OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

January 4, 2001

Re: Our File Number LR-00-209; Tax status of a transmission shop

Dear

Please note that repairmen are defined in the Oklahoma Sales Tax Code and Commission Rules as the taxable consumer or user of items that they purchase for use in the performance of their repair services. Under the definition of a "Consumer" or "user", the repairmen must pay sales and/or use tax on purchases of items used in providing their services and they would not be issued a sales tax permit for their business. When a repairman bills its customers separately for parts and labor, sales tax is due on the charges for parts whether the repairman purchases the parts exempt from tax. This method of invoicing engages the repairman as a seller/vendor of tangible personal property even though the repairman paid sales tax when the repair parts were purchased when, in fact, the repairman should bill its customers as a lump sum total due to avoid the consequences of being responsible to collect sales tax on tax paid parts.

However, if the repairman is regularly engaged in the business of making sales, it must have a sales tax permit. Although some repairmen hold an inventory of parts for motor vehicle repairs, which they intend to mark-up and itemize as a separately stated item from labor, they would be eligible for a sales tax permit that would allow them to purchase the parts exempt from sales tax. In turn, the repairman would be required to collect and remit sales tax on those taxable sales made in Oklahoma. Without a sales tax permit the repairman would not only have to pay sales tax when the items were purchased, it would have to charge sales tax when the items were sold.

An example of a vendor who sells tangible personal property and who also makes separate charges for installing the property sold would include a factory-authorized dealer of the equipment. An example of a repairman who is defined by the Sales Tax Code as being the provider of a service rather than a vendor may be a transmission shop.

The Commission promulgated rule 710:65-19-12 to make a distinction between the different invoicing methods of automobile repairers and to clarify the tax responsibilities for automobile repairers. The selection of either method of doing business is at the discretion of the repairman. Therefore, if you desire to conduct your business as described in subparagraph (b) of the above rule, you may switch to that method as to your choosing.

If determines it will no longer require a sales tax permit, it should return the permit as soon as the determination is made with an explanation and should also remit the sales tax due on any remaining exempt inventory to the Oklahoma Tax Commission, Taxpayer Assistance Division, 2501 Lincoln Blvd. Oklahoma City, OK 73194. We suggest that notify its vendors in writing that it no longer sales for resale, and is required to pay the tax at the time of purchase.

Copies of Oklahoma Statute Title 68 Sections 1352(3), (1352(4) and 1352(20) and Commission Rules 710:65-1-7 and 710:65-13-200 are enclosed for your information. If I can be of further assistance, please contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure