OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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August 04, 2009

RE: LR-09-100
Sales Tax Inquiry

Dear

I am writing in response to your inquiry regarding the denial of a sale tax permit. Set forth verbatim are the facts presented along with the questions posed and responses thereto.

Facts:

You recently filed a business registration application for a sales tax permit. The sales tax permit was denied. You were informed that the reason the application was denied was because the product being sold is "custom" and custom software is not subject to sales tax in Oklahoma. We had originally entered "Custom Software and Program Design" as the principal products or services sold on the business registration application. This may have been misleading and likely influenced the Tax Commission's decision to deny the permit.

Question:

You are requesting a written ruling on whether the software product that sells to their Oklahoma customers is considered "custom" or "canned" based upon the Oklahoma Tax Commission regulations.

The following is a definition of how the software is delivered:

software programs are prewritten and sold to customers across the country. The software is delivered via common carrier. Upon installation of the software, the customer and/ or engineers enter local building codes and other specifications into the software so that the software meets the customer's needs.

Our Response:

Based upon your letter and our phone conversation, you have stated that the software sold is pre-packaged and "off-the-shelf". Once the software is sold to a customer, it is modified to customer's specifications by your employees on site. Based upon this information as well as the indication that you have salesmen inside Oklahoma, Metal Building Software Inc, is required to obtain an Oklahoma sales tax permit.

I would advise you to contact Janis Parker (405-522-4948) in our Taxpayer's Assistance Division for details on how to reapply for your sales tax permit and any other requirements or information that is required.

This response applies only to the circumstances discussed in your written request of June 16, 2009. 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,

Marc Morrison

Oklahoma Tax Commission
Marc Morrison
Tax Policy & Research Division