OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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

May 18, 2012

RE: Sales Tax Inquiry; LR-11-041

Dear

This letter is in response to your sales tax inquiry. Set forth verbatim are the facts presented along with the response thereto.

Facts:

> Our customer is re-renting to the federal government in Oklahoma. He has no physical presence in Oklahoma and does not have an Oklahoma sales tax permit. 100% of his customer base is the federal government. He purchases and rents (bare rentals) to the federal government for their own use, so all of his purchases from us are for resale/rerent. We have delivered these scissorlifts directly from our branch in Oklahoma City to Tinker Air Force Base. We have charged tax on his re-rentals while waiting for a resolution from OTC to determine if he is required to have an OK sales tax permit. We now have several thousand dollars of open receivables as a result.

Response:

The sale of tangible personal property, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. §1354(A)(1). A sale includes but is not limited to "the exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property." 68 O.S. §1352(22)(a).

Section 1357(3) of Title 68 of the Oklahoma Statutes, exempts from sales tax, "sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this article.

Based upon the facts submitted, your customer is required to obtain an Oklahoma Sales Tax Permit since he is re-renting tangible personal property in the State of Oklahoma. Without such a permit, your customer cannot purchase or rent tangible personal property exempt from sales tax for resale/re-rent. Therefore, sales tax was due and properly charged on the transactions at issue herein.

This response applies only to the circumstances discussed in your written request of April 08, 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