OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

November 18, 2010

Re: LR-10-123; Sales Tax Inquiry

Dear

I am writing this letter in response to your request regarding sales tax. Set forth verbatim are the facts presented along with the responses thereto.

Facts:

Company X, a commodities trader and reseller, is contemplating an expansion of their business in the state of Oklahoma. Company X purchases and resells various commodities including raw crude oil and other natural resources. In certain circumstances Company X maintains title and control of these commodities for a period of time before re-selling. In these circumstances, Company X may lease storage capacity to hold the physical commodities, including raw crude, within a third party or related entity facility.

In certain situations, Company X may enter into a "Capacity Agreement" in which the owner of a third party facility or related entity facility agrees to make available specific amounts of exclusive storage capacity at facilities located in Oklahoma. Company X intends to use the capacity for the storage of raw crude oil or other physical commodities. Company X will provide for all handling of the raw crude or physical commodity in and out of the storage facilities. Company X may lease a portion of or the entire amount of storage capacity at any given facility. Company X retains title to the raw crude or physical commodity at all times.

Under the Capacity Agreement, the facility owner/operator will provide all labor, services, equipment and facilities necessary or incidental to receive, handle and store the crude at the facilities. Generally, the Capacity Agreement will have a term of greater than one year and may be subject to an automatic extension.

Regardless of the nature of the charge, purchase, lease or Capacity Agreement, Company X will be billed for storage fees on a monthly basis.

Question:

We are respectfully requesting a taxability determination on behalf of Company X. Specifically we would like to confirm whether Oklahoma will subject charges for the storage of raw crude oil or other natural resources to Oklahoma sales and use tax. These transactions may be in the form of a lease or capacity agreement for storage between Company X and a third party or between Company X and a related entity.

Our Response:

Fees charged for the storage of crude oil and other natural resources are not subject to Oklahoma sales or use tax.

This response applies only to the circumstances discussed in your written request of July 20, 2010. 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

Marc Morrison
Tax Policy Analyst