

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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June 4, 2001

Re: Our File Number LR- 01-53; Tax status of lease agreements

Dear

Please let this letter serve as written confirmation that Oklahoma has not had any recent legislative or commission rule revisions that would give rise to changes in Commission policy and procedures regarding the sales taxability of rentals and leases of tangible personal property except for various typographical, clerical or grammatical errors that have been addressed in amendments to Commission Rule 710:65-1-11, a copy of which is enclosed along with Title 68 Section 1352 (15).

Therefore, on review of the documentation that you submitted which describes the four lease/rental transactions that were listed in your correspondence, which have been scanned into this document below, where each agreement requires payments to be made, the required payment is taxable at the time the payment is due. However, for item number 4 titled Conditional Sale, the corresponding lease agreement does not indicate terms for a conditional sales agreement and thusly, sales tax would be due on the stream of payments. If indeed, a transaction is a conditional sale, although it may be styled as a lease in the documents signed by the parties, it would be subject to sales tax at the time the agreement becomes binding.

Scanned from your correspondence dated May 1, 2001.

"Below is a description of our various lease types."

- 1) True Lease Agreement - the lessee has the option of buying the equipment for its fair market value after making all the required payments.
- 2) Rental Agreement-the lease states there is no purchase option but Leasing will allow the customer to purchase the equipment after all payments have been received.
- 3) Conditional Sale-the customer purchases the equipment for \$1.00 after all payments have been made.
- 4) Lease Purchase- the lessee can purchase the equipment at the end of the lease for 10% of Leasing's equipment cost."

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Additionally, the possession of title to lease property which is located in Oklahoma will give rise to liability to report and pay Franchise tax, Income and Ad Valorem taxes.

Our ruling thereof is based on Commission Rule 710:65-1-11 subsections (c) and (i) and the documentation and descriptions that you provided for your rental/lease type agreements. If I can be of further assistance, please feel free to contact me.

This response applies only to the circumstances set out in your request of May 4, 2001. 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

Brenda J. Sullivan
Tax Policy Analyst

Enclosures