

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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June 7, 2011

[REDACTED]

RE: LR-11-002 (Sales Tax Inquiry)

Dear [REDACTED]

I am writing this letter in response to your request regarding the sales tax treatment of refrigerated trailer leases. Set forth verbatim are the facts presented along with the inquiries posed and the responses thereto.

Facts:

Company A, headquartered in a State other than yours, is in the process of purchasing refrigerated trailers to be leased to customers throughout the United States. Company A will only be leasing the trailers, not the truck/vehicle. All trailers will be titled in the headquarters state. No sales tax will be paid when licensed on the basis that they will be leasing the trailers out and either obtaining/retaining an exemption document from the lessee or collecting sales tax (or whatever the applicable transaction tax is) on the lease payments if no exemption or exclusion is available.

Inquiries:

Based on the fact pattern provided, does your state have an exemption for customers who lease the trailers for interstate commerce or any other available exempt use? If yes, what exemption from /does Company A need to obtain and maintain and are there any specific requirements that the lessor must monitor?

Based on the fact pattern provided, if no exemption is available or applicable, is Company A required to collect sales tax (or any other tax type) from the customer on the lease payments? Does the length of the lease make a difference on whether the lease payments are subject to tax? Does the fact that the lessor did not pay tax on the purchase of the trailers make a difference?

Assuming tax is to be collected on some of the lease payments, how does Company A determine the tax rate (state & local taxes) that is applicable?

How should repair and maintenance parts and supplies be handled for trailer repairs conducted in your state? Is there an applicable exemption available?

Response:

The State of Oklahoma does not provide a sales tax exemption for customers who lease trailers for use in interstate commerce. However, other exemptions provided for items used in agricultural production¹ or in a manufacturing operation² could apply to a lease of a refrigerated trailer in Oklahoma. Moreover, the proper documentation that a vendor must obtain and maintain when making a sale or lease to a person claiming an agricultural or manufacturing exemption is outlined in OAC 710:65-7-11 and 710:65-7-9, respectively.

Pursuant to 68 O.S. 1355(6), leases of twelve months or more of refrigerated trailers in which the owners of the trailers have paid the vehicle excise tax pursuant to Section 2103 of Title 68 are exempt from the levy of sales tax. 68 O.S. § 1355(6). Since lessor did not pay the applicable excise tax on the trailer purchases the referenced exemption would not apply.

Rentals and leases of tangible personal property are sourced for sales tax calculation purposes in accordance with 68 O.S. § 1354.27.

Parts and supplies for trailer repairs purchased by persons leasing the trailers in this State are governed by OAC 710:65-1-11(i).

Copies of the referenced statutory and administrative rule provisions are enclosed.

This response applies only to the circumstances discussed in your written request of December 16, 2010. Pursuant to Oklahoma Administrative Code 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 Analyst

¹ 68 O.S. § 1358

² 68 O.S. § 1359(1).