OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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August 7, 2000

Re: Our File Number LR-00-147; Taxability of software and related fees and services

Dear

This is in response to the survey that you submitted to ensure that your company is taxing correctly in Oklahoma the items listed therein. I have set out below the transactions on the list, followed by our responses as to their taxability.

The answers and the references below are to the specific subsections of Oklahoma Tax Commission Rule OAC 710:65-19-52, a copy of which is enclosed for convenient reference.

1. On site training classes, billed separately from the software purchase.

   Training is not subject to sales tax.

2. Software technical support, which includes software updates, billed as a lump based on the length of the contract.

   Since the support includes software updates, the charges for the support agreement are subject to tax. Please see Subsection (d) and (f).

3. Telephone support, billed separately by the amount of time used, with no contract. The telephone support center is located in Illinois.

   If the telephone support service is optional and does not include upgrades of the software, or is separately stated from any included upgrade charges, it would not be subject to sales tax.

4. Custom programming, making changes to the software to customize it for a particular dentist practice. Billed based upon the complexity of the changes requested.

According to Subsection (f), "modifications to 'canned compute software' do not result in the production of custom computer software. Any modification charges are considered fees for fabrication or services that are part of a sale, and as such, are subject to tax regardless of whether the charge for the modification is separately stated."

Please find a copy of Commission rules referenced. If I can be of further assistance, please contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosures