

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
TONY MASTIN, DIRECTOR

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April 7, 2004

Re: Our File Number LR-04-038; Tax status of software program called

Dear

This is in response to your inquiry for an opinion as to whether should charge Oklahoma sales tax on the sale of its software program called to customers in Oklahoma. I have scanned your fact scenario into this letter, followed by our response.

“Our scenario is as follows:

is a software company located in Houston, TX. We developed and provide a software program called to various clients around the world. Our software is internet-based and resides on either our customers' servers or on servers. Customers purchase a license to use the software.

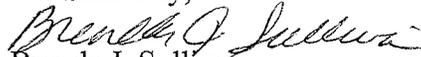
We will begin providing service to an Oklahoma based company ("Customer"). The software will reside on Customer's servers located in Oklahoma. All software is transferred by via the internet to Customer's servers. Customer will pay a monthly service fee to use the software. This fee is based on the number of sites using the software (with a monthly minimum fee regardless of the number of sites).

The software that is providing to Customer was implemented to fit their business process. While the underlying technology has been and will be used by other customers, the graphical user interface and business rules embedded in the software apply only to Customer. The graphical user interface and business rules, which represent the majority of the work done by for this particular customer, cannot be used by other customers.”

Based on the information set out in your letter, software, is described as custom computer software and would fall in the category of Commission Rule 710:65-19-52 (g) and is not subject to tax. Additionally, Tax Commission Rule 710:65-19-156 (b) (5) specifically provides an exemption from the levy of sales tax for "Sales of prewritten computer software that is delivered electronically". See copies of both rules enclosed as amended.

This response applies only to the circumstances set out in your request of March 1, 2004. 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  
Tax Policy Analyst

Enclosure