

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

August 28, 2002

Re: Our File Number LR-02-152; Sales tax on truck rentals.

Dear

This is in response to your inquiry concerning truck rentals. I have copied the portions of your letter identified as "Background" and "Issues" into this letter. Each issue is followed by our response.

Background:

The company is engaged in the business of renting trucks weighing as little as 10,000 pounds gross volume weight and as heavy as 60,000 pounds gross volume weight to customers for periods that are generally less than 7 consecutive days but can last beyond 30 days. The trucks are rented to both household and commercial customers. (Household customers generally rent trucks to transport personal items, while commercial customers rent trucks to deliver inventory.)

Customers renting trucks can purchase, at their option, personal accident insurance ("PAI") and a loss damage waiver ("LDW"). PAI protects the customer against personal liability should they be in an accident. LDW limits a customer's liability to the rental company should they damage a truck while it is being rented. Customers can also rent along with the truck furniture pads and utility dollies. In addition, a customer may be charged for fuel if the truck is returned with less than a full tank of gasoline. All charges are separately stated on the customer's rental invoice.

The rental company claims the resale exemption upon the registration and titling of vehicles in Oklahoma and the appropriate transaction taxes to the rental customer.

Issues:

- 1) Is the rental company required to collect Oklahoma Sales Tax and Rental Taxes on charges for PAI, furniture pads, utility dollies and fuel if the charges are separately stated on the rental invoice from other charges? Would your answer be different if the charges for the

furniture pads and utility dollies were listed on an invoice separate from the rental charges? Please elaborate on your answers and provide a statute or regulation in support of your conclusions.

Response to Issue 1: *The company is required to collect sales tax on charges for furniture pads and utility dollies. No sales tax is due on the sale of PAI if a policy of insurance is issued. No sales tax is due on the sale of fuel. Our answer would not be different if the charges for furniture pads and utility dollies were listed on a separate invoice.*

- 2) The customer rental agreement states that the customer will reimburse the rental company for damages caused to the vehicle while it is being rented. LDW is an agreement between the customer and the rental company where the rental company agrees to waive its right to collect financial damages from the customer should the truck be damaged while being rented. Is the fee charged for LDW taxable for the Oklahoma Sales Tax and Rental Taxes if the charge is separately stated on the customer's rental invoice? Please elaborate on your answers and provide a statute or regulation that supports your conclusion.

Response to Issue 2: *The charges for LDW are subject to sales tax.*

- 3) A customer that purchases LDW may have a clause in the agreement limiting their liability should the truck be damaged while under rental. The clause limiting the customer's liability is much like a deductible in an automobile insurance policy. If the rental company were to have the vehicle repaired, is the "deductible" paid by the customer to the rental company taxable for Oklahoma Sales Tax and Rental Taxes? Is the "deductible" paid by the rental customer considered to be insurance and exempt from Oklahoma Sales Tax and Rental Taxes? Is the "deductible" paid by the customer exempt from Oklahoma Sales Tax and Rental Taxes under the resale exemption because the rental company will rent the vehicle to customers? If the vehicle is declared a total loss and scrapped, is the "deductible" paid by the customer to the rental company taxable for Oklahoma Sales Tax and Rental Taxes?

Response to Issue 3: *Under all the scenarios given in this issue, the deductible paid by the rental customer to the rental company is subject to sales tax.*

- 4) On occasion, a customer renting a hand truck or furniture pad may not return the property to the rental company. The rental company will bill its customer for the cost of the equipment. Is the recovery charge billed to the customer taxable for Oklahoma Sales Tax and Rental Taxes if it's itemized on the invoice? Please elaborate on your answer and provide a statute or regulation that supports your conclusion.

Response to Issue 4: *The amounts billed to the rental customer by the rental company for equipment that is not returned are subject to sales tax.*

- 5) From time to time, while being rented to them, a customer may damage a vehicle that is not covered by a loss damage waiver and be responsible for damages. If the rental company were to bill its customer for the damages, are the charges taxable for Oklahoma

Sales Tax and Rental Taxes if they are separately stated on the rental invoice? Please elaborate on your answer and provide a statute or regulation that supports your conclusion.

Response to issue 5: *The amounts charged the rental customer by the rental company for damages to a vehicle are subject to sales tax.*

- 6) From time to time, a citation may be issued on a vehicle that is owned by the rental company but under rental to the customer. As the registered owner of the truck, the rental company is responsible for paying all citations issued for violation of highway vehicle weight requirements. If the rental company were to bill the customer for reimbursement of the fine, is the charge taxable for Oklahoma Sales Tax and Rental Taxes if it is separately stated on the rental invoice? Please elaborate on your answer and provide a statute or regulation that supports your conclusion.

Response to issue 6: *Charges to a customer for citations issued due to violations of highway vehicle weight requirements where the citation has been paid by the rental company are not subject to sales tax.*

- 7) On occasion, due to road weight limits, a truck rental customer may need a permit from the government to drive a truck on the public highway. The truck rental company will pay for the permit and bill its customer for reimbursement. Is the charge for reimbursement taxable for Oklahoma Sales Tax and Rental Taxes if the amount is separately stated on the customer's rental invoice from other charges? Please elaborate on your answer and provide a statute or regulation that supports your conclusion.

Response to issue 7: *Charges for road weight permits that are purchased by the rental company which are then charged and separately stated on the invoice given to the rental customer, are not subject to sales tax.*

- 8) From time to time, a customer will return a truck in such condition that it is in need of a thorough cleaning. The rental company will bill its rental customer the charge for cleaning the vehicle and returning it to suitable condition. Are truck cleaning charges billed to rental customers taxable for Oklahoma Sales Tax and Rental Taxes if they are separately stated on the customer's rental invoice? Please elaborate on your answer and provide a statute or regulation that supports your conclusion.

Response to issue 8: *Charges for truck cleaning, billed to a rental customer by the rental company, whether separately stated on the invoice or not, are subject to sales tax.*

These responses are based on 68 O.S. Section 1352(15); 68 O.S. Section 1354(17), Oklahoma Tax Commission Rule 710:65-1-11 and Oklahoma Attorney General's Opinion Number 70-141.

This response applies only to the circumstances set out in your request of August 14, 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

A handwritten signature in black ink, appearing to read "Michael G. Pillow". The signature is written in a cursive, somewhat stylized font.

Michael G. Pillow
Tax Policy Analyst