OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

May 24, 2006

RE: Our File Number LR-06-081; Tax status of photo session fees for digital photos

Dear

This is in response to your inquiry to resolve the tax issue as to whether sales tax should be charged on session fees for digital photos. I have scanned your fact scenario into this letter followed by our response below.

> "I have a client who has a photography studio that takes digital photos. A session fee is charged for this service. These digital photos can be posted on the website for customers to look at and order photos from or they can print a likeness on low grade paper for potential customers to order from. There is no film involved, no proofs created. The customer is receiving no tangible goods. When the customer does place an order for photos they are taxed on that order."

Please be advised that all of the sales and services which are made in accordance with the fact scenario set out in your letter are subject to Oklahoma and any applicable local sales taxes as plainly set out in Oklahoma Tax Commission rule 710:65-19-260. I have listed the pertinent part of the rule noting the corresponding sales and services listed in your situation (***bold and italicized***):

" 710:65-19-260. Commercial photographers and photographic goods and services

(a) Sales subject to tax. Sales of tangible personal property and taxable services by commercial photographers and others to consumers or users of photographic goods and services are subject to sales and use taxes, including, but not limited to, gross receipts from:

(1) Sitting fee ***(session fee)***

(2) Taking, (***digital photos taken at session can be posted on the website for customers*** ; reproducing or producing (***print a likeness on low grade paper for potential customer to order from;*** and selling photographs (***when the customer does place an order for photos they are taxed on that order).***"

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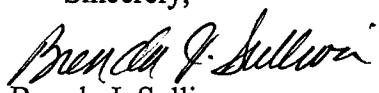
[Emphasis Added]

This response applies only to the circumstances set out in your request of May 9, 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,



Brenda J. Sullivan
Tax Policy Analyst

cc: Kathy Bailey, Taxpayer Assistance Division