OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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May 5, 2006

Re: File No. LR-06-073
Oklahoma Sales, Use, Motor Vehicle and Tourism Tax Inquiry

Dea

This is in response to your inquiry regarding the tax ramifications from the purchase and use of manufactured homes in the state of Oklahoma.

Issue 1. *Can Client buy new manufactured HUD-code homes tax-free for resale/re-rent in Oklahoma? What about non-HUD-code homes?*

Section 2101 of Title 68 defines "manufactured home" as a residential dwelling built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 ("The Act"), 42 U.S.C, Section 5401 et seq. The Act defines "manufactured home" as "a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter; and except that such term shall not include any self-propelled recreational vehicle".

All manufactured homes, whether "HUD-code" or "non-HUD-code" are subject to the excise tax levied in Section 2103 of Title 68 of the Oklahoma statutes. This tax is in lieu of the state's sales and use taxes. In addition to the excise tax, a license plate and registration decal are required on all manufactured homes registered in this State.

Issue 2. *Can Client buy new and used manufactured homes tax-free from out-of-state vendors and bring to Oklahoma for first use?*

All manufactured homes are subject to the excise tax levied in Section 2103 of Title 68 of the Oklahoma statutes and a license plate and registration decal are required on all manufactured homes registered in this State. However, if a non resident owner registers his home in his former state of residence at least sixty (60) days before moving into Oklahoma, no excise tax is due, See Oklahoma Tax Commission Rule 710:60-3-132.

Issue 3. *Client leases/rents mobile homes to its customers for less than and more than consecutive 30-day periods.*

a. *Are these transactions subject to sales tax?*
b. *Would these transactions be subject to local hotel occupancy taxes levied by municipalities?*
c. *Are these transactions subject to the Oklahoma tourism tax?*

The gross receipts from the furnishing of rooms by a hotel, apartment-hotel, cottage camp, or lodging house open to the public is subject to sales tax, without regard to the length of stay of the guest. See Oklahoma Tax Commission Rule 710:65-19-143. Tourism tax is levied on the gross receipts received on the sale of the service of furnishing rooms by a hotel, apartment hotel, public rooming house, or motel and for the furnishing of any other facility for public lodging, except camping. See 68 O.S. 50012 and Oklahoma Tax Commission Rule 710:75-1-4. It appears from the facts in your letter that Client has a landlord/tenant relationship with its customers rather than a hotel/guest relationship. As a result, the leases would not be subject to sales tax, local hotel occupancy tax or tourism tax in Oklahoma.

Issue 4. *Is Oklahoma sales/use tax due on bulk purchases through entity acquisitions if they are subsequently leased?*

Section 1354 (A)(1) of Title 68 of the Oklahoma Statutes specifically levies a sales tax on the sale of tangible personal property. The Oklahoma Sales Tax Code contains no exemption for bulk purchases that are subsequently leased. If the bulk purchases referenced in your letter are the purchase of manufactured homes, please see the responses above. The purchase of manufactured homes requires the payment of excise taxes and registration fees which are in lieu of sales and use taxes.

Enclosed are copies of the statutes and rules referenced herein.

This response applies only to the circumstances set out in your request of April 19, 2006. 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,

Lisa R. Haws
Tax Policy Analyst

Enclosures