

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
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November 19, 2003

Re: Our File Number LR-03-159; Sales Tax Resale Exemption Requirements

Dear

This is in response to your inquiry concerning whether a sale is exempt from Oklahoma sales tax and if so, what documentation is required to support the exemption. I have set out your fact situation and questions below. Each question is followed by our response.

**Facts:**

(Seller) owns a piece of construction equipment located in Oklahoma. Seller holds an Oklahoma Sales Tax Permit and plans to sell the construction equipment to a Virginia purchaser (Purchaser #1).

Purchaser #1 does not have a physical presence within the State of Oklahoma and does not possess an Oklahoma Sales Tax Permit. However, Purchaser #1 is a dealer of equipment in Virginia and holds a valid Virginia sales tax permit.

Immediately upon taking title to the equipment in Oklahoma, Purchaser #1 will resell the equipment to Purchaser #2. Purchaser #2 also does not have a physical presence within the State of Oklahoma and does not possess an Oklahoma Sales Tax Permit.

The equipment sale to Purchaser #2 will be completed in one of two ways:

1. Purchaser #1 will arrange to ship the equipment to Purchaser #2 outside of Oklahoma via common carrier. Purchaser #2 will take title and possession of the equipment outside of Oklahoma and will not return the equipment to Oklahoma; OR,

2. Purchaser #2 will take title and possession of the equipment in Oklahoma and will ship the equipment outside of Oklahoma via common carrier or on Purchaser #2's own vehicle.

**Questions:**

If Purchaser #1 does not take possession of the equipment in Oklahoma but arranges shipment to Purchaser #2 via common carrier:

1. Can Purchaser #1 buy the equipment from Seller exempt from the Oklahoma sales tax under the resale exemption as described in Oklahoma Regulation § 710:65-13-220?

**Response:** Yes.

2. If the answer to Question 1 is yes, what documentation must Purchaser #1 provide to Seller to substantiate the resale exemption?

**Response:** Purchaser #1 should provide Seller a copy of its home state permit and a statement that it is in the business of reselling the equipment being purchased and that since it does not have a physical connection with Oklahoma, it is not required by Oklahoma Tax Commission Rule 710:65-13-200 to hold an Oklahoma Sales Tax Permit.

3. Is the sale between Purchaser #1 and Purchaser #2 an Oklahoma sale subject to the Oklahoma sales tax?

**Response:** No, it is not a sale that is subject to Oklahoma Sales Tax. Please refer to the statutory language, effective November 1, 2003 concerning sourcing that relates to sales tax and that was codified as 68 O.S. Section 1354.27 and Oklahoma Tax Commission Rule 710:65-15-1.

If Purchaser #2 takes title and possession of the equipment in Oklahoma, do your answers to Questions 1, 2, and 3 change? If yes, how?

**Response:** Yes, the answers to the questions would change. Since the sale to Purchaser #1 is to occur in Oklahoma, Purchaser #1 would have sufficient connection with Oklahoma for Purchaser #1 to be required to obtain an Oklahoma Sales Tax Permit in order to be eligible to purchase the equipment, exempt from sales tax, for resale. Purchaser #1 could not make an exempt sale to Purchaser #1, and be relieved of liability from collecting sales tax, unless Purchaser #1 held a valid Oklahoma Sales Tax Permit and provided the documentation set out in Oklahoma Sales Tax Rules 710:65-7-6 and 710:65-7-8. Since possession of the good is being delivered to Purchaser #2 in Oklahoma, the sale between Purchaser #1 and Purchaser #2 is subject to Oklahoma state and any local sales tax that is due at the location where Purchaser takes delivery of the equipment. This response is also based on the statute and the rules referenced in the answer immediately above.

This response applies only to the circumstances set out in your request of August 11, 2003. 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 style with a large initial "M".

Michael G. Pillow  
Tax Policy Analyst