OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

January 6, 2004

Re: Our file Number LR-03-270; Taxability of various transactions

This is in response to your inquiry concerning the taxability of the transactions that were listed in your correspondence. I have scanned your fact scenario and the transactions below, followed by our responses as to their tax status.

sells and installs . equipment. This equipment is generally affixed to real property. Customers require custom designed software specific to their needs, in addition to the hardware. Each hardware and software item is separately stated on our invoice. The equipment is sent directly to the purchaser as FOB ship point. The cost of freight is separately stated and includes a handling charge. Occasionally customers request training. Training can be provided at the customers' request. In addition,] repairs equipment in one of our two warehouses, which are both located in Minnesota.

Based on the information provided above, would the following be taxable:"

- Freight

Our Response: Separately-stated transportation charges are not subject to sales tax. See Commission Rule 710:65-19-70 subsections (a) and (f) for Handling" charges.

- Service for installation

Our Response: Please be advised that labor charges for installation, repairs or other special services 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. See Commission Rules 710:65-19-158 and 710:65-19-159. However, there is one exception to this general rule. Section 1354 (4) of Title 68 levies a sales tax on "all local telecommunications service and rental charges including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image." See Commission Rules 710:65-19-329 and 710:65-19-330.

- Repair

Our Response: Refer to the above.

- Software

Our Response: Custom computer software is not subject to tax. See Commission Rule 710:65-19-52 (c) for canned software and (g) for customer software.

- Training

Our Response: Training is not one of the enumerated services for which a sales tax is levied.

Enclosed find copies of Commission Rules referenced above. 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 November 20, 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

Brenda J. Sullivan
Tax Policy Analyst