OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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June 27, 2008

Re: Sales Tax Inquiry; Our File No. LR-08-78

Dear :

I am writing in response to your request for clarification regarding certain telecommunications and telecommunications related charges. Set forth below are your inquiries along with the responses thereto.

- 710:65-19-330(b) Sales tax is levied on telecom services, ancillary services, telecom non-recurring charges (NRCs include "installation, connection". Then in (d) Transactions to which tax is not applicable. Telecom services do not include the installation or maintenance of wiring or equipment to customer premises. There seems to be a conflict here-is installation of telecom service (such as wiring or equipment) not taxable or is it taxable as a non-telecom charge?

Installation of telecom service (such as writing or equipment) is not taxable as a telecommunications service but is taxable as a telecommunications nonrecurring charge which means "an amount billed for the installation, connection, charge or initiation of telecommunications services received by a customer." 68 O.S. § 1354(5). Certain telecommunications nonrecurring charges which include the installation, connection, charge or initiation of telecommunication services which are not associated with a retail consumer sale are exempted from the sales tax levy pursuant to 68 O.S. § 1357(18)(g).

- Could you confirm that ancillary services while not considered to be actual telecom services are still taxable as non-telecom services?

Ancillary services are subject to sales tax as a non-telecom service pursuant to 68 O.S. § 1354(4).

- When referring to "transactions exempted from the telecommunications levy" –are the new rules referring to charges that are not taxable as telecom services but would be taxable as non-telecom transactions? Is the telecom "levy" simply the sales tax when applied to telecom service?

The items enumerated in subsection (e) of OAC 710:65-19-330 are exempt from the levy of sales tax. 68 O.S. § 1357(18)

- Item (6) regulatory assessments-would these items be taxable as non-telecom charges-I was recently informed that they should be taxable.

Regulatory assessments "including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High Cost Fund" are exempted from the sales tax levy pursuant to Section 1357(18)(f) of Title 68.

- Are digital products (including ringtones) still exempt from sales tax? Our records show they are not, but an updated answer would be helpful.

Digital products, such as music, reading materials, and ringtones, when delivered electronically, are currently not subject to sales tax in Oklahoma.

- Premium content service is a news/information service that customers would access over the internet. It offers premium features (such as better quality video streaming/enhanced database search features). Would this service be taxable?

No, the described is service is not one upon which sales tax is levied in Oklahoma.

- Our records indicate that neither 800 service nor private communications service would be taxable but 900 service would be taxable. Is this still correct? Would 900 service be taxable as a non-telecom (information?) service.

Private communications service, 800 service and 900 service are exempt from the levy of sales tax pursuant to Section 1357(18) of Title 68.

This response applies only to the circumstances discussed in your request of June 18, 2008. 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 there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

Christy J. Caesar

Christy J. Caesar
Tax Policy Analyst