

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

November 30, 2000

Re: Our file Number LR-00-237; Sales tax on the sale of DSL (Digital Subscriber Line) service.

Dear

This is in response to your inquiry concerning the taxability of the services your company buys and sells. I have set out your fact situation and seven questions below. Each question is followed by our response.

FACTS

(is a Competitive Local Exchange Carrier (CLEC). We are in the business of providing DSL (Digital Subscriber Line) services to customers. DSL uses existing copper telephone lines to transmit very high-speed data communications services to Internet Service provider ("ISP") and enterprise customers (Telecommuters). ISPs purchase our services in order to provide high-speed Internet access to their business and then bundle the DSL service with other internet service (i.e. email, web hosting...) to sell it to their consumer end-users. Enterprise customers purchase our services to provide employees with remote local area networks ("RLAN") access to improve employee productivity and reduce operating costs. We do not own any of the phone lines and we do not provide voice service. The phone lines are owned by the local phone companies. For this service, we charge our customers a recurring monthly fee ranging from \$39.95 to \$195.00, depending on the speed of service the customer selects. We are not a dial-up Internet service provider.

In order for ISPs to be able to obtain DSL services from so that the ISPs can provide the same services to their consumer end-users, needs to assign a "high circuit" to each ISP. This is the circuit that connects the ISP and their

ultimate consumer end-users to server so that the DSL services can be performed. For this particular circuit, we charge the ISP a recurring monthly fee of \$4,000. This charge is separately stated on the invoice.

In additions, also install a modem device at the customer's premise that allows them to use our DSL service from their personal computer. This installation process includes inspecting wiring, making various wiring connections at the telephone box, plugging in the modem to the PC and wall jack, and configuring the modem for the service speed the customer has selected. For this installation /activation service, we charge our customers approximately \$225. We also charge \$350 for the modem. The charge for the modem is separately stated on the invoice.

For customers who want to stop receiving our DSL service before the end of the service contracted term, we charge them a disconnect charge.

We charge our customers "Missed Appointment Fee" if the customer can not keep the appointment. Our technician can not get access to the premise to install the line.

RULING REQUEST

I respectfully request the following legal rulings:

1. Whether, under the facts described above, the monthly recurring DSL charges subject to sales tax,

Response: The monthly recurring DSL charges are not subject to sales tax,

2. Do we need to charge ISPs sales tax on the monthly recurring DSL charges if the ISPs present us with their resale certificates even though they bundle the service to sale it to their end users?

Response: Please refer to the answer to question one above.

3. Whether the "high circuit" charge is exempt from sales tax since the ISP is a reseller of the DSL services and the "high circuit" is a integral component part of the business,

Response: The high circuit charge is not subject to sales tax, in as much as it is not the sale of telecommunications services.

4. Whether the one time installation/activation charges subject to sales tax, (sic)

Response: Except for the charge for the modem, which is subject to sales tax, the other activation charges are not subject to sales tax.

5. Whether the disconnection charges subject to sales tax, (sic)

Response: It is not subject to sales tax

6. Whether the "Missed Appointment Fee" subject to sales tax, (sic)

Response: It is not subject to sales tax.

7. Does the State have any other taxes in addition to sales tax (i.e.: Gross Receipt Tax, Telecommunications Tax? If yes, do all questions above subject to such taxes? (sic) What form do we need to report it on? And lastly, can we pass these additional taxes to our customers?

Response: There are no other general taxes levied on telecommunications services.

These responses are based on Oklahoma Tax Commission Rules 710:65-19-156; 710:65-19-329 and 710:65-19-330. Copies are enclosed.

This response applies only to the circumstances set out in your request of October 30, 2000. 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