

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
TONY MASTIN, DIRECTOR

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January 3, 2006

Re: Our File Number LR-05-171; Sales tax on various transactions related to the sale and licensing of software.

Dear

This is in response to your inquiry concerning the subject referenced above.

Where the underlying sale or licensing of software is the sale or licensing of software that is delivered electronically, all of the transactions listed in your letter would be exempt from sales tax.

For those transactions where the sale or licensing of software by your company involves software that is not delivered to your company's customer electronically, the following types of transactions, as defined in your letter, are subject to sales tax:

1. "Recurring License Fee"
2. "Programming – making modifications /enhancements to the already purchased canned software."
3. "Billable Support – assistance that is not included in the maintenance agreement." (This type of transaction is taxable if the support includes the sending of updates to the software. If it does not include the sending of updates to the software, it is not subject to sales tax.)

The following transactions, as defined in your letter, if they are separately agreed to from the sale of the software and are separately stated on the bill or invoices issued to the customer, are not subject to sales tax in Oklahoma:

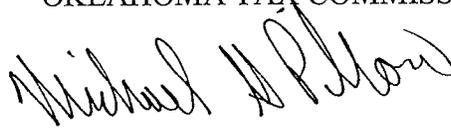
1. "Hosting Fee"
2. "Consulting"
3. "Training – help on how to use the system either in Nebraska or at the customer's site"
4. "Training over the web"
5. "Implementation"

6. "Transactions"
7. "Fixed Fee"

This response applies only to the circumstances set out in your request of September 27, 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

A handwritten signature in black ink, appearing to read "Michael G. Pillow". The signature is written in a cursive style with a large, stylized initial "M".

Michael G. Pillow  
Tax Policy Analyst