OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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May 29, 2006

Re: Our File Number LR-06-024; Sales tax on purchase of flight simulator

This is in response to your inquiry concerning whether sales tax is due on the sale of a Full Flight Simulator to a company in Oklahoma City which will have a contract to provide training to the U.S. Navy in Oklahoma City.

There is no exemption in the Oklahoma sales or use tax codes for sales to entities with contracts with the United States government. Therefore, the company that will be providing training services to the United States government will be the taxable consumer/user of the items it uses in providing those services, pursuant to the statutory language found at Title 68, O.S. Section 1356(1). If they make the purchases of the goods used in their training operations in Oklahoma, they are required to pay their vendors the Oklahoma and the applicable local sales tax at the point they receive the goods based on the total gross receipts of the sale. If that point is in Oklahoma City, the combined sales tax rate would be 8.375%.

If they purchase goods from outside Oklahoma, and the goods are shipped into Oklahoma via common carrier, and they are not delivered in the vendor's own vehicles, nor installed by the vendor, use tax, not sales tax is due. The total combined rate of use tax in Oklahoma City will also be 8.375%.

If the vendor of the goods subject to use tax has a physical presence in Oklahoma, as it would if it has a representative such as a salesman or agent in Oklahoma for any purpose for any length of time, the vendor is required to register and collect Oklahoma and any applicable local use taxes due on any sales it makes in Oklahoma.

Even if the vendor has no physical connection with the state of Oklahoma, so that the vendor cannot be forced to collect and remit the use tax, the use tax is still due. In such a circumstance, the responsibility for remitting the tax due falls on the purchaser. If the purchaser

does not voluntarily pay the use tax, the use tax, along with penalty and interest can be assessed against the purchaser.

These responses are based on the following rules, copies of which are enclosed:

710:65-1-8 710:65-13-131 710:65-15-1 710:65-18-3 710:65-21-3
710:65-21-4 710:65-21-6

If you have information that will help the Oklahoma Tax Commission in administering the Sales or Use Tax Codes, please forward it to:

Monty Bivens, Director
Audit Division
Oklahoma Tax Commission
2501 North Lincoln Boulevard
Oklahoma City OK 73194

This response applies only to the circumstances set out in your request of February 6, 2006. 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

cc: Monty Bivens