

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

March 27, 2002

Re: Our File Number LR-02-024; Tax status of various cemetery contracts

Dear

This is in response to your request for clarification of the transactions listed in your correspondence regarding the sales tax responsibility of a cemetery located in Oklahoma. I have restated your questions below, followed by our response.

#1 When is sales tax due from the Company on the sale of a preneed cemetery contract?

Our Response: The sales tax to be charged and collected on each preneed cemetery contract shall be remitted by the vendor, (the Company) on or before the 15th day of the month following the month in which the sale occurred notwithstanding that consideration for the sale was deferred. See 68 O.S. 1365(A) and 68 O.S. 1352 (7)(b).

#2 Is any portion of the sales tax on a contract that is not paid by the customer and eventually cancelled or written off refundable to the Company since the sales tax was paid by the Company when the contract was initiated?

Our Response: Yes. A refund may be allowed only with respect to the unpaid amount of the account receivable upon which tax has been paid and actually charged off for income tax purposes. See 68 O. S. 1366.

#3 When the contract is cancelled or written off as a bad debt, should the Company use the provisions provided in the Oklahoma sales and use tax rules found at 710:65-11-1 and 710:65-11-2 to receive credit or refund for the overpaid sales tax? If not, what procedures should be followed?

Our Response: Yes. The above rules contain the proper procedures to file claims for sales tax credits and refunds.

#4 How are the amounts that have been collected on the contract (the down payment and the principal portion of the installment payments) allocated between taxable and nontaxable sales if not all the sales tax is refundable?

Our Response: The credit for bad debts is limited to the tax shown on the invoice that is being or will be charged off as a bad debt and must be adjusted to reflect any payments applied to the account. The Tax Commission does not have any general guidelines regarding the allocation of installment payments between taxable and nontaxable receipts. A credit for sales tax paid on the bad debt may be allowed only with respect to the unpaid amount of the account receivable upon which tax has been paid. Using a rationally-based method of assuring the credit is given only for bona fide bad debts, a proportionate share of the payments should be allocated between taxable and nontaxable sales.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosures