

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
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August 8, 2002

Re: Our file Number LR- 02-120; Tax status of related transactions for
retail sales and services

Dear

This is in response to your inquiry concerning the taxability of the transactions listed in your correspondence. I have scanned your transactions and questions into this document with our responses.

“Company X is a retailer. Company X provides various services such as delivery, miscellaneous labor charges and administrative fees.

General Overview & Fact Pattern:

A better understanding of various charges is requested as they are applied to retailers that supply building materials and services.

Coupons

When retailers offer discount coupon with no reimbursement of any kind, which basis should tax be calculated; gross sales or adjusted sales after discount?

Our Response: Please see Commission Rule 710:65-1-9 subsection (5) (A).

In some situations, competitor's coupons are honored with no reimbursement from the competitor. Which basis should tax be calculated; gross sales or adjusted sales after discount?

Our Response: Refer to the above response.

Restocking Charges

Restocking charges are applied when a customer returns goods. This charge represents an administrative fee for personnel time exhausted in placing goods back into inventory.

Are restocking charges taxable?

Our Response: Yes, please see Commission Rule 710:65-19-89 subsection (b).

Incidental Fees

Many bulk goods are stored on pallets. A customer may be charged a broken pallet charge if the entire pallet of goods is not purchased.

Are incidental charges such as broken pallet charges subject to tax?

Our Response: Yes, refer to Commission Rule 710:65-1-9 and Section 1352 (7) of Title 68 which defines "gross receipts and gross proceeds"...there shall not be any deduction from the gross receipts or gross proceeds on account of cost of the property sold... any expenses whatsoever, whether or not the tangible personal property sold was...processed, or otherwise assembled for or at the request of the consumer as part of the sale."

Blocking and Band charge

A customer may request bulk goods be wrapped and banded for transport. The charge may consist of labor and material.

Are charges for blocking and banding goods a taxable sale? Are charges for blocking and banding goods for a customer taxable when separately stated from the sales to tangible personal property?

Our Response: Refer to the above response (gross receipts or gross proceeds).

Idle Time Charges

When drivers encounter unexpected delays caused by a customer, an idle time charge is billed to the customer.

Are idle time charges taxable? Are idle time charges taxable when separately stated on an invoice that also consist of a separately charge for tangible personal property?

Our Response: Taxability of the idle time charges depends on whether the delivery charge is part of the consideration for the sale, see Commission rule 710:65-1-2 which defines "consideration". If the delivery is part of the sale, both charges become part of the gross proceeds for the sale of tangible personal property and are subject to sales tax when billed. If the delivery is not part of the consideration for the sale and the charges are separately stated on the invoice, then the charges would not be taxable. Also, refer to Commission Rule 710:65-19-70. **Delivery and transportation charges.**

Dumpster Pickup and Delivery

Per customer request, dumpster pickup and delivery may be performed.

Are dumpster pickup and delivery charges taxable? Are dumpster pickup and delivery charges taxable when separately on invoice for tangible personal property?

Our Response: Please refer to Commission 710:65-19-70 regarding taxability of delivery and transportation charges. The dumpster pickup transaction is neither a transfer of title or possession of tangible property, nor is it one of the enumerated services for which a sales tax is levied.

Hauling Charges

After delivery to a job site, a customer may request that rubbish and/or other non-hazardous materials are taken to an authorized dumpsite.

Are hauling charges taxable services? Are hauling charges taxable when separately stated on an invoice with tangible personal property?

Our Response: The hauling transaction described above is neither a transfer of title or possession of tangible personal property, nor is it one of the enumerated services for which a sales tax is levied.

Real Property Services

Is labor to perform real property services taxable?

Ex: Land clearing, Hauling debris and rubbish etc...

Our Response: Generally labor charges are not taxable if the vendor and vendee agree to them separately and they are disclosed as a separate line item on the bill or invoice. Therefore, land cleaning, hauling debris and rubbish removal are not subject to sales tax.

Dry Ice

Are Sales of dry Ice taxable?

Our Response: Dry ice would be considered a tangible personal property and is subject to sales tax.

Trailer moving

At the request of the customer, a trailer may be moved from one job site to another.

Are trailer moving fees taxable?

Our Response: Same response as the dumpster pickup and hauling transactions.

Rental of cranes with operators

Retailers may be requested to deliver goods to various job sites. Cranes are stored on the back of the delivery trucks for unloading goods. Occasionally customer will request various services of the delivery driver. For instance, roofing tiles will be placed on roof tops as well as other designated places. The delivery driver maintains complete control of the machinery and remains an employee of the retailer.

Are charges for crane service with an operator taxable? Are charges for crane service with an operator taxable when separately stated on an invoice where this a charge for tangible personal property? Are charges for crane service without an operator taxable?

Our Response: Please refer to Commission Rule 710:65-1-11 subsections (a) and (f).

Copies of the statutory references and rules are enclosed. If I can be of further assistance, you may contact me at (405) 521-3133.

Sincerely

Brenda J. Sullivan
Tax Policy Analyst

Enclosures