OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
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October 16, 2006

RE: Our File Number LR-06-103; Tax status of various services

Dear

This is in response to your request for written advice concerning your client's compliance with Oklahoma laws. I have scanned your scenario into this letter, followed by our response.

"My client has a business located in the state of Louisiana which contracts with businesses around the United States to locate and hire contractors for the installation and repair of commercial HVAC equipment as needed for their local business operations. My client never leaves the state of Louisiana, but merely works to match businesses in other states with the HVAC services they need. My client has no locations in other states and has no nexus to other states. He has no employees or contractors in other states. He may get several bids for each job and engage them for that job only.

My client pays the repair company directly and then submits his bill to the business that hired him. This bill would provide a breakdown for charges for parts and charges for services. Embedded within this bill are his reimbursement and a markup for his services.

In anticipation of conducting business in your state, my client wishes to pay all taxes and fees for which he is liable and to be in full compliance with the laws of your state. However, to ensure that my client is complying fully with the laws of your state we would like some guidance regarding the collection and payment of sales taxes since these laws vary between states."

Based on your fact scenario, your client would be classified as a contractor, i.e. heating and air conditioning contractor making improvements to real property. Contractors are consumers or users, and must pay sales tax on all taxable services and tangible personal property. See Oklahoma Tax Commission Rule 710:65-19-55 and 710:65-19-56. The mere fact that your client's invoicing method provides a breakdown for charges for parts and charges for services along with an embedded cost for reimbursement and a markup for his services does not constitute a sales transaction of tangible personal property associated with performance of a contract.

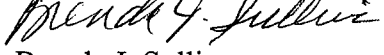
Therefore, your client would be doing business as a contractor in Oklahoma and should pay sales/use tax on all materials for repair or installation of HVAC at the time of purchase. Because contractors are the consumer/users of items purchased to improve real property, they pay tax on the materials used in their contracts and do not charge sales tax on the revenue received from the contract. As a result, a contractor's invoice should clearly show that it is charging for labor /services rather than for the sale of goods.

You may reference Oklahoma Tax Commission Rules relating to Contractors 710:65-1-7, 710:65-19-55 and 710:65-19-56, at our website: www.oktax.state.ok.us

This response applies only to the circumstances set out in your request of June 22, 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



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