OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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September 30, 2005

Re: Our File Number LR-05-151; Sales taxability of two charges.

Dear

This is in response to your inquiry concerning whether two charges that makes to its customers are subject to sales tax. I have copied your description of the charges into this letter and each is followed by our response:

1. "EPA Charge – used to recover the expense of hauling off and disposing of used batteries, oil, or hydraulic fluid. This charge is assessed each time we dispose of one of these items by one of our technicians".

Our Response: This charge is a charge that is subject to sales tax since it is an element of cost to your company when it sells replacement batteries, oil or hydraulic fluid, and therefore the charge is, pursuant to Oklahoma Tax Commission Rule 710:65-1-2, to be included in the taxable gross receipts since it is not a delivery or installation charge.

2. "Fuel Surcharge – used to recover the cost of fuel of our service trucks. This charge is assessed each time our technicians service the forklift in need of repair."

Our Response: - Since these charges are charges for the transportation of goods to your customers' places of business, they are "delivery charges" as defined in Oklahoma Tax Commission Rule 710:65-19-70, and are therefore exempt.

Copies of the rules noted are enclosed.

This response applies only to the circumstances set out in your request of August 25, 2005. 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