OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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March 28, 2005

RE: Our File Number LR-05-013; Tax status of Course Tools

Dear I

This is in response to your request for a ruling regarding sales tax obligation on business transactions in Oklahoma. I have scanned your fact scenario into this letter followed by our response.

"This communication is a request for a ruling as to the position your state will take related to the sales tax obligation has on business transacted by us in your state. I have included a summary of the business activities we are engaged in for you to use as a basis for your determination.

Please note that over 95% of our customers are higher education institutions which may qualify them as tax exempt entities in your state. 1 would request that you include in your determination the impact, if any, this would have on any sales tax obligations may have in your state.

The Products allow professors to expand their classrooms using the Internet. The Product's functionality includes tools that improve professor/student communication and dissemination of information. The Product can be purchased as:

1. A perpetual or term software license.
   a. The product is hosted by the purchaser. Professors and students access the product from the purchaser's servers.

   b. Software is electronically delivered to the purchaser.

2. A hosted instance for a specified period of time.
   a. The product is hosted by at their hosting facility (located outside of your state). Professors and students access the product from servers maintained by

Technical Support:
System administrator support is included in the cost of the license. Customers can purchase additional technical, faculty and student support for an additional fee. Product upgrades are provided as part of this fee.

Services:
Implementation Planning: employees provide consulting services to help define customer's strategic goals for the application and design technical and operational workflows.

Software Installation: employees will install applications and document and tune the system.

Training: employees and/or contractors provide training on how to use the products. Training classes are can be delivered at client locations or via the Internet.

Course Development: employees work with institutions to design and program courses.

Trainer Certification: Web based testing and certification of outside parties to provide end user training for products.

Sale of Content: Students can purchase the right to access electronic content of the type found in textbooks and white papers. Access to the content is for a specific period of time usually coinciding with the length of the class term. The access pin is purchased through web site via credit card payment. The access pin is emailed to the buyer once the credit card transaction has been processed.

The content can be hosted on either the institution's server or by

Please be advised that sales of prewritten computer software that are delivered electronically are not subject to sales tax. "Delivered electronically" means "delivered to the purchaser by means other than tangible media." See Commission Rule 710:65-19-156subsection (b) (5) and 710: 65-19-52 (c) and 68 O. S. § 1357 (30).

Therefore, if your software including any manuals or upgrades are delivered solely electronically, via the Internet, the sale would not be taxable. The other services listed in the above are not subject to sales tax.

Additionally, sales of tangible personal property or services to institutions of higher education are exempt. See Commission Rule 710:65-13-210.

This response applies only to the circumstances set out in your request of January 13, 2005. 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. Enclosed find copies of the above listed Statute and Commission Rules. If I can be of further assistance, please feel free to contact me.

Sincerely,

Brenda J. Sullivan

Brenda J. Sullivan,
Tax Policy Analyst

Enclosure