OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

August 24, 2007

RE: Sales tax treatment of roll off box rental; LR-07-099

Dear

I am writing in response to your inquiry regarding the sales tax treatment of roll of box rental. A restatement of the facts, the questions posed and the responses thereto are set forth below:

Initially a verbal and/or written contract is made with the customer or client. The contract is for using services, including operator or driver to move (transport by trucking) the roll off box from our facility to the clients worksite. Roll off box handling equipment, trucks and trailers are used in the handling, setting and removal of the boxes. A service fee is charged to the client for this activity. The charges are for the activity to initially set the box on site, or to pick the box up and take it off of location. The interim time between setting and picking up the box the client is either – a) charged at a daily rate for rental of the box that is on clients worksite until it is picked up, or b) the price of rental for the length of the job is included in the service charges as a flat rate for setting, rental, and final pickup and removal of the box, or c) a client has own transportation equipment and comes to our facility and rents the box from us for a specific period of time, and then they are charged for rental for the box at a daily rate for the period that ends when the box is returned to our facility.

Is sales tax due on the above referenced charges and if so at what point is tax charged to the customer or client?

Sale Tax is due on the gross receipts of each sale of tangible personal property, unless specifically exempted by the provisions of the Oklahoma sales tax code. 68 O.S. §1354(A)(1). "Sale" is defined to mean, "the transfer of either title or possession of tangible personal property for a valuable consideration regardless of the manner, method, instrumentality, or device by which the transfer is accomplished in this state. . . ." 68 O.S. §1352(21). The term "sale" includes but is not limited to "the exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property." 68 O.S. §1352(21)(a). Therefore, is required to charge collect and remit sales tax on the lease payments as they become due. See OAC 710:65-1-11.

Regarding the described service fee, generally labor charges for installation, repairs or other special services are not taxable if the vendor and vendee agree to them separately and they are disclosed as a separate line item on the bill or invoice. See OAC 710:65-19-158 and OAC 710:65-19-159[1]. Additionally, separately stated charges for delivery of goods to the vendor's customer are not subject to sales tax. See OAC 710:65-19-70. The facts presented for rental transaction (b) indicates that the service fee is not separately stated from the roll off box rental charges making the service fee part of gross receipts subject to sales tax.

The location where a sale is sourced determines the taxes that are to be charged. Rentals or leases are sourced in accordance with OAC 710:65-18-4. See also OAC 710:65-18-2 and OAC 710:65-18-3.

Copies of the referenced administrative code provisions are attached.

This response applies only to the circumstances discussed in your request of July 10, 2007. 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 there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

Christy J. Caesar

Christy J. Caesar
Tax Policy Analyst

---

[1] However, there is one exception to this general rule. Section 1354(4) of Title 68 levies a sales tax on "all local telecommunication service and rental charges, including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image" except for "labor charges for the construction, installation, movement, servicing repair or maintenance of any equipment such as antennas or dishes that have a connection with the transmission of a message or image from cellular towers that are used for the transmission of telecommunications."