OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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July 1, 2004

Re: Our File Number LR-04-068; Sales tax on five types of transactions.

Dear

This is in response to your inquiry concerning whether sales tax is due on three types of current transactions into which your company enters and two types of projected transactions into which it may enter. Your description of the transactions is set out below and each is followed by our response:

Current Transactions

1. Rents aircraft to the public on an hourly basis. We own and have paid excise tax on our aircraft, therefore ı believes no sales tax is due on the rentals.

Response: Since Oklahoma aircraft excise tax has been paid on the aircraft, no sales tax is due on the rental because the rental is a lease and leases of aircraft are specifically exempted from the sales tax.

2. Provides instruction by W-2 employees. Because the instructors are employees, not independent contractors, Mr. Brandon believes that no sales tax is due for the instruction provided by Oklahoma Aviation.

Response: The providing of instruction is a service that is not subject to sales tax in Oklahoma.

3. Sells retail items. Because these are clearly products, Mr. Brandon believes that sales tax should be collected, reported and paid.

Response: Sales of tangible personal property are subject to sale tax in Oklahoma.

Projected Transactions

1. Charter flights where a customer would obtain an aircraft and pilot for flight both flights in Oklahoma and for flights beyond its borders, but not outside of the continental U.S.

Response: Federal law prevents states from levying sales taxes on the gross receipts of air commerce, therefore the charges by your company for charters would not be subject to sales tax.

2. Using a leased aircraft – not owned by Oklahoma Aviation – for flight instruction, rental and charter as described above. The only difference is that the aircraft would be owned by another company and leased to Oklahoma Aviation. To our customers, there is no difference between services provided.

Response: For the lease payments made by Oklahoma Aviation to a lessor for the aircraft, no sales tax is due if the aircraft have had the Oklahoma aircraft excise tax paid on them. For the transactions between Oklahoma Aviation and its customers, no sales tax is due as noted in the responses set out under the heading "Current Transactions" above.

This response applies only to the circumstances set out in your request of April 21, 2004. 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