

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
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December 29, 2003



Re: LR-03-088

Dear [REDACTED]

This memorandum is in response to your request for written guidance regarding the application of Oklahoma Motor Vehicle Excise and Sales Tax for rental trucks in this state.

Motor Vehicle Excise Tax and Registration Fees

As you have correctly stated Title 68 Section 2105(10) of the Oklahoma Statutes provides an exemption from vehicle excise tax for any vehicle which is purchased by a person to be used by a business engaged in renting motor vehicles without a driver, provided the vehicle **shall not** be rented to the same person for a period exceeding ninety (90) days.

If a truck is rented to the same person for a period exceeding ninety (90) days the exemption does not apply and excise tax shall be assessed at a rate of three and one-fourth (3.25%) of the value of the vehicle. 68 O.S. Section 2103. Such tax shall be considered delinquent from and after the thirtieth day after the legal ownership or possession of any vehicle is obtained. 68 O.S. Section 2103. Any person failing to pay the tax on or before the date of delinquency shall pay in addition to the tax a penalty of twenty-five cents (0.25) per day for each day of delinquency, but such penalty shall in no event exceed the amount of tax. 68 O.S. Section 2103.

The value of any motor vehicle shall be determined at the time the person applying for a certificate of title obtained either ownership or possession of the vehicle, and shall be presumed to be the actual date of the sale or other transfer of ownership and assignment of the certificate of title. 68 O.S. Section 2104. The value of any vehicle for excise tax purposes shall be the actual sales price of the vehicle before any discounts or credits are given for a trade-in. However, the value of the vehicle prior to the subtraction of such discounts or credits for a trade-in shall be required to be within twenty percent (20%) of the average retail price of such vehicle as listed in the automotive reference material prescribed by the Tax Commission. 68 O.S. Section 2104.

Motor Vehicle Excise Tax shall be remitted directly to the Oklahoma Tax Commission or an appointed motor license agent. Oklahoma Tax Commission Rule 710:60-5-58 provides that vehicles acquired by rental companies not to be rented for more than ninety (90) days at a time may be registered and titled by the rental agency exempt from excise tax. An Oklahoma title branded "Rental Vehicle" will be issued. If a vehicle is rented for a period exceeding ninety (90) days the vehicle no longer qualifies for a "Rental Vehicle" title and the owner must apply for a standard issue Oklahoma certificate of title.

Similarly, Title 47 O.S. Section 1120.1 provides a special reduced annual vehicle registration fee for rental vehicles, defined by Oklahoma Tax Commission Rule 710:60-3-11(f), as vehicles acquired by rental companies **not to be rented** for more than ninety (90) days at a time. Vehicles that are rented for more than ninety (90) days at a time no longer qualify for the special reduced registration fee and must be registered pursuant to the provisions of 47 O.S. Section 1132.

Sales Tax Assessments for Rental and Leases

The gross receipts or gross proceeds derived from the rental or lease of tangible personal property are subject to the levy of sales tax as provided in the "Oklahoma Sales Tax Code" found in 68 O.S. Section 1350 et seq. Oklahoma Tax Commission Rule 710:65-1-11. However, Oklahoma Tax Commission Rule 710:65-13-31 provides an exemption for leases of motor vehicles if the lease is for a term of twelve (12) months or more and the motor vehicle excise tax has been paid accordingly. The terms "rental" or "lease" mean the agreement by the owner to give exclusive use of property to another for a consideration and for any period of time under any one agreement. Oklahoma Tax Commission Rule 710:65-1-11.

Therefore vehicles, which are rented or leased to the same person for any period of time less than twelve months or more, are subject to the levy of sales tax upon the gross receipts or proceeds derived from the rental or lease. This is true regardless of whether the vehicle qualifies for the vehicle excise tax exemption set forth in 68 O.S. Section 2105(10) or is required to remit vehicle excise tax because the vehicle is rented to the same person for a period exceeding ninety (90) days. Vehicles, which are leased for a term of twelve (12) months or more, are exempt from sales tax if the motor vehicle excise tax has been paid.

This response applies to your request for written guidance dated April 24, 2003 and 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. Oklahoma Tax Commission Rule 710:1-3-73(e). I apologize for the delay in responding to your written request. If you have any additional questions or comments please feel free to contact me at (405) 521-3133.

Sincerely,



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RM/lm