OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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

June 7, 2011

RE: LR-11-024 (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:

is in the business of renting construction equipment to prime contractors. To ensure we continue to tax our customers correctly I have a few general questions that I would like answers on.

Question 1

Is our Deliver and Pick up charges taxable when separately stated when we deliver and pick up our equipment from the customer's job site?

Response:

These charges are not taxable as long as they are separately stated pursuant to OAC 710:65-19-70.

Question 2

Are Labor charges for a repair on our equipment that has been broken by our customer taxable if separately stated?

Response:

Separately stated labor charges are not subject to Oklahoma sales tax.

Question 3

Per our terms of the rental contract, we charge a Damage Waiver Fee if the customer does not provide proof of a Rental Floater through their own insurance company. Is this taxable?

Response:

The sales taxability of a Damage Waiver Fee is governed by OAC 710:65-1-11(e).

Question 4

If a customer has a piece of our rental fleet stolen from their job site and we need to replace this equipment, is the Stolen Equipment charge to our customer taxable?

Response:

If the terms of the rental agreement between and its customer require the rental customer to reimburse for equipment stolen from their job site then those charges representing same would be subject to sales tax.

Question 5

If a customer would like to purchase a piece of equipment from our fleet and we deliver it, is the delivery charge of the sale taxable?

Response:

Delivery charges are not subject to Oklahoma sales taxes as long as they are separately stated pursuant to OAC 710:65-19-70.

Question 6

Is a contractor exempt from our use tax if they are working for a Government or Non-Profit organization?

Response:

Instances when a contractor can make purchases exempt from sales/use tax based on the exempt status of another entity are set forth in Oklahoma Administrative Code 710:65-1-7(3)(A)–(H).

Question 7

When refilling our equipment Gasoline, Diesel or Propane when separately stated on our invoice taxable?

Response:

Except for Red Dyed Diesel, sales of motor fuels are subject to motor fuel excise taxes, not sales taxes.

Question 8

Response:

If an employee of fixes a piece of equipment that is a customer's (not is our labor charge taxable?

Response:

Labor charges separately stated from any charges for parts would not be subject to sales tax.

Copies of the administrative code provisions referenced above as enclosed.

This response applies only to the circumstances discussed in your written request of January 11, 2011. 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

Marc Morrison
Tax Policy Analyst