OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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December 9, 2003

Re: Our File Number LR-03-226; Sales tax on leases

This is in response to your inquiry concerning the ability of one of your customers to receive a refund of sales tax that was paid on equipment which was later sold to your company and became part of the tangible personal property subject to a lease. According to your letter, sales tax is being computed, charged and remitted on the stream of lease payments.

There is no provision in the sales tax code for a refund of sales tax where sales tax was originally paid on articles of tangible personal property and the property was later sold to a lessor, and lease payments were made on the lease which included the property.

However, if the property subject to the lease consisted only of property on which sales tax was paid by the original purchaser who then sells the property to a lessor from which the original pruchaser leases the property back, the lease transaction is specifically set out in Oklahoma Tax Commission Rules 710-65-1-2 and 710:65-1-11 as not being considered to be subject to sales tax. Copies of these rules are enclosed.

However, in the transaction in question, there is no evidence that the "Graco Line Lazer III" and the "Little Wonder 13 Blower" have had sales tax paid on them at the time of purchase.

Furthermore, no sales tax or motor vehicle excise tax has apparently been paid on the "Cargo Trailer". If the trailer had been registered and tagged in Oklahoma and the motor vehicle excise tax paid on it, it would also be exempt from sales tax and the lease payments would have also been exempt from sales tax since the term of the lease would have been over 12 months.

Since there is only one payment amount for all of the items of tangible personal property, the entire lease payment is subject to sales tax. Since the sales tax was correctly paid at the time of sale, there is no refund due.

This response applies only to the circumstances set out in your request of October 9, 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

Michael G. Pillow
Tax Policy Analyst