

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
TONY MASTIN, DIRECTOR

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December 11, 2003

Re: Our File Number LR-03-248; Sales tax on sales of software

This is in response to your inquiry concerning whether certain types of sales related to the sale of software are subject to sales tax in Oklahoma. I have listed your questions below and each is followed by our response. For the purposes of these responses, it is assumed that each type of transaction about which you are asking is separately agreed to and any charges for each type of transaction are separately stated on the invoice or bill given to your customer.

**Question:** Are the following subject to sales or use tax in your state?

1. Canned computer software delivered via tangible media?

**Response:** Yes.

2. Canned computer software license delivered electronically (FTP) not involving tangible media?

**Response:** No.

3. Canned computer software license delivered via "load and leave"?

**Response:** Yes.

4. Tax research subscription (monthly data of sales and use tax rate changes delivered electronically; no computer code imbedded in it)?

**Response:** No.

5. Optional maintenance contract of canned software which includes upgrades?

**Response:** Yes.

6. Training of customer personnel?

**Response: No.**

7. Term license which includes portions for tax research and support services?

**Response: If the portions for support services are not separately agreed to and separately stated, they are taxable. If the portions for support services are mandatory, they are subject to sales tax. If they are optional and they are separately stated and they provide updates, they are taxable. If they are optional and they are separately stated and they do not provide updates, they are not taxable.**

8. Professional Services/Consulting?

**Response: They are not taxable unless the consulting is the modification or enhancement of prewritten software and it is not separately stated from the sale of the prewritten software.**

9. Customization of canned software?

**Response: So long as there is a reasonable, separately stated price for the modification or enhancement to the prewritten software on a bill or invoice given to the customer, the modification or enhancement to the prewritten software is not considered to be prewritten software and is therefore not taxable.**

10. Installation of canned software?

**Response: No.**

These responses are based on Oklahoma Tax Commission Rules 710:65-19-52 and 710:65-19-156 and changes made to 68 O.S. Section 1352(19) made by Senate Bill 708 of the just passed legislative session which became effective November 1, 2003. Please note that the change in the statutes supercedes the language in subsections (f) and (g) of rule 710:65-19-52. Copies of the rules are enclosed.

This response applies only to the circumstances set out in your request of November 5, 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