OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

September 02, 2008

RE: LR-08-093
Sales and Excise tax inquiry

Dear

I am writing this letter in order to answer your inquires regarding "utility vehicles" and "golf carts".

Facts

sells both used and new golf carts as well as new and used utility vehicles. As of July 1, 2008, utility vehicles are now exempt from sales tax, and Justice Golf Car Co., Inc. has used utility vehicles in its inventories that do not have titles. Also, modifies golf carts with various accessories upon a customer's request and according to you, there is little difference between some of your modified golf carts and utility vehicles that you sell.

Question #1

Are gasoline powered "golf cars" specifically excluded from the definition of a "utility vehicle"? If not, is a modified golf cart that has been modified with extra seats, utility beds, lift kits, and other accessories considered a "utility vehicle"?

Our response:

Golf carts are not considered to be "utility vehicles" (even though the definition of a utility vehicle is a vehicle powered by an internal combustion engine, manufactured and used exclusively for off-highway use, equipped with seating for two or more people and a steering wheel, traveling on four or more wheels). Golf carts are subject to sales tax pursuant to 47 O.S. § 1151.1 (e) (I have enclosed a copy for your convenience), even though they may appear to meet the definition of a utility vehicle.

Utility vehicles are subject to excise tax, a golf cart that has been modified with the accessories that were previously mentioned would still be subject to sales tax only. The reason for this is that a modified golf cart was manufactured originally as a golf cart.

Question #2

Our understanding is that we are no longer required to collect sales tax on the sale or lease of utility vehicles. Instead, the buyer or lessee will pay excise tax in the amount of 4.5% of the value of the vehicle. It is not the responsibility of the seller /lessor to collect or remit the excise tax to the OTC.

Our response:

As previously mentioned, utility vehicles are subject to excise tax and the tax is to be remitted by the buyer and not remitted to the seller. However, the leasing of a utility vehicle can be subject to sales tax and vehicle leasing tax. I have attached the appropriate Oklahoma Tax Commission rules that relate to vehicle leasing tax.

Question #3

For a utility vehicle, new or used, to be registered with the OTC, the owner must provide a title or MSO and as a dealer, are we required to register the vehicle in our name prior to the unit being resold with us owing excise tax?

Our response:

A title must be provided by an owner of a new utility vehicle, a notarized bill of sale with the vehicles serial number can be used for a used utility vehicle. There is no dealership exemption provided for in state statutes for registration purposes, excise tax is to be remitted by the buyer after the vehicle has been sold by the dealer.

Question #4

Our company sells many utility vehicles, both new and used, to wholesale buyers for resale. Assuming the wholesale buyer has a valid Oklahoma Sales Tax Permit; we do not charge or collect sales tax on these sales. Does the buyers Oklahoma sales tax permit exempt the buyer from paying excise tax on the vehicle if it is sold for resale and must the title of the unit be officially transferred to the wholesale buyer?

Our response:

There is currently no utility vehicle dealer's license issued. In order for a buyer to be exempt from excise tax on the sale of a utility vehicle with the intention of reselling it, he would not only have to have a valid Oklahoma sales tax permit, but he would have to be in the business of selling such vehicles or similar vehicles. In any case,

excise tax is not charged nor is it collected by the vendor, however, if a utility vehicle is sold to a vendor for the purpose of resale, the title must be re-assigned to that vendor.

Question #5

Our manufacturer will, upon request, provide us with a MSO on any new unit we purchase. However, acquiring the original title/MSO on many (if not most) used utility vehicles may be impossible, due to the fact that (until 7/1/08) utility vehicles had no titles. Will a bill of sale be accepted by the OTC if a tile/MSO is not available?

Our response:

An MSO will be acceptable for both new and used utility vehicles.

Question #6

It is our understanding that the OTC's new requirement to title and pay excise tax on utility vehicles does not make utility vehicles street-legal nor will the owner of a utility vehicle be able to tag this type of vehicle.

Our response:

In regards to a vehicles status for being street legal, operation requirements and restrictions should be verified with local/state law enforcement. Utility vehicles will not be assigned a tag; however they will require a decal to be placed on the vehicle.

Question #7

Our company is the Oklahoma distributor for owned by is the world's largest manufacturer of golf cars/utility vehicles. has a very diverse line of utility vehicles including small light-duty units, street-legal LSV units, transportation (4, 6, or 8 passenger) units, mid-duty units, and large 4-wheel drive units . Within utility vehicle line is a vehicle called a a 4 passenger vehicle, is manufactured and marketed through utility division. However, most people would consider this unit simply a golf car with a rear seat. This isn't just a issue; , the second largest player in the golf car/utility vehicle industry, has comparable vehicles. Does being manufactured and marketed as a utility vehicle make it a utility vehicle in the eyes of the OTC, or would the OTC consider it a "golf car type" unit?

Our response:

The definition of a "utility vehicle" is a vehicle powered by an internal combustion engine, **manufactured** and used exclusively for off-highway use, equipped with seating for two or more people and a steering wheel, traveling on four or more wheels. If the

vehicle is manufactured or marketed as a utility vehicle, then it is considered to be a utility vehicle.

This response applies only to the circumstances discussed in your written request of July 18, 2008. 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
Marc Morrison
Tax Policy & Research Division