

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
DAWN CASH, DIRECTOR

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July 20, 2009

Re: LR-09-001; Sales Tax Inquiry

Dear

I am writing in response to your request for a determination as to whether certain charges related to the sale of drilling mud invoiced by your client are subject to Oklahoma sales/use tax. Set forth verbatim are the facts presented along with the questions posed and the responses thereto.

## FACTS

Company A is a retailer of drilling fluids commonly called "drilling mud" for use in the oil and gas industry. Customers that purchase Company A's drilling mud require a unique mixture of materials such as lime, clay, water, chemicals, etc. to produce drilling mud properties necessary to meet the geological and drilling requirements of their well.

In addition, at a customer's request, Company A will also separately provide technical services. In this situation, Company A bills the customer for technical service charges for services performed by mud engineers. Mud engineers determine the mud property requirements or "mud recipe" needed for optimal performance at the well site. Mud engineers also periodically monitor mud properties during the drilling process and may recommend additional materials be added to the mud mixture to maintain optimal mud performance. This is an ongoing process throughout the customer's drilling phase. Mud engineers do not install the mud. Company A sells and delivers the mud products and, at the customer's option, may provide mud engineers to assist in determining the "mud recipe" and for periodic monitoring of the mud properties.

Company A's invoices reflect separately stated charges for all items sold to the customer. Company A itemizes each component material sold (the overwhelming portion of an invoice), technical service charges (services performed by mud engineers) if requested, and delivery charges.

Recently, Company A made a sale of drilling mud to a customer who offered an incentive program. The program offered the payment of a bonus to qualifying personnel who worked at the well site if certain safety and performance standards were met during the drilling phase of the well. Company A was eligible for this incentive bonus and invoiced its customer for this charge. The bonus was ultimately paid by Company A to its mud engineers who participated at the drilling site. The bonus payments constitute Oklahoma income for Company A's engineers,

subject to state individual income tax withholding and reporting.

## QUESTIONS

1. Are charges from Company A to the customer for technical services (i.e., services performed by mud engineers) associated with the sale of drilling mud subject to Oklahoma sales tax when separately stated on an invoice? Currently, Company A charges and remits Oklahoma sales/use tax on these service charges under the assumption they are directly related to the sale of the underlying tangible personal property (i.e., drilling fluids).
2. Are charges from Company A to the customer for performance bonuses as described above subject to Oklahoma sales/use tax when separately stated on an invoice? Currently, Company A charges and remits Oklahoma sales/use tax on these charges under the assumption that they are directly related to the sale of the underlying tangible personal property (i.e., drilling fluids).

## RESPONSE

The sale of tangible personal property, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. §1354(A)(1). Gross receipts, gross proceeds, or sales price is the base upon which sales tax is calculated. The terms are synonymous and are defined as "the total amount of consideration . . . for which personal property or services are sold . . . whether received in money or otherwise. . . ." 68 O.S. § 1352(12). No deduction from gross receipts is allowed for "the cost of materials used, labor or service cost." 68 O.S. § 1352(12)(a)(2). The amounts attributable to the technical services related to determination of the mud recipe along with the preparation of the mud and any additional enhancement of mud properties are included in gross receipts for purposes of sales tax collection. Moreover, the amounts attributable to the performance bonus are part of the total amount of consideration paid for the sale of the drilling mud and no provision exists which would allow such amounts to be deducted from gross receipts for sales tax calculation purposes. Therefore, taxpayer is correctly collecting sales tax from its customers on amounts attributable to the technical services and performance bonuses and reporting and remitting same to the Oklahoma Tax Commission on its sales of drilling mud.<sup>1</sup>

This response applies only to the circumstances discussed in your request of January 21, 2009. Pursuant to Oklahoma Administrative Code 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  
Tax Policy Analyst

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<sup>1</sup> In light of the fact that Company A sells and delivers the mud to its Oklahoma customers only the sales tax implications of the described charges are explored for purposes of this letter ruling request. 68 O.S. § 1407.