

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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May 2, 2001

Re: Our file Number LR-01-043; Sales tax on the sale of alarm systems and system monitoring services.

Dear

This is in response to your inquiry in which you set out fact scenarios and asked four questions. I have scanned your fact scenarios and your four questions into this letter. Our responses follow each question.

SALES TAX SCENARIOS

Company A installs and monitors alarm systems. The contract with the customer can be either a leasing agreement which charges one monthly rate for the installation and leasing of the alarm equipment and the alarm monitoring service or a purchase agreement which charges an upfront fee for the installation and purchase of the equipment and a separate monthly fee for alarm monitoring. Company A will not sell the equipment to a customer without an associated alarm monitoring contract.

All of the scenarios listed below are regarding contracts of the same substance but different forms that are used by Company A. Each transaction involves identical equipment and service. The form of the contract is based solely on customer preference. The purpose for defining the following scenarios is to understand whether the state view of tax treatment is based on form versus substance. Might the states look at the substance of these contracts and determine that they are identical in substance and therefore the same sales or use tax regulations should apply to all?

QUESTION 1

If Company A signs a leasing contract with Customer Z that charges Customer Z one lump sum of \$10.00 per month for a term of 5 years for the installation, leasing, and

monitoring of alarm equipment. How should sales or use tax be charged on this transaction?

Response: Sales tax is due on the \$10.00 monthly charge.

QUESTION 2

If Company A signs a leasing contract with Customer Z that charges Customer Z \$6.00 per month for a term of 5 years for the installation and leasing of alarm equipment, and \$4.00 per month for a term, of 5 years for the monitoring of the alarm equipment. How should sales or use tax be charged on this transaction? Is it treated differently than Question 1?

Response: Sales tax should be charged on the \$6.00 monthly charge. This transaction is treated differently from the transaction set out in Question 1 above, due to the fact that the vendor has separately stated a component of the transaction which is not subject to sales tax. Furthermore, if the vendor also separately stated a charge for installation, that separately stated charge would not be subject to sales tax. However since the installation charge is lumped into a charge that includes a taxable component, namely the charge for the sale or lease of tangible personal property, the entire charge is subject to sales tax.

QUESTION 3

If Company A signs a purchase and monitoring contract with Customer Z that charges: Customer Z \$200.00 for the installation and purchase of alarm equipment, and \$6.95 per month for a term of 5 years for the monitoring of the alarm equipment. How should sales or use tax be charged on this transaction

Response: The \$200.00 charge for the installation and purchase of the alarm equipment would be subject to sales tax in Oklahoma. The \$6.95 charge for monitoring the equipment would not be subject to the tax.

QUESTION 4

If Company A signs a purchase and monitoring contract with Customer X that charges Customer X \$75.00 for the installation and purchase of alarm equipment, and \$19.95 per month for a term of 5 years for the monitoring of the alarm equipment. Is the sales or use tax treatment any different than in Question 3?

Response: No. The treatment would be the same. All of these responses are based on Oklahoma Tax Commission Rule 710:65-19-4. A copy is enclosed.

This response applies only to the circumstances set out in your request of April 27, 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,
OKLAHOMA TAX COMMISSION

A handwritten signature in black ink, appearing to read "Michael G. Pillow". The signature is written in a cursive, flowing style.

Michael G. Pillow
Tax Policy Analyst