

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

APR 5 2001

Re: Our File Number LR-01-27; Tax status of Products
and services

Dear

This is in response to your inquiry for confirmation of the correct tax treatment for the products described in your correspondence. I have set out below the transactions enumerated, followed by our responses as to their taxability and have referenced the related Oklahoma Tax Commission Rules and Oklahoma Statutes.

Transaction #1: Data Processing Services- We "drive" our client's transactions. When a client's cardholder uses their debit or credit card at a POS terminal or at an ATM machine, we process that transaction within our computer system located in We typically charge a per transaction and/or fixed monthly amount for this service.

Response: Generally, ATM transactions and the corresponding fees assessed do not constitute the sale of tangible personal property; nor are they one of the enumerated services of which sales tax is levied in Oklahoma.

This response is based on Oklahoma Tax Commission Rules OAC 710:65-19-86 and 710:65-19-330(d)(2).

You should be aware, however, that tangible personal property purchased out of state and shipped into Oklahoma for use or consumption is subject to use tax pursuant to Title 68, Section 1402 of the Oklahoma Statutes. Therefore, if software is shipped

into Oklahoma for your customer's use it is subject to Oklahoma use tax.

The Oklahoma use taxes to be collected consist of a combination of the state tax rate of four and one-half percent (4 ½%), plus any applicable city or county use tax. (See the list of city and county tax rates for sales and use taxes).

A credit is available for any taxes paid to another state on the purchase of tangible personal property and subsequently brought into Oklahoma for storage, use or consumption, provided the other state offers a reciprocal credit for taxes paid in Oklahoma. The amount of credit allowable is limited to the state use tax rate of four and one half percent (4 ½%), depending on the other state's rate.

Transaction #2: Leased Equipment- We lease computer modems to our clients. This lease is on a month-to-month basis and can be terminated by the client at anytime. We also provide optional monthly service contracts. These service contracts are stated separately on the invoice.

Response: Even though your company is an out of state vendor, the lease equipment is physically located in and the transfer of possession occurred in the state of Oklahoma. Therefore, your company's computer modem leases are subject to sales tax. Further, the service contracts would not be subject to sales tax if they are separately stated on the invoice.

This response is based on Oklahoma Tax Commission Rule OAC 710:65-1-11 subsections (a) and (c). Also, see Commission Rules 710:65-19-365 and 710:65-19-371.

Transaction #3 Microfiche Duplicates- We may, at the client's request, provide microfiche copies of transaction detail. We charge on a per copy basis.

Response: The sale of the microfiche would be subject to sales tax. Please see Commission rule 710:65-19-211.

It appears that you are using the correct sales tax reporting form for your sales tax transactions. However, in the event that you would have use tax transactions, form should be utilized.

Copies of statutes and Commission Rules referenced are enclosed for your information. If I can be of further assistance, please feel free to contact me.

This response applies only to the circumstances set out in your request of March 8, 2001. 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,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure

cc: Russ Nordstrom
TPA Ref. No. IR200016