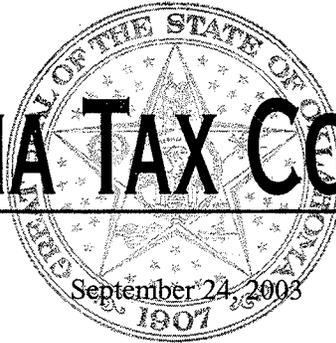


OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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



Re: Our File Number LR-03-170; Tax status of consulting services financed with a lease

Dear

This is in response to your inquiry for a written opinion concerning the transaction described in your letter where a lessee will purchase software that requires considerable programming and configuring and a consultant is hired to do the implementation. Your company finances the cost of the consulting, including fees, travel, lodging and meal expense in conjunction with a lease.

Please be advised that Commission Rule 710:65-19-52 (f) would apply to the fact scenario described in your correspondence as modifications to canned computer software and the rental attributable to the consulting is subject to sales tax. If the consultant's services represent a "turnkey price" which includes travel, lodging and meal expenses in the price quoted to the customer, the entire gross proceeds of the sale is subject to sales tax. However, if the travel, lodging and meal expenses are separately agreed upon between your customer and the consultant and are separately stated in your contract and corresponding invoices, such separately agreed upon and stated charges are not subject to sales tax in Oklahoma.

As a vendor, your company would issue its resale certificate to the consultant and would not pay any sales tax at the time of purchase. Winthrop should charge, collect and remit sales tax on the rental payments.

Please find enclosed Commission Rule 710:65-13-200 Exemption on sales for resale, Commission Rule 710:65-1-11 Rentals and leases of tangible personal property, and 710:65-19-52 Computers and related systems. If I can be of further assistance, please feel free to contact me.

This response applies only to the circumstances set out in your request of August 14, 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.

Sincerely,


Brenda J. Sullivan
Tax Policy Analyst

Enclosure

cc: Jerry Webb, Deputy Director, Taxpayer Assistance Division