an aircraft dealer and if so, it must register as an aircraft dealer in Oklahoma. Please see Oklahoma Tax Commission Rules 710:25-3-30 and 710:65-1-11. If holds aircraft in inventory for sale and withdraws the aircraft for lease or rental, it must register*

*the aircraft in its name and pay the excise tax on the aircraft if the excise tax has not been paid previously when the aircraft was purchased or when it was previously under lease.*

Question 2: If \_\_\_\_\_ paid sales or use tax upfront upon the original purchase for lease to Company A, do we have any obligation to charge sales/use tax to Company B? If we do, are we allowed a credit for the tax already paid (a) when it was paid to your state and (b) when it was paid to another state?

*Response to Question 2: This question is not applicable since for outright sales, \_\_\_\_\_ would not have paid sales tax on the purchase of the planes, and for transactions which occurred before July 1, 2000, would not have paid excise tax on the registration of the aircraft when registering in the name of \_\_\_\_\_. Rather \_\_\_\_\_ would have charged and remitted sales tax on the stream of payments of the lease. The fact that sales tax may have been collected and remitted on the original lease will not act to exempt any further transactions on which tax is due.*

Question 3: If \_\_\_\_\_ purchased the aircraft tax free for resale, and charged sales/use tax over the stream of payments to Company A, do we have any obligation to charge sales/use tax to Company B?

*Response to Question 3: Yes. The stream of payments of the rental to Company B of the aircraft would be subject to sales tax since every sale of tangible personal property is potentially subject to sales tax in Oklahoma, unless it is otherwise exempt. Leases and rentals are defined to be sales. Please see Oklahoma Tax Commission Rule 710:65-1-2.*

Question 4: Does your state differentiate between a short term rental agreement and a short term lease agreement?

*Response to Question 4: No. We would rely on the written agreement between the parties*

*Please be aware the statutes concerning the sales taxability of aircraft leases changed effective July 1, 2000. Prior to that time, no aircraft excise tax was due on the registration of the aircraft by the lessor, instead, sales tax was due on the stream of lease payments. After that date the registration of the aircraft in the name of the lessor and the payment of the aircraft excise tax is in-lieu of the sales tax that previously was due on the stream of lease payments.*

This response applies only to the circumstances set out in your request of February 9, 2000. Pursuant to Commission Rule 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 that there has been no change in applicable law.

If I can be of further assistance, please feel free to contact me.

Sincerely,  
OKLAHOMA TAX COMMISSION

A handwritten signature in black ink, appearing to read "Michael G. Pillow". The signature is written in a cursive style with a large, stylized initial "M".

Michael G. Pillow  
Tax Policy Analyst