OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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July 18, 2014

[redacted]

RE: LR-14-023 (Sales tax inquiry)

Dear [redacted]

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

Facts:

Company X purchase Special Mobile Machinery.
The equipment is shipped into OK.

Company Y receives the equipment and registers it in Company X's name. Company Y pays the excise tax on the equipment.
Company X then leases the equipment to Company Y- an operating lease (not a finance lease).

Question:
Can Company X reimburse Company Y the excise tax without Company Y owning the tax again on the equipment when they lease it?

Response:

Yes, excise tax would not be due on the special mobilized machinery lease between Company X and Company Y.

Question:

If Company X leases the equipment to Company Y in Oklahoma for use in Oklahoma do they need to collect Oklahoma sales tax on the lease of the equipment?

Does the term of the lease affect the taxability of the equipment?

Response:

The gross receipts associated with the lease of special mobilized machinery are subject to sales tax. However, leases of twelve months or more of special mobilized machinery in which the owners thereof 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).

Question:

If Company X leases the equipment to Company Y in Oklahoma and Company Y removes the equipment from the state of Oklahoma for use in another state, does Company X need to collect Oklahoma sales tax on the lease of the equipment?

Response:

Based upon the facts presented, I am unable to provide you with a definitive response. However, the sourcing of rental and lease transactions for purposes of determining application of Oklahoma sales tax 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.

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

This response applies only to the circumstances discussed in your written request of May 9, 2014. 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