

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

July 3, 2001

Re: Our file Number LR-01-090; Sales Tax on a "Sale - Leaseback"

Dear

In your letter you set out a fact scenario and ask for confirmation that the later two of a series of transactions that you entered into involving the purchase of new fuel and canopy equipment are exempt from sales tax because they represent a "sale - leaseback" as defined in Oklahoma Tax Commission Rule 710:65-1-2 and are exempt pursuant to Rule 710:65-1-11. Your fact situation and our response follow:

Fact Situation

January 2001, took over operations of an automotive and gas service station. This location was closed for remodeling and upgrading for approximately 3 months. As part of this upgrade, acquired new fuel and canopy equipment, estimated amount of \$40,000.

During the time of upgrade, our local bank was not able to expedite our request for funding on this equipment. We continued acquisition of the equipment by ordering equipment from and pursued contacting a leasing company for financing.

The equipment was acquired and installed before we secured a leasing company that we approved of. The equipment and all sales tax had to be paid, and was paid by before could reach an agreement with an out of state leasing company. Within 4 weeks of paying for the equipment and sales tax, had reached an agreement with for the funding of the new equipment. At this time, conducted a bill of sale to for funding the equipment. has released funds to for the amount of the equipment only, not the sales tax that paid on the equipment.

Response:

The scenario described matches the fact pattern found in Rule 710:65-1-11, in that for the sale to the leasing company, a person who has purchased equipment and is selling the equipment is for that specific transaction a **Vendor**. The leasing company is for that transaction a **Vendee**. Therefore, no sales tax is due on the lease payments from _____ to _____, in as much as the transaction matches the transaction set out in the rule as being exempt.

This response applies only to the circumstances set out in your request of June 19, 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. Copies of the rules noted are enclosed.

Sincerely,
OKLAHOMA TAX COMMISSION



Michael G. Pillow
Tax Policy Analyst