

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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June 4, 2002

Re: Our File Number LR-O2-079; Taxability of maintenance agreements

Dear

This is in response to your inquiry regarding the taxability of maintenance agreements. Please be advised that the maintenance contract sold with canned computer software as specified in Commission Rule 710:65-19-52 subsection (d) would not be subject to sales tax upon renewal, which provides only maintenance agreement support services.

You asked a question concerning "the maintenance on office related equipment, such as copiers, fax machines, scanners, etc. If the maintenance includes "parts and labor" and the parts are not specifically identified, is the maintenance taxable?" The taxability of maintenance agreements depends on the terms of the sale. Based on the information provided, we are unable to provide a definitive response to your request without additional information. Please provide a detailed explanation that describes the sales transaction fully and furnish documentation, including but not limited to, the applicable contract or agreement that fully explains the arrangement between your customers, etc.

If the agreement is not mandatory that your customers are required to enter into upon the purchase of a machine from your company; but instead, is an optional plan which provides both service and parts at no additional charge to your customers, no tax should be charged to your customer on the purchase of the maintenance agreement. Tangible personal property used to fulfill the requirements of the agreement is taxable to the service provider.

Additionally, the Oklahoma Tax Commission promulgated Rule 710:65-19-365 and 710:65-19-371 (copies are enclosed), to assist in determining the taxability of maintenance agreements. Please refer to the rules listed above for your specific transactions as defined in your sales agreements. However, upon receipt of the additional information we will again review your request and be able to make a more informed determination of the status of the transaction presented. If you should have any question or need additional information you may contact me at the above listed number.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure