OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
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July 19, 2005

Re: Our File Number LR-05-046; Sales Tax on the provision of "on-line" sales tax information services

This is in response to your inquiry concerning the taxability of the provision of "on-line" sales tax information services. I have set out your statement of the "facts" of the transactions below, followed by the "opinions" that you request. Each of your questions is followed by our response.

Facts

We are an "on-line" sales/use tax information provider with headquarters in the Seattle, Washington area. As part of providing this service, we maintain a database of nationwide sales/use tax rates as well as other sales/use related information in servers located in our data center here in Seattle. The following information is provided to assist you in responding to our request.

1) When a customer wishes to utilize our service, they download a free program electronically that connects them to our online service and allows them to send their transactional data via the internet to our servers to obtain the needed tax calculation. The customer does not purchase any software or any other tangible personal property as part of the service.

2) As part of the initial set-up, the customer enters our website and configures nexus, as well as any special taxability rules or special exemption treatment.

3) Based on jurisdictional information provided, our system will perform an address validation process and if necessary correct the ship-to address.

4) Based on jurisdictional information provided, as well as any customized taxability rules that the customer configures, our system will generate a tax calculation and electronically send it back to the user's accounting system for invoice generation.

5) When a customer subscribes to our service they pay a small activation fee and afterwards pay a monthly fee based on a number of transactions that require a tax calculation.

6) The tax calculation data generated is stored on our servers and a customer can access and download the data at anytime for purposes of generating on-line informational reports and tax returns.

7) We are a channel-based seller and we utilize accounting software resellers to promote and sell our service to their existing clients as well as any new clients that they acquire. However, we do have "home-office" sales and marketing folks located in different parts of the country for purposes of promoting our services and supporting our value added resellers.

8) For purposes of this request, it should be presumed that one of our sales and marketing folks will physically visit your state between (1) and (5) times in a given year to meet with and assist our resellers in their marketing and sales efforts.

9) As part of our service, a user has access to unlimited technical support without any additional cost to them.

Opinion Request
Please advise on the following: Is the service we provide (based on the facts outlined above) subject to sales/use tax in your state? If so, please provide all relevant statutes, regulations, technical bulletins and applicable court cases to support the state's position.

Our Response
No. The service of providing on-line tax information is not one of the services upon which sales tax is levied in Oklahoma. The levy of the tax may be found at 68 O.S. Section 1354. See also 68 O.S. Section 1357(30) that exempts sales of computer software that is delivered electronically. Sales tax rules that act to exempt the transactions defined in your request are 710:65-19-86 and 710:65-19-156.

Opinion Request
If our service is not subject to sales/use tax in your state, are we still required under your state statutes to register for sales tax purposes and file a sales/use tax return?

Our Response

You are not engaged in selling tangible personal property in Oklahoma or for use in Oklahoma sold from outside Oklahoma. You are not engaged in providing taxable services in Oklahoma. Therefore, you are not required to register as a vendor for sales or use tax in Oklahoma. However, if the marketing employees who visit Oklahoma bring tangible personal property into Oklahoma, for use in Oklahoma, as might be the case where you give promotional items to the retailers then you would owe use tax on the property given away. If the use tax owed as a result of your marketing efforts will continue over time, you should register to obtain a "consumer" use tax account.

Unofficial copies of the rules noted in this letter ruling can be viewed at the following website:

www.oar.state.ok.us/oar/codedoc02.nsf

This response applies only to the circumstances set out in your request of March 25, 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.

If I can be of further assistance, please feel free to contact me.

Sincerely,
OKLAHOMA TAX COMMISSION

Michael G. Pillow
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