

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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August 4, 2014

Re: LR-12-070 & LR-13-027

Dear

This is in response to your request for a ruling regarding the taxability of the transactions in your correspondence of August 17, 2012, April 18, 2013 and April 29, 2013. Set forth verbatim are the facts presented along with the questions posed and the responses thereto.

FACTS

We are a NJ based lessor that leases medical equipment mainly to veterinarians, doctors and dentists. The lessees are located in OK. We do two types of transactions.

The first type of contract in question will have monthly rental payments and have a bargain purchase option of \$1 at the end of the lease term (which many states than consider the transaction to actually be a Conditional Sales Contract).

The second type of contract will have monthly rental payment and have a Fair Market Value residual, and the lessee will have the option of buying the equipment at the end of the lease term or returning the equipment.

QUESTION April 18, 2013

Is the Sales tax in each of these scenarios due **UpFront** or on the **rental stream**? If the tax is due UpFront, is the tax due on the **Equipment Cost** or on the **Gross Receivable**?

FACTS - April 29, 2012

There are separately stated charges that may also appear on our invoices to our customers. They relate to **Insurance**, **Late Charges**, **Maintenance** and **Property Tax** charges. The **Maintenance** charges are optional to the customer.

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QUESTION

Which of the separately stated charges would be considered taxable? Can you please address each of the charges listed above separately?

RESPONSE

Oklahoma leases¹ are governed by OAC 710:65-1-11 which provides in part that sales tax is due on the stream of lease payments as they become due. Further, the tax is to be computed on the gross amount without any allowance for late charges, service, laundering, cleaning, maintenance, insurance, property taxes etc, whether paid by the lessor or lessee. 68 O.S. § 1354(18). The location where a sale is sourced determines the taxes that are to be charged. 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..

For conditional sales agreements the gross receipts reported by the taxpayer must include all conditional sales made during the month for which the report is filed. Sales tax must be charged on the full agreed price at that time and reported on the vendor's return for the period in which the sale occurred. OAC 710:65-1-9(4).

FACTS-August 17, 2012

The equipment involved is a Blood Analyzer. It can analyze blood samples up to a point and then, for more complicated cases, the vet would need to send samples out to a lab. We now want to add to the contract the option to the lessee (vet), for a monthly fee, to send patient blood samples to a lab for diagnosis. We (the lessor) will collect the lab fee from the vet and we will remit the fee to the laboratory (as a pass through). The lab fee will be listed separately on the monthly invoice along with the monthly rental on the equipment. The lessee has the option of cancelling the lab service at any time and the billing on that service will cease.

QUESTION

We would like to know if this additional "lab" service fee is taxable? If the answer is yes, since we pay Sales Tax on the Gross Receipts Up Front at the beginning of the lease, will the lab service payments have to be estimated and paid Up Front as well, or will the tax on the lab service be due monthly as the fee is collected.

RESPONSE

The "lab" service does not fall within one of the enumerated transactions subject to sales tax under Section 1354 of Title 68 of the Oklahoma Statutes. Therefore, the monthly lab service fee described above is not subject to sales tax.

¹ A lease does not include a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of One Hundred Dollars or one (1) percent of the total required payments. OAC 710:65-1-11.

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

This response applies only to the circumstances discussed in your requests of August 17, 2012, April 18, 2013 and April 29, 2013. Pursuant to Oklahoma Administrative Code 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

A handwritten signature in cursive script, appearing to read "Brenda J. Sullivan".

Brenda J. Sullivan
Tax Policy Analyst