

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
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June 26, 2001

Re: Our file Number LR-01-086; Sales tax to be charged on two types of transactions

Dear

This is in response to your inquiry concerning the fact situation I have scanned into this letter:

## **Fact Scenario and Questions**

is in the business of renting tangible personal property. A new service we are offering our clients in Oklahoma is a disaster recovery service. For a monthly amount, will guarantee that, in the event of a disaster (flood, earthquake, etc.) the client will be shipped PC Equipment within 24 hours to replace those damaged to get the client back in business. The disaster recovery service fee is one of two types. The client may be billed a higher fee which amounts to a prerenal of the equipment as no rental fee is billed for the equipment sent after a disaster. Or the client is billed a lower subscription fee which guarantees them the right to rent additional equipment at a reduced cost. Tax would be billed on the rental fee when charged.

Our billing system automatically bills Oklahoma sales tax on both subscription fees, either of which is listed separately on the invoice. Some of our clients in Oklahoma have notified us that they believe these charges are not taxable because it is a service and not a transfer of tangible property.

## **Our Response**

Since both charges are charges that, under certain circumstances, become part of the gross proceeds of a charge for the rental of tangible personal property and are payments required for the transfer of possession of the rental property, they are subject to sales tax when billed. A copy of Oklahoma Tax Commission Rule 710:65-1-11 dealing with sales tax on leases and rentals is enclosed.

This response applies only to the circumstances set out in your request of May 21, 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 style with a large initial "M".

Michael G. Pillow  
Tax Policy Analyst