OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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

October 30, 2008

Re: LR-08-111 (follow up question)
Sales Tax Inquiry

I am writing this letter in response to your inquiry regarding the previous ruling that was sent to you. You have inquired about whether the list of medical equipment found on Oklahoma Tax Commission rule 710:65-13-173 would be exempt when sold to or leased to a Hospice on behalf of a Medicare/Medicaid program recipient?

Our Response:

Hospices are considered consumer/users of the items purchased to render their professional services and must pay sales/use tax when purchasing items. While there is an exemption for medical supplies purchased or leased on behalf of patients who are reimbursed by Medicaid and Medicare, this exemption does not extend to purchases made by health care facilities as part of their services provided, but only to a vendor's direct sales to a patient who is a Medicaid or Medicare recipient. If a hospice can state that certain medical items were purchased, leased, and used to provide care to a Medicaid or Medicare recipient and that those items were reimbursed by Medicaid or Medicare, the hospice may request a refund of the sales or use tax that was paid thereon from the Account Maintenance Division of the Oklahoma Tax Commission.

This response applies only to the circumstances discussed in your written request of October 02, 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
Marc Morrison
Tax Policy & Research Division

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
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September 18, 2008

RE: LR-08-111
Sales Tax Inquiry

I am writing this letter in response to your inquiry regarding the rental of medical equipment to a hospice for use by their patients who are Medicare and Medicaid recipients.

Facts:

The hospice company that you are renting the medical equipment is paid by Medicare and/or Medicaid and you state that these sales are exempt from sales taxes since they will be reimbursed by Medicaid and or Medicare.

Your question:

Should you charge sales tax on the rental of the medical equipment to the hospice company?

Our Response:

Based upon your letter, you have not described the equipment that you are renting: only certain types of medical appliances, medical devices, and medical equipment can be exempt from sales tax if sold or leased directly to a patient that will be reimbursed by Medicare or Medicaid. I have attached a copy of Oklahoma Tax Commission Rule 710:65-13-173 and a copy of Section 1357.6 of Title 68 which explains the exemption and gives a list of the items that are described as medical appliances, medical devices, and medical equipment.

If the items that you are renting are listed on Oklahoma Tax Commission Rule 710:65-13-173, then you should charge sales tax to the hospice since they are not exempt.

The hospice may apply to the Oklahoma Tax Commission for a refund of the sales tax that they were charged after they provide the proper documentation that the sales were for patients that were reimbursed by Medicare or Medicaid. This may be done by contacting the Accounts Maintenance Division at PO Box 269060, Oklahoma City OK, 73126-9060.

This response applies only to the circumstances discussed in your fax request of August 12, 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
Marc Morrison
Tax Policy & Research Division