



OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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August 20, 2002

Re: Our File Number 074A; Sales/Use tax on the sale of software and software maintenance contracts

Dear

This is in response to your inquiry concerning the subject referenced above. I have answered the two aspects to your follow-up to our letter dated July 12, 2002:

ASPECT 1: Use tax is only levied on the storing, using or consuming of tangible personal property in Oklahoma [68 O.S. Section 1402]. The sales tax code levy is not restricted to the sale of tangible personal property but includes some additional sales which are taxable. One of these additional sales is the “gross receipts from the licensing of software programs” [68 O.S. Section 1354(8)]. Therefore there may be a circumstance where, even though there is no transfer of tangible personal property, the charge for licensing for a software program is subject to sales tax. For example, this would occur if the licensor and licensee are both physically located in Oklahoma, whereas the same program licensed by a vendor outside Oklahoma, where the program was not transferred via tangible means, to a licensee in Oklahoma, would not be subject to Oklahoma use tax.

ASPECT 2: Charges for technical support which are optional from the sale of any software, are separately stated from the sale of any other good and which “consists of the service of providing advice primarily or exclusively via telephone, fax, or email to troubleshoot difficulties encountered by the user of the software...” are not subject to sales or use tax. Please refer to Oklahoma Tax Commission Rule 710:65-19-52. A copy is enclosed.

This response applies only to the circumstances set out in your request of July 31, 2002. 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, stylized initial "M".

Michael G. Pillow
Tax Policy Analyst

Enclosure: (1)