OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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November 4, 2004

Re: Our File Number LR-04-205; Sales tax on transactions related to excimer laser systems

Dear

This is in response to your inquiry concerning whether certain transactions entered into between your client and its customers are subject to sales tax. You have set out the facts on which your inquiry is based, which should be read in conjunction with this response, and then ask three questions. The questions are set out below and each is followed by our response:

1. Is the sale, lease or rental of Laser Systems subject to the Oklahoma sales and use tax?

Our response to question number 1: Yes. Sales, leases, and rentals of tangible personal property, that are not otherwise exempt, are subject to sales tax or use tax in Oklahoma. Please refer to the definition of the word "sale" in Oklahoma Tax Commission rule 710:65-1-2.

2. Is the sale of Treatment Cards subject to the Oklahoma sales and use tax?

Our response to question number 2: Yes. Sales, leases, and rentals of tangible personal property, that are not otherwise exempt are subject to sales tax or use tax in Oklahoma. Please refer to the definition of the word "sale" in Oklahoma Tax Commission rule 710:65-1-2.

3. Are the Patent License Fees charged by the Company in exchange for the intangible right to perform surgical procedures covered by The Company's patents subject to the Oklahoma sales and use tax?

Our response to question number 3: No. As noted in your statement of facts, the Patent License Fees are not part of the total gross receipts of the sale or lease or rental of the Laser Systems and therefore are not subject to sales tax. Please refer to the definition of "Tangible personal property" in the rule referenced above.

This response applies only to the circumstances set out in your request of September 30, 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,
OKLAHOMA TAX COMMISSION

Michael G. Pillow
Tax Policy Analyst