OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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June 27, 2000

Re: Our File Number LR 00-118; Taxability of automated hiring services to retailers.

Dear :

This is in response to your inquiry regarding the taxability of providing an automated hiring service to retailers.

It is my understanding, based on your letter and the information you relayed in our recent telephone conversation, that your business primarily involves providing the service of analyzing information from the applications of job applicants. The application and the data derived are unique to a particular retailer and the retailer receives a completed job application and reports such as a personality summary of the applicant which contains information as to the applicant being suited for a particular job.

The information for the analysis is obtained from screen phone units that are supplied by your company to its customers for job seekers to access in order to complete an application.

Based on this scenario, the transaction at issue does not involve the sale of tangible personal property and the service represents the analysis of information from applications that are unique to a particular retailer and the data is not available for purchase by any other person (s) and therefore would not be subject to sales tax.

However, tangible personal property purchased out-of-state and brought into Oklahoma for storage, use or other consumption is subject to use tax. The information in your letter states that the title to and risk associated with, the screen phone units remains with your company. Your company would have sufficient nexus with Oklahoma, i.e. inventory in Oklahoma to be required to register, collect, report and remit sales or use tax to the State of Oklahoma. Since your company will supply the screen phone units for the non-taxable automated hiring service within this state, you would be required to remit Oklahoma use tax on the screen phone units. The taxable basis would be the "**sales**

value" of the screen phone units. Enclosed is a copy of Commission Rule 710:65-1-7, wherein subsection (2) describes the taxable event of inventory withdrawn from stock for use or consumption by a vendor or a manufacturer. Also, see Commission Rule 710:65-1-9 for sales value.

Additionally, a credit for sales or use tax paid to another state in which the property was acquired or used may be taken in computing the amount of use tax due this State, but such credit must be computed by applying the rate of sales or use tax paid to another state to the sales value of the property at the time it enters Oklahoma. Please note that Section 1401 (c) of Title 68, a copy of which is enclosed, specifically states that "no credit shall be given for taxes paid in another state, if that state does not grant like credit for taxes paid in Oklahoma." Further, the credit allowed may be up to the state use tax rate of four and one half percent (4 1½), depending on the other state's rate.

Therefore, your company should remit use tax based on the **"sales value"** of the screen phone units and not the badge cost in relation to the badge service. Oklahoma use tax is a combination of the state rate of four and one-half percent (4 ½%) and any applicable city or county tax.

A registration form needs to be completed in order to obtain a use tax permit, free of charge. You may contact the Taxpayer Assistance Division at (405) 521-3279 or write to the same address for the Oklahoma Tax Commission for a registration form. A monthly or semi-annual reporting form will be automatically sent after the permit has been approved

This response applies only to the circumstances set out in your request of June 7, 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.

If I can be of further assistance, please feel free to contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure