OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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May 10, 2006

RE: Our File Number LR-06-034; Tax status of equipment trade-in and refund and credit process

Dear

This is in response to your request for a written response to the questions listed in your correspondence. I have scanned your fact scenario and questions into this letter, followed by our response.

currently sells and installs both new and refurbished telephone equipment. Many of our customers choose to upgrade their current equipment for the latest and greatest products. It is customary for to accept their old equipment on a trade-in to reduce the cost of their new/used equipment. My question to your state is as follows:
Would the value that allows for the trade in be taxable or would the sale be taxed based on the original selling price?
For example: sold equipment valued at $20,000.00 and accepted a trade-in of equipment for $4,000.00 as partial payment. Should we be taxing on $20,000.00 or $16,000.00?"

Our Response: Oklahoma Tax Commission Rule 710:65-1-9(d) (1) **Trade-ins**, states that, "The value of trade-ins accepted by a taxpayer in lieu of money or other consideration may not be deducted from the gross proceeds." Therefore, sales tax would be due on the sales value of the equipment per your example of $20,000.

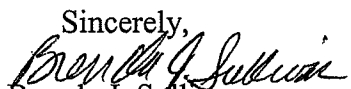
"In addition, several of our customers are sending tax-exempt information after the purchase of their equipment. Does your state have a specific date/ruling that I should have this form on file *before* the sale or within a certain amount of time *after* the sale? The reason I ask this question is because some of our customers have sent me exemption forms 90-120 days after the sale has taken place. Clearly at this point, I have to amend all returns from which this

customer has purchased products in order to receive my money back from your state. I would like to be able to inform my customers that if I do not have the proper exemption on file before the purchase/service takes place or within 90 days after delivery of property or service, that they owe us the tax and will need to apply for refund from your state. Is this within my legal rights according to your states rules?"

Our Response: This would be a matter of your business practice to make the decision whether to amend your return or require your customer to request a refund directly to the Oklahoma Tax Commission. The request from your customer for a refund is valid as long as the sales tax exemption form or certificate has a date issued as printed thereon before the actual date of sale or purchase and the purchaser is regularly engaged in reselling the articles purchased. Additionally, your company may file an amended report within three (3) years from the date the tax was paid by the claimant. Please see the instructions for application for credit or refund attached and you may also reference Oklahoma Tax Commission Rules 710: 65-7-1 through 710:65-7-16, 710:65-11-1, 710:65-13-200, at our website: www.oktax.state.ok.us.

This response applies only to the circumstances set out in your request of February 16, 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,



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