

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
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March 29, 2002

Re: Our file Number LR-02-025; Sales tax on maintenance performed on motor vehicles.

Dear

This is in response to your inquiry concerning maintenance performed on motor vehicles. I have set out your questions below and each is followed by our response. Our responses are based on the fact situations as set out in your letter.

Maintenance Contracts

1. Is my client required to pay sales tax on the purchase of parts and automotive fluids used in the performance of optional maintenance contracts entered into with its customers or is it allowed to claim the resale exemption?

Response: It may not claim the resale exemption since it is using the items in the performance of a service.

2. On services performed outside the contract, if my client itemized the parts and labor on the customer's invoice, can it claim the resale exemption on parts? If my client uses a third party provider do the service work on services outside the maintenance contract, can it claim a resale exemption on the parts and labor itemized on the sales invoice mailed to the customer?

Response: Providing your client holds an Oklahoma sales tax permit, it may make purchases exempt from sales tax, of repair parts which are to be installed in connection with work performed outside the contract, as purchases for resale.

3. Is my client allowed to purchase soap used in the performance of truck washing services exempt from sales tax under the resale exemption, or must it pay sales tax to the vendor?

Response: Your client must pay sales tax to the vendor of the soap. The resale exemption is not applicable since the soap is not resold, rather it is used in the performance of a non-taxable service.

4. If my client uses a third party provider for automotive maintenance services and exterior truck washings, is it required to pay sales tax to the vendor, or can it claim the resale exemption?

Response: Truck washing and other labor services performed on motor vehicles are not subject to sales tax in Oklahoma. However, if your client uses a third party provider for repair parts that are installed on the vehicle, it may make the purchase of the separately stated repair parts, exempt from sales tax as a purchase for resale.

Maintenance on Leased Vehicles

1. Upon the titling and registration of a leased truck, my client pays sales tax to the department of motor vehicles. Given this fact is the client required to pay sales tax on all parts and fluids used in the performance of mandatory maintenance contracts provided to its customers, or can it claim the resale exemption?

Response: In Oklahoma, registration and titling of the truck involves the payment of motor vehicle excise tax and registration fees to the Oklahoma Tax Commission. These facts notwithstanding, your client may claim a resale exemption on the parts and fluids used by it in the performance of mandatory maintenance contracts covering vehicles where the client is the lessor since the lease is subject to the sales tax levy even though the gross proceeds of leases of motor vehicles of 12 months or more are specifically exempted from the sales tax.

2. On services performed outside the contract, if my Client itemizes the parts and labor on the customer's invoice, can it claim the resale exemption on parts? If my client uses a third party provider to perform services that are outside the maintenance contract, can it claim a resale exemption on the parts and labor itemized on the sales invoice mailed to the customer, or must it pay sales tax to the vendor on parts and labor?

Response: On services performed outside the mandatory maintenance contract, on a vehicle where your client is the lessor, if your client separately itemizes the parts and labor used in the maintenance performed, your client may claim the resale exemption on the parts. If your client uses a third party provider to perform services that are outside the maintenance contract it may claim a resale exemption on the parts that will be itemized on the sales invoice given to your client's customer.

3. Is the client allowed to purchase soap used in the performance of truck washing services for customers that have a mandatory maintenance contract, or can it claim the resale exemption?

Response: Sales tax is due on your client's purchase of soap used in truck washing done pursuant to a mandatory maintenance contract. The resale exemption would not be applicable to the purchase of goods used in the performance of a service.

4. If the client uses a third party provider for automotive maintenance services and exterior truck washing, is it required to pay sales tax to the vendor, or can it claim the resale exemption?

Response: The service of truck washing is not subject to sales tax in Oklahoma. For other services, if they involve the installation of parts and the parts are separately stated by the vendor, to your client, your client may claim an exemption for resale.

Maintenance on Rental Vehicles

1. The client is the registered owner of its rental fleet of trucks and trailers and collects sales tax on the rental charges. Given this fact, can the client claim the resale exemption on its purchase of replacement parts and automotive fluids used in the maintenance of the trucks?

Response: Yes.

2. Can the Client claim the resale exemption on the purchase of soap used in the process of washing a rental truck.

Response: No. Since the soap is not an article of tangible personal property, possession of which transfers as a part of the rental, it may not be purchased exempt from sales tax as an item that is to be resold.

These responses are based on Oklahoma Tax Commission rules 710:65-1-11, 710:65-13-200, 710:65-19-11 and 710:65-19-365. Copies are enclosed.

This response applies only to the circumstances set out in your request of February 19, 2002. 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



Michael G. Pillow
Tax Policy Analyst

Enclosures