OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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July 1, 2004

Re: Letter Ruling Request No. LR-04-130

Dear

We are in receipt of your request for a letter ruling dated April 28, 2004. The letter requests that the Tax Policy Division confirm that:

1. is an "ultimate vendor" under the provisions of the Oklahoma Motor Fuel Tax Code when it sells motor fuels to its customers, and

2. is eligible to file for refunds of motor fuel taxes paid by prior to selling the "tax paid fuel" to its exempt customers.

I have reviewed your request and respond as follows:

1. is an "ultimate vendor" under the provisions of the Oklahoma Motor Fuel Tax Code when it sells motor fuels to its customers.

2. is not eligible to file for refunds of motor fuels taxes paid by prior to selling the "tax paid fuel" to its exempt customers.

The Motor Fuel Tax Code defines an "ultimate vendor" as "a person that sells motor fuel to the consumer". 68 O.S. §500.3(64). Under the fact situation described in your letter and under the terms of the contract FleetCor has with its merchants, is the ultimate vendor of the motor fuel. As is a vendor of motor fuel, it must obtain a vendor's license under Section 500.33(H) of Title 68. If your company has not done so, please make application as soon as possible.

As the ultimate vendor of sales occurring at a fixed retail pump may apply for a refund from the Tax Commission. Such applications for refund must be accompanied by supporting documentation. Tax Commission Rule 710:55-4-115 states:

(a) If the sale is from a fixed retail pump, the ultimate vendor, having made the sale to the purchasing entity without the tax, may submit a refund claim to the Commission. Such refund claim shall be accompanied by a copy of the certificate presented to the ultimate vendor by the purchasing entity, and must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

Tax Commission Rule 710:55-4-114 further provides:

(b) **Perfection by ultimate vendor.** The exemption for sales of motor fuel for use by the exempt entities described in subsection (a) shall be perfected by the ultimate vendor, by obtaining an exemption certificate signed by the purchasing entity. Upon obtaining the certificate, the ultimate vendor shall complete the sale to the purchasing entity without requiring payment of the motor fuel tax. Upon completion of the sale, the ultimate vendor shall execute an ultimate vendor certificate (on forms provided by the Commission) to its supplier. The ultimate vendor certificate shall include the identity of the purchasing entity.

Therefore, may request a refund directly from the Oklahoma Tax Commission for sales made to entities exempt under the Motor Fuel Tax Code. The requests for refunds may only be made after the exempt sale and must be accompanied by the required documentation. If you have any further questions about the refund application process, please contact our Account Maintenance Division at 405-521-3270.

Sincerely,

OKLAHOMA TAX COMMISSION

Tony Mastin, Director
Tax Policy & Research Division