OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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July 24, 2000

Re: Our File Number LR-00-63; Taxability of Interior Design Services

Dear

This is in response to your request for a ruling regarding your company's tax status on the interior design services and sales for the project. In view of the contract and the five examples of invoices that you submitted for the project, the following rulings have been determined for each item requested. I have set out below the transactions enumerated on the list, followed by our answers.

1. Because we will eventually sell furnishing for this project, should we charge sales tax on all of our interior design fees?

Response: No, the interior design services are a nontaxable service. Generally, these type of services are not subject to sales tax provided the contract is agreed to and billed separately from the sale of any article of tangible personal property with which the contract is associated.

2. The furnishings will be invoiced separately (see example invoice "A"). Should we charge sales tax on the shipping charges (and delivery/installation charges), and the procurement fee?

Response: Please note the area of sales tax administration for Transportation/delivery, Installation charges and Procurement fee

Transportation/delivery

Since November 1, 1998, the cost of transportation, i.e. freight, shipping and handling charges, from a point outside Oklahoma to a point inside this State has not been subject to **use tax.**

The sales tax treatment of transportation and delivery charges is governed by Oklahoma Tax Commission Rule 710:65-19-70 and Title 68 Oklahoma Statutes Section 1354(A)(3). Charges that result from shipping merchandise to vendor's customers i.e. the cost of transportation from the vendor's inventory to the customer are not subject to **sales or use tax, if they are separately stated on the invoice.** This exemption applies to all sales, taxable and non taxable.

Additionally, handling charges associated with the sale of tangible personal property, if they represent an element of cost to a seller, should be included in "gross receipts" or "gross proceeds", the total amount of consideration for the sale of any tangible personal property or service. See Title 68 Section 1352(7).

Installation

Labor charges for installation are not taxable if the vendor and vendee agree to them separately and they are disclosed as a separate line item on the bill or invoice. See Commission Rules OAC 710:65-19-158, 710:65-19-159 and 710:65-1-11(c).

Procurement

It appears that the procurement fee is a part of the sale of tangible personal property, i.e. the furnishings and should be included in "gross receipts" or "gross proceeds", the total amount of consideration for the sale of any tangible personal property or service. See Title 68 Section 1352(7). Therefore, the procurement fee would be subject to tax as part of "gross receipts".

3. In regards to the reimbursable expenses (see "C" and "D"), please clarify whether we should charge tax or not on these items that we choose to invoice separately rather than include within our design fees.

Response: The travel and expense reimbursements are not subject to tax.

4. Regarding the ' (see "E"), this is the process where the original blueprints of the facility have been converted to computer diskettes in format. Is this process taxable?

Response: The process would not be taxable if no subsequent transfer of materials takes place. However, if copies of the software and files are given to the client as part of the conversion process, then the process would be subject to sales tax. See the definition for "gross receipts" or "gross proceeds".

Additionally, it is unclear to me why some of your invoices show sales tax for for sales made in the state of Oklahoma. Further, will be able to purchase the furnishings for this project exempt from sales tax as sales for resale, with a valid sales tax permit. See O.S. Sections 1363 and 1364 of Title 68 and Oklahoma Commission Rule 710:65-17-1. A registration form needs to be completed in order to obtain a sales tax permit. If you desire a registration form, you may contact the Taxpayer Assistance Division at (405) 521-3279.

Copies of the statutes and rules referenced are enclosed. If I can be of further assistance, please contact me.

This response applies only to the circumstances set out in your request of March 15, 2000 and may not be relied upon by any entity other than the addressee. In the event of any change in the facts surrounding the transaction described, this letter ruling would no longer be applicable. You are further advised that subsequent statutory or administrative rule changes or judicial construction of the statutes or rules upon which this advice is based may yield a different result from that which is expressed here.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosures