OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

August 15, 2000

Re: Our file Number LR-00-086; Sales tax on lease-purchase transactions.

Dear

This is in response to your inquiry concerning the correct taxation of a sale-lease back transaction. I have set out your basic fact situation below followed by our response.

Fact Situation

This letter addresses an issue regarding when sales tax should be paid in a purchase then a sale-lease back situation. At present, the taxpayer (our client, initially was billed for, and paid, sales tax when equipment was purchased. Then through a financing arrangement, the equipment was essentially acquired by and leased back from a financing lessor The lessor has been including, and the taxpayer has been paying, additional sales tax on the recurring lease payments. This situation appears to result in a double payment of sales tax by the taxpayer.

Additional details follow:

During 1999 the taxpayer acquired several million dollars of equipment. The taxpayer ordered the equipment and approved invoices for payment. The approved invoices included an amount for sales taxes due.

The approved invoices were forwarded to a financing lessor.

The financing lessor then remitted the funds, including sales taxes, to the equipment vendor(s). The financing lessor then started collecting recurring lease payments from the taxpayer.

The financing lessor includes a sales tax factor as part of the recurring payments due from the taxpayer.

To date, the taxpayer has been paying to the financing lessor the recurring amounts which include the sales tax factor.

The financing lease arrangements result in the taxpayer owning the equipment at the end of the lease terms for a bargain purchase amount.

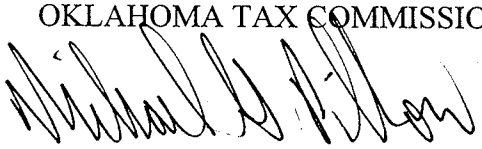
It is our current understanding that it was appropriate, to pay the sales tax when the initial purchase occurred. However, it does not appear appropriate to pay any additional sales tax on the recurring payments. I believe this would be undisputed if the financing were. arranged through a conventional bank loan.

Our Response

The documentation you have presented indicates that sales tax was paid on the initial purchase of the equipment and sales tax has been separately stated and paid on the continuing lease payments. In accordance with the language of Oklahoma Tax Commission Rules 710:65-1-2 and 710:65-1-11, the transaction is a sale-lease back and therefore, no sales tax is due on the stream of lease payments.

This response applies only to the circumstances set out in your request of April 20, 2000, 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 statues or rules upon which this advice is based may yield a different result from that which is expressed here

Sincerely,
OKLAHOMA TAX COMMISSION



Michael G. Pillow
Tax Policy Analyst