

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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December 16, 2004

Re: Our File Number LR-04-224; Sales tax on leases

Dear]

This is in response to your inquiry concerning claims for exemption from sales tax on leases of generators that are attached to tractor trailers which are used by common carriers in interstate commerce.

There is no "interstate common carrier" exemption in Oklahoma's sales or use tax codes. The lease/rental or sale of the generators would be subject to sales or use tax as may be applicable based on the terms of the transaction.

Please note that, as set out in Oklahoma Tax Commission Rules 710:65-1-2, 710:65-1-11, 710:65-18-2, and 710:54-18-3, while the time and incidence of the tax due will vary depending on the fact situation, neither the "true lease (FMV option)" which is treated as a lease, nor the "conditional sale lease (\$1.00 option)" which is not treated as a lease, is exempt from sales tax or use tax in Oklahoma because the purchaser or the lessee is an "interstate common carrier" if the sale or the lease payments are sourced to Oklahoma. Copies of these rules are enclosed.

This response applies only to the circumstances set out in your request of November 5, 2004. 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 that there has been no change in applicable law. If I can be of further assistance, please feel free to contact me.

Sincerely,
OKLAHOMA TAX COMMISSION


Michael G. Pillow
Tax Policy Analyst