

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
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July 7, 2003

Re: Our File Number LR-03-112; Taxability of various online service plans, calibration and monthly supply of Sontac gel pads

Dear

This is in response to your request for a ruling of the taxability for the above subject. I have scanned your fact scenario/service plans into this letter, followed by our response.

“Our company located in WA is a manufacturer of ultrasound equipment. We have just recently started to offer customers on a monthly basis a variety of service plans that will allow them access to our website and down~cd digital images for storage or the ability to print out their scan on their computer. I have included an outline below for each type service plan and what it offers to the customer. Could you please provide our company a taxability ruling on these types of service.

*Silver Elite*

*Total Reliability Plan - Provides online printing of exam results, calibration, and twelve-month exam storage.0003-0087*

*Total Reliability Plan with Sontac - Provides online printing of exam results, calibration, twelve-month exam storage, and monthly supply of Sontac gel pads (quantity of 100 gel pads per month).0003-0089*

*Gold Elite*

*Total Reliability Plan - Provides online printing of exam results, calibration, and twelve-month exam storage. 0003-0087*

*Total Reliability Plan with Sontac - Provides online printing of exam results, calibration, twelve-month exam storage, and monthly supply of Sontac gel pads (quantity of 100 gel pads per month). 0003-0089*

*Platinum Elite*

*Total Reliability Plan - Provides online printing of exam results, calibration, and twelve-month exam storage. 0003-0087*

*Total Reliability Plan with Sontac - Provides online printing of exam results, calibration, twelve-month exam storage, and monthly supply of Sontac gel pads (quantity of 100 gel pads per month).0003-0089*

*Total Reliability Certification Plan - Provides annual calibration through DU Customer Service Department and coverage under the Total Reliability Warranty Program. Calibration is performed on an annual basis, and a Next-Day Loaner instrument is provided for the duration of the calibration servicing. 0003-0122"*

Pursuant to Commission Rule 710:65-19-156, the Total Reliability Plans that provide online printing of exam results, calibration, and twelve-month exam storage would not be subject to sales tax. The Total Reliability Plans with Sontac would be subject to sales due to the Sontac gel pads which represent a sale of tangible personal property. However, if the charges for the Sontac gel pads are listed as a separate line item apart from the services then the Sontac gel pads would only be subject to sales tax.

Please note Commission Rule 710:65-19-371 "Manufacturer's original product warranty", regarding the taxability of the Total Reliability Certification Plan and calibrations services.

Additionally, tangible personal property purchased out of state and shipped into Oklahoma for use or consumption is subject to use tax pursuant to Title 68, Section 1402 of the Oklahoma Statutes. The taxable basis is the "sales value" of the property at the time it was withdrawn from stock for use and/or consumption by a vendor or a manufacturer. See Commission Rule 710:65-1-2 relating to "sales value". However, a credit for sales or use tax paid to another state in which the property was acquired or used may be taken in computing the amount of use tax due this State, but such credit must be computed by applying the rate of sales or use tax paid to another state to the "sales value" of the property at the time it enters Oklahoma. Please note that Section 1404 of Title 68, specifically states that "no credit shall be given for taxes paid in another state, if that state does not grant like credit for taxes paid in Oklahoma". Further, the credit allowed may be up to the state use tax rate of four and one half percent (4 ½%), depending on the other state's rate.

Therefore, the Next-Day Loaner instrument provided for the duration of the calibration servicing would be subject to use tax.

Enclosed please find the Statutory References and Commission Rules. If I can be of further assistance please contact me.

This response applies only to the circumstances set out in your request of June 13, 2003. 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,

  
Brenda J. Sullivan