OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
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March 8, 2007

RE: Our File Number LR-06-196; Taxability of electronic access to seismic data and sale of hard copy seismic/well logs

Dear

This is in response to your request for a written opinion of the taxability of the fact pattern presented in your correspondence. I have scanned your fact pattern into this letter, followed by our response.

FACTS:

"Company A is in the business of providing the oil & gas industry seismic information on various wells. In general, company A provides electronic access to this seismic data as well as sell hard copy seismic/well logs. Company A obtains the information it sells from various sources in both electronic and hard copy formats. All the electronic information is kept on a server located outside of your state; some of the hard copy well logs are kept in Oklahoma and some are kept at a location outside of your state. The hard copy information is often scanned and stored on the aforementioned server. The hard copy information may be digitized (based on certain industry-standard software specifications) by Company A (by workers located outside of your state) and then held for sale in the new electronic format, which is stored on the aforementioned server.

Company A bills the clients for the following fees:

Electronic Access Fee/ Membership Fee. This fee gives the client the opportunity to log on Company A's internet site and browse a list of well information available. The client will be able to determine during its search what information is available in Company A's database.

Hard copy Access Fee/ Membership Fee. This fee is similar to the electronic version but the client can only purchase hard copy seismic/well logs.

Electronic Data Access-Company A will sell access to its electronic seismic information to clients.

The information is stored on a server outside of your state and is accessed by clients over the internet. Once a client buys access/download rights to a specific well it can re-access that information at no additional charge. Company A will charge its customers on an access by access charge or will sell a package or bundle of access. Once access to a specific well is made the client has a perpetual right to access the information.

Hard Copy Access-Company A will sell hard copies of seismic/well logs to clients.

INQUIRY:

Should Company A be charging tax for such services? Does the method/form that Company A's customers receive the seismic information make a difference in taxability?

CONCLUSION:

We do not believe that the services provided by Company A are taxable in Oklahoma. According to O.S. Sec. 1354 only those services specifically enumerated are taxable. Those services include: telecommunication, printing, hotel rooms, parking/storage, software, advertising, club dues, amusement services, rental of tangible personal property.

Our fees related to electronic access services fit the description of information services which are not taxed by Oklahoma, see on 68 O.S. Sec. 1354.

Our service of providing hard copy information to our clients could be perceived to be printing, but if you look to what the client is paying for it is not the hard copy, but rather the geophysical/seismic information contained on the paper. This is similar to the service of providing financial statements, while delivered in hard copy form; the purchaser is buying information rather than tangible personal property."

Our Response:

As referenced in your letter, 68 O. S. § 1354, Oklahoma levies a sales tax on sales of tangible personal property and certain enumerated services that are not otherwise exempt. Since the Electronic Access Fee/Membership Fee only provides access to the "seismic" information on wells, it would not be subject to sales tax. However, the Hardcopy Access Fee/Membership Fee is taxable. It is part of the total consideration of the printed material which is subject to sales tax as a sale of tangible personal property for valuable consideration, i.e. hard copy seismic/well logs. There is only one exception to the taxability of printing or printed matter... "except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects...." See 68 O. S. § 1354 (5).

Therefore, the Hard Copy Access Fee/Membership fee and hard copies of seismic/well logs that were enumerated in your letter would be subject to Oklahoma sales or use tax. In Oklahoma, sales tax is due on the total gross receipts of the sale. See Section 1352 (11), 1354 (1) (A) and Section 1402 of Title 68 Oklahoma Statutes and Commission Rule 710:65-1-9.

This response applies only to the circumstances set out in your request of . 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

Brenda J. Sullivan
Tax Policy Analyst