OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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April 24, 2006

Re: LR-06-058
State/Local Tax Implications of Current Business Model

This is in response to your inquiry regarding the taxability of warranty service contracts, repair contracts and other services offered by your company.

Section 1354 (A)(1) of Title 68 of the Oklahoma Statutes specifically levies a sales tax on the sale of tangible personal property. It is the intent of the Oklahoma Legislature to specifically include within the sales and use tax levies by this state all sales of tangible personal property and all storage, use or other consumption of tangible personal property occurring within this state. Oklahoma *sales tax* is levied on the sale of tangible personal property in Oklahoma. Oklahoma *use tax* is levied on the storage, use or consumption of tangible personal property within the state of Oklahoma.

The taxability of the "break/fix warranty services" and "break/fix time and materials repair contracts" depend upon the written agreement. Generally, any tangible personal property used in connection with labor services performed under the contract, which is not covered under the contract and is billed or sold to the customer, is subject to sales tax. However, labor charges, separately stated, are not subject to sales tax. See subsection (b) of Commission Rule 710:65-19-365.

As a general rule, installment charges are not taxable. However, the charge for installation will be subject to sales tax if the installation charge is included in the selling price of the tangible personal property. If the seller and buyer agree the installation charge is separate from the selling price of the property, and if they are separately stated on the bill or invoice apart from the price of the goods sold, the installation charge is not subject to sales tax in Oklahoma. See Oklahoma Tax Commission Rules 710:65-19-158 and 710:65-19-159.

Many of the items listed in your letter (deployment, destruction, on-site repair services, warehousing, project services and asset tracking fees) appear to involve the sale of services only. Unless these services also include the sale of tangible personal property, then they are not subject to Oklahoma sales tax.

Enclosed is a list of the city and county tax rates, copies of the statutes and rules referenced herein and an Oklahoma Sales Tax Report form. The Sales Tax Report is due on the 20th day of the month following each reporting period. You can find more information and download copies of the Sales Tax Report from the Oklahoma Tax Commission website at www.oktax.state.ok.us.

This response applies only to the circumstances set out in your request of March 29, 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,

Lisa R. Haws
Tax Policy Analyst

Enclosures