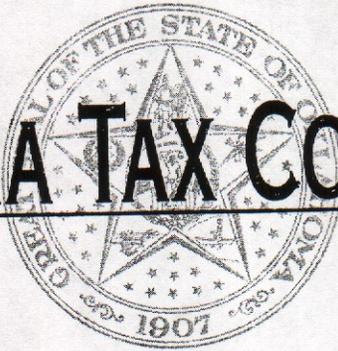


OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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



June 15, 2010

Re: LR-09-108; Sales Tax Inquiry

Dear [REDACTED]

I am writing in response to your request regarding the taxability of services that your company offers. Set forth verbatim are the fact presented along with the question posed and the responses thereto.

FACTS

[REDACTED] is a manufacturer of motor fuel dispensing equipment domiciled in the state of North Carolina. Although we have no nexus in any other state, we are registered to collect and remit sales/use tax in all states, with the exception of Alaska.

To compliment our business we offer a variety of services to our customers. [REDACTED] maintains a service desk/call center, 24-7, at our manufacturing facility located in [REDACTED] North Carolina. It is from this desk that all of these services are performed

QUESTION

[REDACTED] would like to confirm the tax treatment of each of the following (4) types of service by the state of Okalahoma. Specifically, at which location does the state consider the tax situs: at the point where service is performed or the location at which benefit is received?

1. **Help Desk** - A call center at which our associates receive phone calls from our customers when they have issues with our product. The help desk is limited to talking the customer thru issues. If issues cannot be resolved over the telephone, the call is transferred to our service desk for further assistance. The service desk will dispatch a 3rd party authorized service technician to the site.

2. General Regulatory Compliance - Provide the following services per customer request:

- a) Apply for, renew and pay for contracted regulatory permits, placards and applicable registrations on behalf of the customer.
- b) Maintain accurate electronic documents within our database (database is located at our facility in NC).
- c) Provide customer internet access to needed documents within our database. (Via secured password access).
- d) Facilitate the following and coordinate with State regulatory agencies (including EPA.):
 - a. New Construction
 - b. Temporary closure
 - c. Tank Removal
 - d. Raze and Rebuild
 - e. Property Sales
 - f. Property Transfers
- e) Coordinate Tank testing & inspections by 3rd party authorized service technicians.
- f) Execute Power of Attorney to act as authorized agent for customer.
- g) Management fees: Charged by site to manage the aforementioned.
- h) Designated Operator: Inspect locations per California ICC requirement (Specific requirement to California - inspection performed by 3rd party contractors).

3. Underground (Fuel) Storage Tank Monitoring Services:

- a) Alarm Management and Reporting: Remote monitoring of alarm events. Alarms automatically dial out to our location in Greensboro NC with alarm details.
 - a. ALARM REPORTING ONLY: Alarm details are automatically archived and Customer is notified via email of each alarm event.
 - b. ALARM MANAGEMENT: In addition to customer notification, the 24 x 7 Call Center technicians will troubleshoot each alarm in an attempt to resolve the alarm as soon as possible. If troubleshooting proves to be unsuccessful, the technician will employ the customer's defined procedure to notify the customer or a designated, 3rd party Authorized Service Technician to be dispatched to the site to resolve the alarm locally. Reports are displayed and can be viewed by the customer using a web based reporting system we maintain online. Email notifications are also available.

4. Compliance Management Services:

The following compliance services are available to our customers. Remote polling is accomplished in one of two ways. We either poll the site by accessing the customer's network IP address or by using a modem. The method is chosen by the customer. Descriptions of how the resulting information is dispatched to the customer are listed in the service descriptions below:

- a) ATG Compliance Reporting: Remote polling of fueling sites to collect, store and report test system compliance test results for each tank, line and sensor enrolled in the service. will setup, activate and maintain customer site in its database indefinitely, and provide reports for each site in _____ web portal.

b) ATG Compliance Management: Remote polling of fueling sites to collect, store and report test system compliance test results for each tank, line and sensor enrolled in the service. As part of the ATG Compliance Monitoring, Diagnosis and Dispatch Management module, [redacted] will identify, remotely diagnose, troubleshoot and attempt to resolve problems remotely to deliver valid leak detection (line, tank, and sensor) results reports. If the service desk is unable to resolve the problem and determines that an on-site visit (a.k.a. dispatch) is required, he/she will notify and dispatch a 3rd party, authorized service technician to the site. [redacted] will setup, activate and maintain customer site in its database indefinitely, and provide reports for each site in [redacted] web portal.

c) Inventory Planning: [redacted] will automatically collect inventory data from all enrolled sites based on the customer's defined reporting frequency. [redacted] will employ agreed upon methodologies including automated ATG polling, web data entry, direct file interface, or an automated voice response system. [redacted] will consolidate the available data onto one report or data file as applicable. The data is provided in an electronic file format (.pdf, .html, .csv).

d) Poll Now Inventory: [redacted] provides customer with direct access to its web portal so that the customer may dial into his/her site and get real-time fuel inventory data. A report is generated by the web portal which includes numerical data as well as a graphical representation of fuel level, empty space in the tank and water levels.

e) Business Inventor Reconciliation BIR: The BIR system provides a means of automating the inventory reconciliation process mandated by many of the state regulatory agencies. The BIR system collects and reconciles sales, inventory, and delivery data from equipment at the site. [redacted] will report the results of product inventory reconciliation and notify the customer when preset thresholds have been exceeded via [redacted] web portal.

f) In-station Diagnostics: Remote vapor monitoring for the entire tank system as required by the California Air Resources Board (CARB). Customer will be notified when any system falls below the required vapor recovery capacity.

g) Daily Loss Advisor: Remote polling of the TLS 350R and collection of hourly inventory, delivery, and sales information. Upon detection of a fuel variance that has exceeded the customer's defined acceptable threshold; a trained service desk associate will conduct a detailed root cause investigation to determine the actual source of the fuel variance. The associate will also identify the recommended action(s) required to resolve the variance and work with the customer's assigned focal point until the resolution is complete and the fuel variance is within the customer's acceptable threshold. Customer is contacted via telephone call as well as reports on shown online via [redacted] web portal.

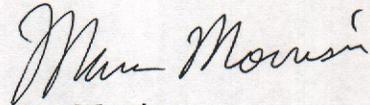
RESPONSE

With the exception of 2(d), items a through f, the above described services are not subject to Oklahoma Sales and Use Tax. It is unclear, based upon the information submitted, the exact nature of the transactions set forth in 2(d); therefore a determination cannot be made regarding their taxability without submission of a more detailed description thereof.

This response applies only to the circumstances discussed in your written request of April 22, 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,

OKLAHOMA TAX COMMISSION

A handwritten signature in cursive script that reads "Marc Morrison".

Marc Morrison
Tax Policy & Research Division