

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR



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October 28, 2008

RE: LR-08-142
Sales and Use Tax Inquiry

Dear

I am writing this response to your request regarding the purchasing of railcars in Oklahoma.

Facts:

You are planning on purchasing railcars in Oklahoma with intention of reselling or leasing them. However, the seller in Oklahoma is requesting that you provide him a copy of your Oklahoma Sales Tax permit or a copy of your Uniform Sales & Use Tax Certification-Multijurisdiction along with a statement that you will not be selling the railcars in Oklahoma and will be transporting them out of Oklahoma after purchase.

You have stated that you have contacted our Taxpayer Assistance Division regarding the written request from the seller and verified that you do not need an Oklahoma Sales Tax permit and that you have provided a copy to the seller of your Uniform Sales & Use Tax Certification. However, you can not assert at the present time that you plan to relocate the railcars outside of Oklahoma immediately after purchasing them for resale or lease.

Your Question:

Is your company required to obtain an Oklahoma Sales Tax permit and are you required to submit a written statement to the seller that the property you are purchasing will be transported immediately outside of Oklahoma?

Our Response:

Oklahoma Tax Commission Rule 710:65-7-8 (copy enclosed for your convenience) states that a vendor may ask for a written statement that the property that is being purchased is for resale. There is no requirement for you to submit a written statement that the property that you are purchasing will be immediately transported outside of Oklahoma. However, at this time you can not assert that you plan to relocate these railcars outside of Oklahoma for sale or lease and Oklahoma Tax Commission Rule 710:65-15-1 (copy enclosed for your convenience) clearly states that if property is sold within this state and possession is taken by the buyer immediately within this state, then sales tax applies. Your Uniform Sales & Use Tax Certification will allow you to purchase these railcars exempt from sales tax for resale or leasing purchases. However, based upon Oklahoma Tax Commission Rule 710:65-21-3 (copy enclosed for your convenience) if you do not transport the railcars outside of Oklahoma after their purchase and store, use, or otherwise consume them in Oklahoma, you may be subject to Oklahoma Use Tax. Also, storing these railcars inside of Oklahoma will constitute a nexus with Oklahoma and if you sell or lease them while they are inside of Oklahoma, you will be required to obtain an Oklahoma Sales Tax permit.

This response applies only to the circumstances discussed in your written request of September 09, 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