

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

December 4, 2003

Re: Our File Number LR-03-152; sales tax on health and medical records processing

Dear

This is in response to your firm's inquiry concerning the sales taxability of various services provided by your client, The statement of facts contained in your request concerning your clients operations is set out below followed by the issues that you raised. Each issue is followed by our response.

STATEMENT OF FACTS

Taxpayer provides health and medical record processing services to attorneys, insurance companies, governmental entities, patients, physicians, hospitals, and other requesting parties, hereinafter ("Customers"). Taxpayer's services are performed by Taxpayer's employees utilizing equipment (i.e. laptop computers, scanners, etc ...) provided by Taxpayer. These services are performed by Taxpayer's employees from hospitals, physicians' offices, or employees' home offices; which are located in the state of Oklahoma.

In practice, upon Taxpayer receiving a request from customers for a copy of a patient's health and medical records, hereinafter ("Information"), Taxpayer will visit the hospital, physician's office, or other location where the particular information is located. Upon arriving at the hospital, physician's office, or similar location where the particular information is located, employees may facilitate the customer's request by either one of two methods.

METHOD ONE

Method one encompasses Taxpayer utilizing a laptop computer, scanner, or other similar electronic medium to electronically "scan" and save the requested information. Upon securing the scanned information, the employee electronically transmits the scanned information to Taxpayer's facility in Georgia. When the information is received at Taxpayer's Georgia facility, the information is processed and, depending on the customer's election, either

an electronic version of the information is transmitted to the customer or a hardcopy version is printed and mailed to the customer.

METHOD TWO

Method two encompasses an employee visiting the hospital, physician's office, or location where the medical records and related information are located to physically photocopy the requested information. Upon the requested information being photocopied, the employee will subsequently mail the requested information to the customer from the hospital, physician's office, or location where the medical records and related information are located.

INVOICE COMPONENTS

Upon providing any of the above services, the Taxpayer invoices the customer a separately stated charge for the requested service. Below please find the various possible components of atypical transaction, and an explanation of each component.

- Basic/Retrieval Fee: A separately stated flat fee charged for locating the records.
- Quickview Delivery Fee: A separately stated fee to electronically access and view the contents of the delivered information via the Internet.
- Per Page Fee: A separately stated fee for each page of the medical record that is either scanned or photocopied.
- Postage Fee: A separately stated fee for the postage associated with mailing a hardcopy of the individual's medical record. This fee does not contain a markup for profit.
- Handling Fee: A separately stated charge, distinct from the charge for postage, associated with mailing a hardcopy of the individual's medical record.
- E-Disclose Fee: A separately stated fee to track and confirm the status of the information being delivered.
- Certification Fee: A separately stated fee to certify the information.
- Notarization Fee: A separately stated fee to notarize the information.
- Deposition Fee: A separately stated fee to affirm that the information is suitable to be utilized in a legal deposition.
- Docustore Fee: A separately stated fee to electronically store the information.

ISSUES

Since Taxpayer provides employees with tangible personal property (scanners and computers) to

perform the above services within the state of Oklahoma, the Taxpayer has concluded that it has nexus for sales and use tax purposes. Consequently, the Taxpayer would like the state's assistance concerning the following:

1) Are the separately stated "Basic/Retrieval Fees", as defined above, subject to sales tax?

Response to Issue 1: No.

2) Are the separately stated "Quickview Delivery Fees", as defined above, subject to sales tax?

Response to Issue 2: No.

3) Are the separately stated "Per Page Fees", calculated on a per page basis for photocopying information subject to sales tax?

Response to Issue 3: Yes. Please refer to Oklahoma Tax Commission Rule 710:65-19-259.

4) Are the separately stated "Per Page Fees" calculated on a per page basis for scanning information into an electronic format subject to sales tax?

Response to Issue 4: No.

5) Are the separately stated "Postage Fees", as defined above, subject to sales tax?

Response to Issue 5: No.

6) Are the separately stated "Handling Fees", as defined above, subject to sales tax?

Response to Issue 6: No.

7) Are separately stated "E-Disclose Fees", as defined above, subject to sales tax?

Response to Issue 7: No.

8) Are separately stated "Certification Fees", as defined above, subject to sales tax?

Response to Issue 8: No.

9) Are separately stated "Notary Fees", as defined above, subject to sales tax?

Response to Issue 9: No.

10) Are separately stated "Deposition Fees", as defined above, subject to sales tax?

Response to Issue 10: No.

11) Are the separately stated "Docustore Fees", as defined above, subject to sales tax?

Response to Issue 11: No.

12) Are the scanners, laptop computers, and similar electronic media utilized in Method One and/or Method Two services deemed processing equipment so as to be exempt from sales and use tax when purchased?

Response to Issue 12: No, while the Oklahoma Sales Tax Code contains an exemption for equipment used in a manufacturing process, the services being performed are not manufacturing as that word is defined in the statutes at 68 O.S. Section 1352 and in Oklahoma Tax Commission Rule 710:65-13-150.1.

These responses apply only to the circumstances set out in your request of July 28, 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,
OKLAHOMA TAX COMMISSION



Michael G. Pillow
Tax Policy Analyst