OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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April 30, 2011

RE: LR-11-132 (Sales Tax Inquiry)

This is in response to your request regarding the sourcing for Oklahoma sales tax purposes of oil field rental tools. Set forth are the scenarios presented along with the questions posed and the response thereto.

Question 1: is an oilfield rental tool company in Oklahoma. rented tools to a Texas customer. The Texas customer sent their company-owned vehicle to pick up the rental tools at the location in Oklahoma. Rental tools were taken to Texas for use in Texas. charged OK sales tax applicable to the Oklahoma location. Customer says sales tax is due where tool was used in Texas. Please clarify if OK or Texas tax is due on this rental sale.

Question 2: Same scenario. Customer hired a hot shot (contract carrier) to pick up the rental tools at the Oklahoma location. The tools were taken to Texas for use in Texas. Please clarify if OK or Texas tax is due on this rental sale. Is there a difference in tax determination when a common carrier is used instead of a contract carrier?

Response:

Based upon the facts presented, I am unable to provide you with a definitive response. The sourcing of rental and lease transactions is governed by Section 1354.27 of Title 68 and is dependent upon whether the terms of the rental agreement require recurring periodic payments. See also OAC 710:65-18-2, 710:65-18-3, and 710:65-18-4.

Pursuant to the referenced statutory provisions, the lease or rental of oilfield tools which requires recurring periodic payments is sourced as follows:

- The first payment will be sourced to the place where the purchaser takes receipt or receives the oilfield tools.

- For those payments made after the first payment, the payment will be sourced to the "primary property location"[1], for each period covered by the payment. The periodic rental or lease payments shall be sourced to the primary property location even though the property may be used intermittently at different locations.

Rentals or leases which do not require periodic payment or which are based on a lump sum or accelerated basis are sourced to the place where the purchaser takes receipt or receives the oilfield tools. Please note that "receive and receipt" for purposes of Section 1354.27 of Title 68 is defined to mean:

(A) Taking possession of tangible personal property;
(B) Making first use of services; or,
(C) Taking possession or making first use of digital goods, whichever comes first.

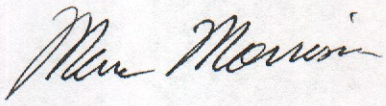
"Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser. [68 O.S. § 1354.27(E)]

Enclosed are copies of the referenced statutory and administrative rule provisions.

This response applies only to the circumstances discussed in your written request of December 05, 2011. 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 Analyst

[1] Primary property location means a location indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith.