

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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July 18, 2005

Re: Our File Number LR-04-252; Sales Tax on leases and rentals of forklift equipment

Dear

This is in response to your inquiry concerning sales tax on leases and rental of forklift equipment. I have copied in your questions below and each is followed by our response.

1. Can an exemption be used with a manufacturing claim for Forklift equipment on a:
 - a. True lease agreement?
 - b. Conditional Sales Agreement?

Our Response: Yes, a manufacturer can make purchases, exempt from sales tax of items, such as forklifts, used in a manufacturing operation both when they are sold pursuant to a conditional sales agreement and when they are leased under a true lease agreement.

2. If an exemption can be used, does it exclude pre-production activity?

Our Response: The exemption is for tangible personal property used at a manufacturing site by a manufacturer in a manufacturing operation. The applicable statute and rule (710:65-13-150.1) state that "A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site." The rule and statute do not break up the manufacturing operation between pre-production, production and post-production.

3. What activity or defining point is considered pre-production activity?

Our Response: See our response to question number 2.

4. If an exemption can be used, does it exclude post-production activity?

Our Response: See our response to question number 2.

5. What activity or defining point establishes post-production activity?

Our Response: See our response to question number 2.

6. Warehouse usage only?

Our Response: See our response to question number 2.

7. If an exemption claim would be valid, what supporting documentation is needed to substantiate our customer's exemption claims in your state?

Our Response: The supporting documentation required to substantiate your customer's claimed exemption from sales tax for tangible personal property that was purchased for use in a manufacturing operation is a copy of your customer's Manufacturing/Sales Exemption Permit. Please see Oklahoma Tax Commission Rules 710:65-7-6 and 710:65-7-9.

Unofficial copies of the rules noted in this letter ruling can be viewed at the following website:

www.oar.state.ok.us/oar/codedoc02.nsf

This response applies only to the circumstances set out in your request of November 19, 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